petitions simultaneously (Sportsmen's Alliance Foundation et al. 2023a, p. 34).

In one petition, petitioners asked us to designate a Western Great Lakes (WGL) DPS of gray wolf and remove that petitioned DPS from the List of Endangered and Threatened Wildlife because the DPS does not meet the Act's definition of an endangered or threatened species (Sportsmen's Alliance Foundation et al. 2023a, entire). Petitioners also presented claims related to currently listed gray wolves outside of the Western Great Lakes, and provided two suggestions for how the Service should address these wolves. First, petitioners stated that the non-DPS remnant is a listable entity that would be entitled to the continued protections of the Act (Sportsmen's Alliance Foundation et al. 2023a, p. 35) (''The circumstances here warrant continuing protections for remnant wolves in the original Lower 48 wolf listing through a non-DPS remnant listing.''). Alternatively, they suggested that the Service could adopt the approach in their companion petition and protect West Coast wolves as a DPS (Sportsmen's Alliance Foundation et al. 2023a, p. 36) (''Alternatively, even if the Service does not continue a ''non-DPS remnant'' listing under the original Lower 48 listing, delisting the WGL DPS will not result in the elimination of protections for the remnant population because the remnant West Coast [w]olves satisfy the criteria to be listed as a DPS if ESA protections are warranted.'').

In their companion petition, petitioners proposed two specific actions for addressing listed gray wolves in the lower 48 States outside of the petitioned WGL DPS: (1) recognize a non-DPS remnant and continue endangered species protections for the non-DPS remnant; and (2) recognize a West Coast DPS of gray wolf and reclassify the petitioned DPS from an endangered species to a threatened species under the Act (Sportsmen's Alliance Foundation et al. 2023b, entire). Petitioners did not ask the Service to assign any specific status to the remainder of the listed entity if the second action is implemented, but they suggested that we might delist all the remnant areas not included within the two petitioned DPSs due to extinction. Finally, petitioners clarified that we should take one, or preferably both, actions concurrent with recognizing and delisting a WGL DPS.

Each petition clearly identified itself as such and included the requisite identification information for the petitioners, required at 50 CFR 424.14(c). As requested by the petitioners, we are evaluating their petitions jointly and this finding addresses both petitions.

Finding

Based on our review of the petitions, sources cited in the petitions, and other readily available information (within the constraints of the Act and 50 CFR 424.14(h)(1)), we find that the petitions do not provide substantial scientific or commercial information indicating that the petitioned actions may be warranted. The petitioners failed to present substantial information for us to conclude that the petitions, considered together, provide a valid approach for revising the current gray wolf (*Canis lupus*) listed entities. As requested by petitioners, we have considered these petitions jointly. Based on our review of the petitions, we find that petitioners provide substantial information that the Western Great Lakes population of gray wolf may qualify as a valid DPS under the Act. However, we find that the petitions do not provide substantial information supporting the petitioned action with respect to gray wolves outside of the Western Great Lakes. They fail to provide substantial scientific or commercial information indicating that a gray wolf remnant in the lower 48 States or a West Coast gray wolf population may constitute a valid listable entity under the Act. Thus, we do not further consider whether revising the currently listed gray wolf entities to recognize a Western Great Lakes DPS and delist it due to recovery may be warranted. The basis for our finding on these petitions and other information regarding our review of the petitions can be found as an appendix at *https://www.regulations.gov* under Docket No. FWS–HQ–ES–2024–0187 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above for the gray wolf do not present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, we will not further consider whether the petitioned revisions to the currently listed gray wolf entities are warranted.

