

roundtail chub in the lower Colorado River basin was not warranted because populations of roundtail chub in the lower Colorado River basin did not meet our definition of a DPS (71 FR 26007).

On September 7, 2006, we received a complaint from the Center for Biological Diversity for declaratory and injunctive relief, challenging our decision not to list the lower Colorado River basin population of the roundtail chub as an endangered species under the Act. On November 5, 2007, in a stipulated settlement agreement, we agreed to commence a new status review of the lower Colorado basin population of the roundtail chub and to submit a 12-month finding to the **Federal Register** by June 30, 2009.

At this time, we are soliciting new information on the status of and potential threats to the roundtail chub. We will base our new determination as to whether listing of a DPS for roundtail chub in the lower Colorado River basin is warranted on a review of the best scientific and commercial information available, including all information we receive as a result of this notice. For more information on the biology, habitat, and range of the roundtail chub, please refer to our previous 90-day finding published in the **Federal Register** on July 12, 2005 (70 FR 39981), and our previous 12-month finding published in the **Federal Register** on May 3, 2006 (71 FR 26007).

Author

The primary authors of this notice are the staff members of the Arizona Ecological Services Office.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 20, 2009.

Ken Stansell,

Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS-R9-MB-2009-0003; 91200-1231-9BPP]

RIN 1018-AW46

Migratory Bird Hunting; Application for Approval of Tungsten-Iron-Fluoropolymer Shot as Nontoxic for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application for nontoxic shot approval.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce that Tundra Composites, LLC, of White Bear Lake, Minnesota, has applied for our approval of shot composed of alloys of tungsten, iron, and fluoropolymer as nontoxic for waterfowl hunting in the United States. The alloys are 41.5 to 95.2 percent tungsten, 1.5 to 52.0 percent steel, and 3.5 to 8.0 percent fluoropolymer by weight. We have initiated review of the shot under the criteria we have set out in our nontoxic shot approval procedures in our regulations.

DATES: Our comprehensive review of the application information is to conclude by May 4, 2009.

ADDRESSES: You may review the Tundra Composites application at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, VA 22203-1610.

FOR FURTHER INFORMATION CONTACT: Ron Kokel, Wildlife Biologist, Division of Migratory Bird Management, (703) 358-1967.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703-712 and 16 U.S.C. 742 a-j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. We prohibit the use of shot types other than those listed in the Code of Federal Regulations (CFR) at 50 CFR 20.21(j) for hunting waterfowl and coots and any species that make up aggregate bag limits.

Since the mid-1970s, we have sought to identify types of shot for waterfowl hunting that are not toxic to migratory birds or other wildlife when ingested. We have approved nontoxic shot types and added them to the migratory bird hunting regulations in 50 CFR 20.21(j). We will continue to review all shot types submitted for approval as nontoxic.

Tundra Composites has submitted its application to us with the counsel that it contained all of the specified information for a complete Tier 1 submittal, and has requested unconditional approval pursuant to the Tier 1 timeframe. Having determined that the application is complete, we have initiated a comprehensive review of the Tier 1 information under 50 CFR 21.134. After review, we will either publish a notice of review to inform the public that the Tier 1 test results are inconclusive, or we will publish a proposed rule to approve the candidate shot. If the Tier 1 tests are inconclusive, the notice of review will indicate what other tests we will require before we will again consider approval of the Tungsten-Iron-Fluoropolymer shot as nontoxic. If the Tier 1 data review results in a preliminary determination that the candidate material does not pose a significant toxicity hazard to migratory birds, other wildlife, or their habitats, the Service will commence with a rulemaking proposing to approve the candidate shot and add it to our list at 50 CFR 20.21(j).

Dated: February 25, 2009.

Jerome Ford,

Acting Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648-AX72

Identification and Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing; request for comments.