

under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at www.regulations.gov or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically by sending an email to publichearings@irs.gov. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Announcement 2020–4, 2020–17 I.R.B. 667 (April 20, 2020), provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Drafting Information

The principal authors of these regulations are D. Peter Merkel and Karen Walny of the Office of Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
 * * * * *
 Section 1.1256(g)–2 also issued under 26 U.S.C. 1256(g)(2)(B).
 * * * * *

■ **Par. 2.** Section 1.1256(g)–2 is added to read as follows:

§ 1.1256(g)–2 Foreign currency contract defined.

(a) *Foreign currency contract.* For purposes of section 1256, the term *foreign currency contract* means a forward contract that—

(1) Requires delivery of, or the settlement of which depends on the value of, a foreign currency that is a currency in which positions are also traded through regulated futures contracts;

(2) Is traded in the interbank market; and

(3) Is entered into at arm’s length at a price determined by reference to the price in the interbank market.

(b) *Applicability date.* This section applies to contracts entered into on or after [date 30 days after date of publication of the final rule in the **Federal Register**].

Paul J. Mamo,
Acting Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES1111090FEDR 223]

Endangered and Threatened Wildlife and Plants; Three Species Not Warranted for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce findings that three species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list the evening fieldslug (*Deroceras hesperium*), Mammoth Spring crayfish (*Faxonius marchandi*), and Weber’s Whitlow grass (*Draba weberi*). However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

DATES: The findings in this document were made on July 6, 2022.

ADDRESSES: Detailed descriptions of the bases for these findings are available on the internet at <https://www.regulations.gov> under the following docket numbers:

Species	Docket No.
Evening fieldslug	FWS–R1–ES–2022–0058
Mammoth Spring crayfish	FWS–R3–ES–2022–0059
Weber’s Whitlow grass	FWS–R6–ES–2022–0060

Those descriptions are also available by contacting the appropriate person as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any

new information, materials, comments, or questions concerning this finding to the appropriate person, as specified

under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Evening fieldslug	Brad Thompson, Field Supervisor, Washington Fish and Wildlife Office, brad_thompson@fws.gov , (360)–753–9440.
Mammoth Spring crayfish	Karen Herrington, Field Supervisor, Missouri Ecological Services Field Office, karen_herrington@fws.gov , (573)–234–2132.
Weber’s Whitlow grass	Ann Timberman, Field Supervisor, Colorado Field Office, ann_timberman@fws.gov , (970)–ndash;7181.

Individuals in the United States who are deaf, deafblind, hard of hearing, or

have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access

telecommunications relay services. Individuals outside the United States

should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding on whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (“12-month finding”). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted, but precluded by other listing activity. We must publish a notification of these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines “species” as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). The Act defines “endangered species” as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and “threatened species” as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any 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.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence.

In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the Act’s definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term “foreseeable future” extends only so far into the future as the Service can reasonably determine that both the future threats and the species’ responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a

prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species’ likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species’ biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Mammoth Spring crayfish meets the Act’s definition of “endangered species” or “threatened species,” we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. In conducting our evaluation of the evening fieldslug and Weber’s Whitlow grass, we determined that these species do not meet the definition of a “species” under the Act, and, as a result, we conclude that they are not listable entities. We reviewed the petitions, information available in our files, and other available published and unpublished information for all of these species. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for the Mammoth Springs crayfish contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that this species does not meet the Act’s definition of an “endangered species” or a “threatened species.” A thorough review of the taxonomy, life history, and ecology of the Mammoth Spring crayfish is presented in the species’ species status assessment (SSA) report. The species assessment forms for the evening fieldslug and Weber’s Whitlow grass contain more detailed taxonomic information, a list of literature cited, and an explanation of why we determined that these species do not meet the Act’s definition of a “species.” This supporting information can be found on the internet at <https://www.regulations.gov> under the appropriate docket number (see **ADDRESSES**, above). The following are

informational summaries of the findings in this document.