Authors

The primary authors of this document are staff members of the Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

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

Stephen Guertin,

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

[FR Doc. 2024–31754 Filed 1–7–25; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2024–0041; FXES1111090FEDR–256–FF09E21000] RIN 1018–BH49

Endangered and Threatened Wildlife and Plants; Endangered Species Status for the Bleached Sandhill Skipper

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the bleached sandhill skipper (*Polites sabuleti sinemaculata*), an insect subspecies from Humboldt County, Nevada, as an endangered species under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the bleached sandhill skipper. After a review of the best available scientific and commercial information, we find that listing the subspecies is warranted. Accordingly, we propose to list the bleached sandhill skipper as an endangered species under the Act. If we finalize this rule as proposed, the final rule would add this subspecies to the List of Endangered and Threatened Wildlife and extend the Act's protections to the subspecies. We find that a designation of critical habitat for the bleached sandhill skipper is not determinable at this time.

DATES: We will accept comments received or postmarked on or before March 10, 2025.

Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 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 24, 2025.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2024–0041, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R8–ES–2024–0041, U.S. Fish and Wildlife Service, MS: PRB/3W, 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 *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the subspecies status assessment report, are available on the Service's website at *https://www.fws.gov/office/reno-fish-and-wildlife,* at *https://www.regulations.gov* at Docket No. FWS–R8–ES–2024–0041, or both.

FOR FURTHER INFORMATION CONTACT: Justin Barrett, Deputy Field Supervisor, U.S. Fish and Wildlife Service, Reno Fish and Wildlife Field Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502–7147; telephone 775–861–6300.

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. Please see Docket No. FWS–R8–ES–2024–0041 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. The Act defines a ''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. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the bleached sandhill skipper meets the definition of an endangered species; therefore, we are proposing to list it as such. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This document proposes to add the bleached sandhill skipper to the List of Endangered and Threatened Wildlife as an endangered species under the Act.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of 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 humanmade factors affecting its continued existence. We have determined that the bleached sandhill skipper is endangered due to the following threats: increased warming and drying conditions due to the synergistic effects of climate change and groundwater pumping.

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, concurrently with listing to designate critical habitat for the species. We have not yet been able to obtain the necessary economic information needed to develop a proposed critical habitat designation for the bleached sandhill skipper, although we are in the process of obtaining this information. At this time, we find that designation of critical habitat for the bleached sandhill skipper is not determinable. When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The subspecies' biology, range, and population trends, including:

(a) Biological or ecological requirements of the subspecies, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns and the locations of any additional populations of this subspecies;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the subspecies, its habitat, or both.

(2) Threats and conservation actions affecting the subspecies, including:

(a) Factors that may be affecting the continued existence of the subspecies, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or humanmade factors.

(b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this subspecies.

(c) Existing regulations or conservation actions that may be addressing threats to this subspecies.

(3) Additional information concerning the historical and current status of this subspecies.

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, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire

submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes 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. We will post all hardcopy submissions on *https://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 *https://www.regulations.gov.*

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the subspecies is threatened instead of endangered, or we may conclude that the subspecies does not warrant listing as either an endangered species or a threatened species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent 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 accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

We identified the bleached sandhill skipper as a Category 2 candidate on November 21, 1991 (56 FR 58804). Category 2 candidates were defined as species for which we had information that proposed listing was possibly appropriate, but conclusive data on biological vulnerability and threats were not available to support a proposed rule at the time. In the February 28, 1996, Candidate Notice of Review (61 FR 7596), we discontinued the designation of Category 2 species as candidates; therefore, the bleached sandhill skipper was no longer a candidate species.

On January 29, 2010, we received a petition from WildEarth Guardians requesting that 10 subspecies of Great Basin butterflies, including the bleached sandhill skipper, be listed as an endangered or threatened species with critical habitat under the Act. On October 4, 2011, we made our 90-day finding that the petition presented substantial scientific or commercial information indicating that listing of the bleached sandhill skipper may be warranted, and we initiated a status review for this subspecies (76 FR 61532). On September 4, 2012, we published a 12-month finding that the bleached sandhill skipper did not warrant listing under the Act (77 FR 54294).

