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Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF56

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Released Study, Submission of New Report, and Opening of Comment Period on the New Report as it Relates to the Proposed Rule to List the Alabama Sturgeon as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; opening of comment period.

SUMMARY: We, the Fish and Wildlife Service, give notice that we are withdrawing consideration of Dr. Steven Fain's 1999 study, "The Development of a DNA Procedure for the Forensic Identification of Caviar," from the decision-making process associated with the proposal to list the Alabama sturgeon (*Scaphirhynchus suttkusi*) as endangered. We are replacing it with a report relevant to the Alabama sturgeon listing process. The report, "Genetic Variation in the River Sturgeon *Scaphirhynchus* (Acipenseridae) as Inferred from Partial mtDNA Sequences of Cytochrome b," summarizes information from the retracted study which is specific only to the Alabama sturgeon and its relevancy to the proposed listing. We are accepting comments related specifically to the relationship of this report, as it pertains to the proposed listing of the Alabama sturgeon as endangered. You may also provide comments concerning our decision to withdraw Dr. Steven Fain's 1999 study, "The Development of a DNA Procedure for the Forensic Identification of Caviar" from the decision-making process for listing the Alabama sturgeon as endangered.

DATES: We will accept comments until March 8, 2000.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-deliver comments to the Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Field Office, 6578 Dogwood View Parkway, Jackson,

Mississippi 39213. You may also comment via the Internet to paul—hartfield@fws.gov. See the **SUPPLEMENTARY INFORMATION** section for comment procedures.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield (see "ADDRESSES" section), telephone 601/321-1125; facsimile 601/965-4340.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1999, we published a rule proposing endangered status for the Alabama sturgeon in the **Federal Register** (64 FR 14676). On January 11, 2000, we published a notice in the **Federal Register** (65 FR 1583), to reopen the comment period through February 10, 2000, to make available for comment Dr. Steven Fain's 1999 study, "The Development of a DNA Procedure for the Forensic Identification of Caviar." With this notice, we are withdrawing from consideration Dr. Steven Fain's 1999 study, "The Development of a DNA Procedure for the Forensic Identification of Caviar." This study describes a method for identifying the species source of sturgeon/paddlefish caviar in international trade and includes information that is not relevant to the decision to list the Alabama sturgeon as endangered. Nonetheless, The information contained in that study that is relevant to the decision to list the Alabama sturgeon is summarized in this new report, "Genetic Variation in the River Sturgeon *Scaphirhynchus* (Acipenseridae) as Inferred from Partial mtDNA Sequences of Cytochrome b." For clarity and ease of understanding, we have added this new report, which describes the amount of genetic variation observed within and between species of the genus *Scaphirhynchus*, for consideration in the decision-making process, and retracted the more general report that covers identification of the species source of sturgeon/paddlefish caviar in international trade.

Public Comments Solicited

We request comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this report and its relation to the proposed rule. You may also provide comments concerning our decision to withdraw Dr. Steven Fain's 1999 study, "The Development of a DNA Procedure for the Forensic Identification of Caviar" from the decision-making process for the listing of the Alabama sturgeon as endangered.

Comment Procedures

Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include "Attention: [Alabama sturgeon]" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at the address given in the **ADDRESSES** section or by telephone at 601/965-4900. Finally, you may also hand-deliver comments to the address given in the **ADDRESSES** Section. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking 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. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. To obtain copies of either of the aforementioned reports, you can download or print one from <http://endangered.fws.gov/listing/index.html> (under Announcements) or contact Kelly Bibb at 404/679-7132 (phone) or 404/679-7081 (facsimile) to receive a faxed or mailed copy. All questions related to this notice should be directed to Paul Hartfield at the address or phone number listed in the **ADDRESSES** section of this notice.

References Cited

Fain, S.R., J.P. Lemay, J. Shafer, R.M. Hoesch, and B.H. Hamlin. 1999. Unpublished study. National Fish and Wildlife Forensics Laboratory, Ashland, OR. 23 pp. with figures.

Fain, S.R., B. Hamlin, and D. Straughan. 1999. Unpublished report. Genetic Variation in the River Sturgeon *Scaphirhynchus* (Acipenseridae) as Inferred from Partial mtDNA Sequences of Cytochrome b. National Fish and Wildlife Forensics

Laboratory, Ashland, OR. 14 pp. with figures.

Author

The primary author of this notice is Paul Hartfield (see **ADDRESSES** section).

Authority

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

Dated: February 1, 2000.

Sam D. Hamilton,

Regional Director, Fish and Wildlife Service.

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