Evening Fieldslug

Previous Federal Actions

On March 17, 2008, the U.S. Fish and Wildlife Service (Service) received a petition from the Center for Biological Diversity (CBD), Conservation Northwest, the Environmental Protection Information Center, the Klamath-Siskiyou Wildlands Center, and Oregon Wild, requesting that the Service list 32 species and subspecies of mollusks in the Pacific Northwest, including the evening fieldslug (*Deroceras hesperium*), as endangered or threatened species under the Act. The petition also requested that the Service designate critical habitat concurrent with listing. In an April 13, 2009, email, CBD requested that the petition be amended to include only 29 species and subspecies, due to taxonomic revisions. The request was treated as an amendment to the original petition. In a 90-day finding published in the **Federal Register** on October 5, 2011 (76 FR 61826), the Service found that the petition presented substantial scientific or commercial information indicating that 26 of the 29 petitioned species or subspecies, including evening fieldslug, may be warranted for listing. This document constitutes our 12-month finding on the March 17, 2008, petition to list evening fieldslug under the Act.

Summary of Finding

We have carefully assessed the best scientific and commercial information available regarding the evening fieldslug and evaluated the petitioners' claim that the species warrants listing under the Act. Subsequent to the 90-day finding, a genetic and morphometric analysis demonstrated that the evening fieldslug is not a unique species but is synonymous with the meadow fieldslug (*D. laeve*), a common species with a Holarctic distribution (Roth et al. 2013, entire). This study has been accepted by the relevant scientific community, The Xerces Society for Invertebrate Conservation, and Federal and State agencies. Given that the evening fieldslug is no longer recognized as a unique taxon, we conclude that it does not meet the definition of a species or subspecies under the Act. Consequently, it does not warrant listing under the Act. A detailed discussion of the basis for this finding can be found in the evening fieldslug species assessment form (see **ADDRESSES**, above).

Mammoth Spring Crayfish

Previous Federal Actions

On April 20, 2010, we received a petition from the Center for Biological Diversity, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including Mammoth Spring crayfish (*Faxonius marchandi*; then *Orconectes marchandi*), as an endangered or threatened species under the Act. On September 27, 2011, we published a 90-day finding in the **Federal Register** (76 FR 59836) concluding that the petition presented substantial scientific or commercial information indicating that listing may be warranted for 374 of the 404 species, including Mammoth Spring crayfish. This document constitutes our 12-month finding on the April 20, 2010, petition to list Mammoth Spring crayfish under the Act.

Summary of Finding

The Mammoth Spring crayfish is a medium-sized, reddish-brown crayfish with blackish specks on its broad pincers. It has a very localized distribution in the central and eastern portion of the Spring River watershed in Fulton, Lawrence, Randolph, and Sharp Counties in northeastern Arkansas and in Howell and Oregon Counties in southern Missouri. The Mammoth Spring crayfish occurs in both intermittent and perennial streams but appears to occur in higher densities in intermittent streams. Small Mammoth Spring crayfish individuals occur in the highest densities in shallow (less than 35 centimeters (14 inches)) stream margins of pools and runs in areas of emergent vegetation. Both small and large Mammoth Spring crayfish individuals are associated with a diverse composition of substrates dominated by cobble and pebble, and negatively associated with increasing current velocity.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Mammoth Spring crayfish, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats with potential to affect the Mammoth Spring crayfish's biological status include periodically degraded water quality, sedimentation, extreme events, and nonnative crayfish invasion of the gap ringed crayfish (*Faxonius neglectus chaenodactylus*). However,

these threats have not reduced the species' resiliency, redundancy, or representation.

The best available information indicates that the range of the Mammoth Spring crayfish has not contracted. Mammoth Spring crayfish density is higher in intermittent streams than in perennial streams, and based on surveys conducted in 1998–1999 and 2010–2011, occupancy of the Mammoth Spring crayfish was relatively unchanged between the periods of 1998–1999 and 2010–2011. In addition, density of the Mammoth Spring crayfish was also compared between time periods and increased significantly from 1998–1999 to 2010–2011. Therefore, we conclude that Mammoth Spring crayfish is not in danger of extinction throughout all of its range and does not meet the Act's definition of an endangered species.