On October 16, 2022, we received a petition from the Center for Biological Diversity requesting that the bleached sandhill skipper be listed as a threatened species or an endangered species and critical habitat be designated for this subspecies under the Act. On August 17, 2023, we made our 90-day finding that the petition presented substantial scientific or commercial information indicating that listing of the bleached sandhill skipper may be warranted (88 FR 55991). The petition also requested that the bleached sandhill skipper be emergency listed as endangered. The Act does not provide for a process to petition for emergency listing. However, in light of the concerns raised by the petitioner, at the time the petition was received, we did consider the immediacy of possible threats to the subspecies and whether emergency listing may be necessary. We reviewed the information in the petition and in our files, and because the threats were not deemed to be of such a magnitude and extent that immediate species protection was necessary, we did not find emergency listing to be an appropriate course of action. This proposed rule constitutes our 12-month finding on the petition.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the bleached sandhill skipper. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the subspecies, including the impacts of past, present, and future factors (both negative and beneficial) affecting the subspecies.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act, we solicited independent scientific review of the information contained in the bleached sandhill skipper SSA report. We sent the SSA report to 10 independent peer reviewers and received 3 responses. Results of this structured peer review process can be found at *https://www.regulations.gov.* In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers concurred with our methods and conclusions and provided additional information, clarifications, and suggestions, including updates to the discussion on population counts, clarifications in terminology and discussions of physiological limits, and editorial suggestions. Otherwise, no substantive changes to our analysis and conclusions within the SSA report were deemed necessary, and peer reviewer comments are addressed in version 1.1 of the SSA report.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the bleached sandhill skipper is presented in the SSA report (version 1.1; Service 2024, pp. 9–23).

The bleached sandhill skipper is a small-sized, narrow endemic butterfly found in Humboldt County, Nevada. The bleached sandhill skipper is one of 13 named subspecies of the sandhill skipper and can be distinguished from other sandhill skipper subspecies based on the unusually pale coloration of the wings that give the subspecies a bleached appearance (Austin 1987, p. 8). It occupies alkali meadows in three isolated populations: Pueblo Slough, Gridley Lake, and Rincon Creek which are located within an approximately 14-mile (22-kilometer) area (figure 1). The populations at Pueblo Slough and Gridley Lake are primarily found on Bureau of Land Management (BLM)

lands, with some occurrences on private land, and the population at Rincon Creek is found on the Sheldon National Wildlife Refuge. The three populations are genetically differentiated (Jahner 2023, pp. 3, 9–10) which suggests limited gene flow and that dispersal is minimal. Additionally, the combination of small wing size and large thorax, coupled with short generation time (approximately one year) and short adult flight period further suggests low dispersal habits (Scott 1986, pp. 42–43, 425; Sekar 2011, pp. 179–182; Stantec 2020, p. 10).

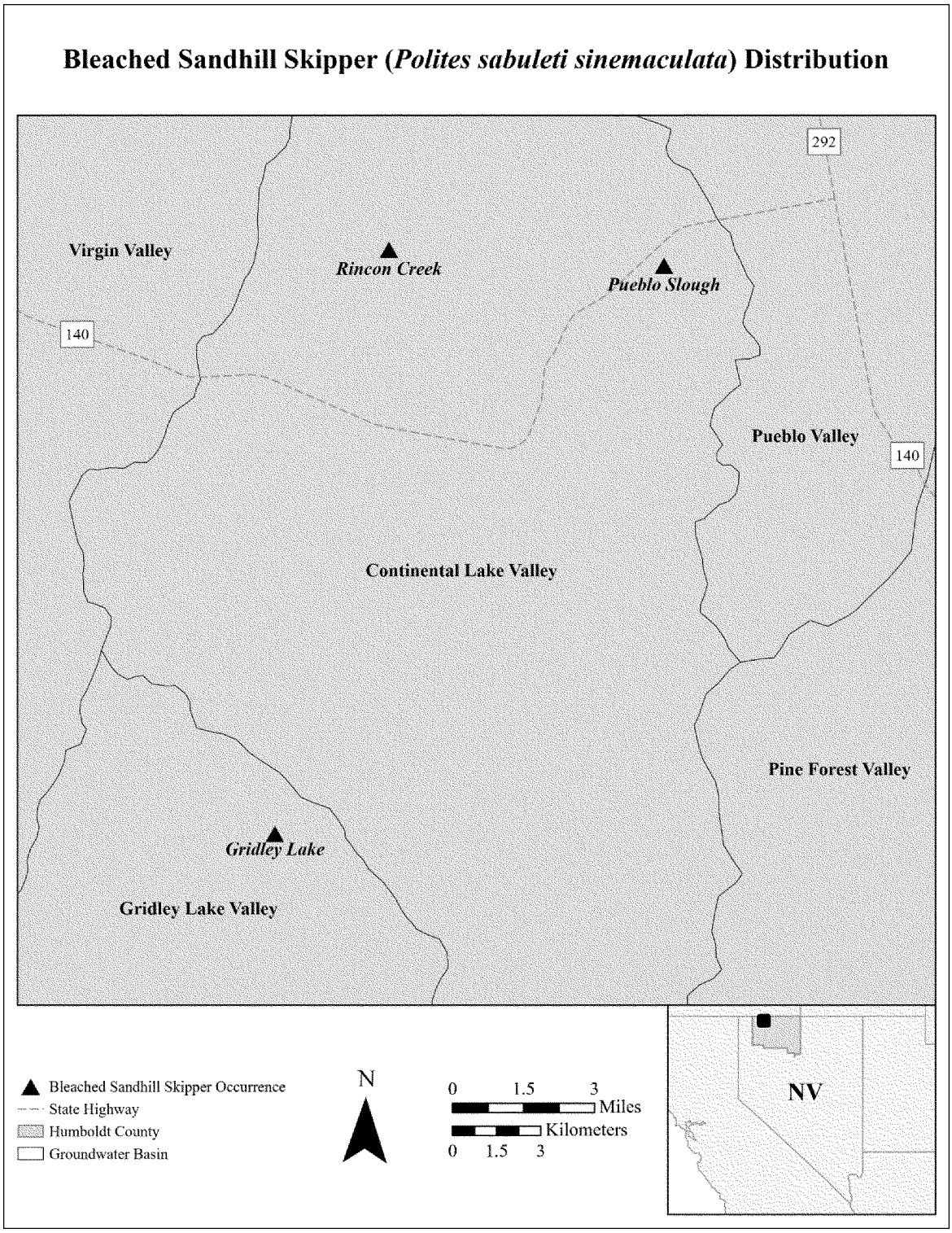

Figure 1—Distribution of the Bleached Sandhill Skipper

The specific timing and expression of life-history characteristics of the bleached sandhill skipper have not been studied in detail, but its phenology is likely similar to other *P. sabuleti* subspecies and univoltine (having one adult flight period per year) skipper species found in similar habitat communities (Service 2024, pp. 11–12).

Bleached sandhill skippers occupy alkali meadow communities dominated by saltgrass (*Distichlis spicata*) and rabbitbrushes (*Chrysothamnus* spp. and *Ericameria* spp.). Saltgrass is the presumed sole larval hostplant, providing food and shelter for larvae and presumably shelter for pupae; the availability of nutritious saltgrass plants throughout the fall is essential for larvae growth, development, and survival (Austin 1987, p. 8; Service 2024, p. 15). Rabbitbrushes are the primary nectar sources for adults; the availability of non-senescing plants during late summer through fall is essential for adult reproduction and survival. These food plants typically grow in areas where there is a shallow water table, and they rely on groundwater as their primary source of water uptake. Lastly, all bleached sandhill skipper life stages—egg, larvae, pupae, and adult—require suitable microclimate, including suitable temperatures and moisture levels.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following 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 species' expected response 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 definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species.