We then considered the primary threat to the species in the foreseeable future (potential invasion of the gap ringed crayfish) to determine if the Mammoth Spring crayfish meets the definition of a threatened species. The SSA report also considered the effects of other stressors such as climate change and land-use changes into the future for the Mammoth Spring crayfish. However, species experts only considered the potential invasion of the gap ringed crayfish as the primary species-level influence for the Mammoth Spring crayfish into the future. Therefore, the predictive modeling effort in the SSA only included the spread of gap ringed crayfish and its effect on the Mammoth Spring crayfish, although we considered the effect of other stressors qualitatively. The SSA's analysis of future scenarios over a 50-year timeframe encompasses the best available information for future projections under reasonable worst, mostly likely, and reasonable best future scenarios. We determined that this 50-year timeframe enabled us to consider the threats and stressors acting on the species and draw reliable predictions about the species' response to these factors. Under the reasonable best and most likely future scenarios, we predict the gap ringed crayfish will not invade the range of the native Mammoth Spring crayfish within the 50-year timeframe, although under the reasonable worst scenario it may reach the edge of the Mammoth Spring crayfish's range in approximately 15 years, and continue to spread throughout the range. Although under the reasonably worst scenario, the gap ringed crayfish does invade the Mammoth Spring crayfish range, it will take greater than 100 years to invade the entire range of the species and 4 of the 6 representation units (RPU) will not

be fully invaded. The reasonably worst scenario still leaves the species with ample redundancy and representation, such that the best available information does not indicate that the Mammoth Spring Crayfish's viability will decline within the foreseeable future such that the species meets the definition of a threatened species. Thus, after assessing the best available information, we determine that the Mammoth Spring crayfish is not likely to become in danger of extinction within the foreseeable future throughout all of its range and does not meet the Act's definition of a threatened species.

We found no biologically meaningful portion of the Mammoth Spring crayfish range where threats are impacting individuals differently from how they are affecting the species elsewhere in its range, or where the condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion differs from any other portion of the species' range. Thus, after assessing the best available information, we determine that Mammoth Spring crayfish is not in danger of extinction now or likely to become so within the foreseeable future throughout all or a significant portion of its range.

Therefore, we find that listing the Mammoth Spring crayfish as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Mammoth Spring crayfish species assessment form and other supporting documents (see **ADDRESSES**, above).

Weber's Whitlow Grass

Previous Federal Actions

On July 30, 2007, the Service received a petition from Forest Guardians (now

WildEarth Guardians) requesting that the Service list 206 species the Mountain-Prairie Region, including Weber's Whitlow grass (*Draba weberi*), as endangered or threatened species, and designate critical habitat, under the Act. On August 18, 2009, the Service published in the **Federal Register** (74 FR 41649) a partial 90-day finding indicating that listing may be warranted for 29 species, including Weber's Whitlow grass. As a result, the Service initiated a status review for Weber's Whitlow grass. This document announces the 12-month finding on the July 30, 2007, petition to list Weber's Whitlow grass under the Act.

Summary of Finding

We have carefully assessed the best scientific and commercial information available regarding Weber's Whitlow grass and evaluated the petition's claims that the species warrants listing under the Act. A new genetic analysis indicates that Weber's Whitlow grass is not a distinct species. Weber's Whitlow grass is not genetically distinguishable from another similar plant species (Colorado Divide Whitlow-grass, or alpine tundra draba (*Draba streptobrachia*)) in the *Draba* genus, which occurs in at least 16 counties in Colorado and has a wider range than Weber's Whitlow grass (Naibauer and McGlaughlin 2021, entire; NatureServe 2022a, entire). Therefore, Weber's Whitlow grass does not meet the definition of a "species" under the Act, and, as a result, does not warrant listing under the Act. A detailed discussion of the basis for this finding can be found in the Weber's Whitlow grass species assessment form and other supporting documents (see **ADDRESSES**, above).

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to evening fieldslug, Mammoth Spring crayfish, or Weber's Whitlow grass to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and make appropriate decisions about their conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References Cited

A list of the references cited in this petition finding is available in the relevant species assessment form, which is available on the internet at <https://www.regulations.gov> in the appropriate docket (see **ADDRESSES**, above) and upon request from the appropriate person (see **FOR FURTHER INFORMATION CONTACT**, above).

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

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.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

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