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, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*).

The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess bleached sandhill skipper viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events); and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the subspecies' ecological

requirements for survival and reproduction at the individual, population, and species levels and described the beneficial and risk factors influencing the subspecies' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual subspecies' life-history needs. The next stage involved an assessment of the historical and current condition of the subspecies' demographics and habitat characteristics, including an explanation of how the subspecies arrived at its current condition. The final stage of the SSA involved making predictions about the subspecies' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages of the SSA process, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time, which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket FWS–R8–ES–2024–0041 on *https://www.regulations.gov* and at *https://www.fws.gov/office/reno-fish-and-wildlife.*

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the subspecies and its resources, and the threats that influence the subspecies' current and future condition, in order to assess the subspecies' overall viability and the risks to that viability.

Species Needs

The SSA report contains a detailed discussion of the bleached sandhill skipper individual, population, and subspecies requirements (Service 2024, pp. 9–23); we provide a summary here. Based upon the best available scientific and commercial information, and acknowledging existing ecological uncertainties, the resource and demographic needs for breeding, feeding, sheltering, and microclimate conditions of the bleached sandhill skipper are summarized below.

Bleached sandhill skippers need alkali meadow communities dominated by saltgrass (the sole larval food plant) and rabbitbrushes (the primary adult nectar source). Each stage of the bleached sandhill skipper's life cycle relies on saltgrass (Austin 1987, p. 8). The density or cover of saltgrass needed for the bleached sandhill skipper is unknown. The quality (health) of saltgrass is important during the larval stage as green plants are more nutritious (due to increased moisture content) and likely more edible. Because rabbitbrushes are the primary nectar plants for adults (Austin 1987, p. 8; Stantec 2020, p. 125), they are essential for reproduction and survival of bleached sandhill skippers.

All life stages—egg, larvae, pupae, and adult—require suitable microclimate, including suitable temperatures and moisture levels. Bleached sandhill skippers are poikilothermic, meaning that their body temperature is controlled by ambient temperature, which controls critical physiological functions and behaviors, such as respiration, immunity, metabolism, growth and development, fecundity, flight ability, dispersal, oviposition, feeding, and diapause. Moisture conditions are also an important determinant of survival, especially in desert areas. The optimal range of temperature and moisture levels is unknown for bleached sandhill skipper (see ''Climate Change'' below), but as a desert occupant, it likely experiences conditions close to its upper thermal and moisture limits under normal conditions (Service 2024, pp. 21–23). Studies from a number of other insects, including butterflies, across broad geographic areas show significant fitness (growth, development, fecundity, and survival) consequences as temperatures exceed upper thermal limits (Service 2024, pp. 17–19). Although the optimal range of temperature for bleached sandhill skipper is unknown, based on studies conducted for other butterfly species, substantial fitness consequences (reproduction and survival) are likely triggered when temperatures exceed 35–41 degrees Celsius (C) (95– 105 degrees Fahrenheit (F)) (Service 2024, pp. 17–19, 49–51).

Bleached sandhill skipper populations, owing to their poikilothermic physiology, can experience large swings in abundance year-to-year in response to environmental conditions. Thus, to successfully recruit over time, populations need to be large (thousands of individuals) and maintain robust growth rates ($\lambda > 1.0$). Populations also require large sizes and gene flow to maintain genetic health and evolutionary potential. Bleached sandhill skipper populations also require high quality and quantity of habitat to support a robust demography. The amount of habitat required is unknown, but we know that suitable habitat means non-senescing patches of saltgrass and rabbitbrushes embedded within a healthy alkali meadow vegetation community with few dispersal barriers.

Threats

The main threats affecting the bleached sandhill skipper are related to warming and drying conditions due to climate change and exacerbated by groundwater pumping. We also evaluated existing regulatory mechanisms and ongoing conservation measures. In the SSA report, we considered additional threats: livestock grazing and potential impacts from future geothermal development. We concluded that, as indicated by the best available scientific and commercial information, these additional threats individually are having no to minor impact, but the effects could be intensified through synergistic interactions among all threats. For full descriptions of all threats and how they impact the bleached sandhill skipper, please see the SSA report (Service 2024, pp. 29–56).

Climate Change

Bleached sandhill skipper fitness is tightly controlled by the microclimate (temperature and moisture) experienced by individuals and the quality and quantity of habitat resources (nectar resources and hostplants) (Service 2024, pp. 11–19). Changes in the microclimate conditions and the quality of their habitat, therefore, directly and indirectly influence critical processes such as adult flight ability and timing, reproductive behavior, fecundity, oviposition, feeding, development, and diapause (Palumbo 2011, entire; Caldas 2012, entire). Furthermore, the bleached sandhill skipper is a desert occupant, likely living close to its upper thermal limits under normal conditions, leaving little buffer for accommodating warming and drying conditions.

The climate within bleached sandhill skipper range has been drying and warming over the last several decades. The Southwest region where the bleached sandhill skipper occurs is one of the hottest and driest areas of the United States, and climate change has exacerbated these conditions. Average annual temperatures have increased almost 1.1 degrees Celsius (°C) (2.0 degrees Fahrenheit (°F)) over the last century (Garfin et al. 2014, p. 464). Every part of the Southwest experienced higher average temperatures between 2000 and 2020 than the long-term average (1895–2020) (Environmental Protection Agency (EPA), 2023, p. 3). Within the last decade (comparing 2010–2019 to 1958–2009) in Humboldt County, Nevada, the average annual number of days where the maximum

temperature exceeded the 35 °C (95 °F) thermal limit of bleached sandhill skipper, increased by 2 days (21 versus 23 days) and 1.5 days (3 versus 4.5 days) for 38 °C (100 °F). During the years (2020–2022), the average annual number of days where the maximum temperature exceeded 35 °C (95 °F) increased from the historical average by 15 days, with 5 and 10 days in fall and summer, respectively, and 38 °C (100 °F) was exceeded for 3 days, with 2 days in fall and one day in summer (Service 2024, pp. 47–50).

Temperatures are increasing more at night than during the day and more in winter than in summer, leading to fewer cold snaps, more heatwaves, fewer frosty days and nights, less snow, and earlier snowmelt (Stewart et al. 2005, p. 1152; Mote et al. 2006, entire; Knowles et al. 2006, p. 4557; Abatzoglou and Kolden 2013, entire; Snyder et al. 2019, p. 3; Service 2024, p. 49). Both daytime high temperatures and nighttime low temperatures have exhibited widespread warming trends (Garfin et al. 2013, pp. 79–80; Service 2024, p. 49). In recent decades, reductions in precipitation and winter snowpack—key sources of moisture—have been observed (Garfin et al. 2014, p. 465). Since 2001, large portions of the arid Southwest have experienced prolonged drought, with widespread drought occurring in 2002, 2003, 2007, and 2009 (MacDonald 2010, p. 21256). During these years, the region's precipitation averaged as much as 22–25 percent below the 20th-century mean, with local deficits being greater (MacDonald 2010, p. 21256; Service 2024, pp. 49–53). Based on the long-term Palmer Drought Severity Index, drought conditions in the Southwest have varied since 1895 (EPA 2023, p. 3; Service 2024, p. 46) and since 1990, the Southwest has seen some of the most persistent droughts on record (Garfin et al 2013, p. 84).

The warming and drying conditions are also likely impacting the quality of bleached sandhill skipper habitat, specifically causing early senescence or loss of saltgrass and rabbitbrushes, although the extent to which this situation is occurring is unknown. Given the subspecies' limited dispersal ability (Service 2024, p. 12), low genetic diversity (Jahner 2023, pp. 3–4), inflexible thermal limits, and narrow diet, bleached sandhill skippers likely lack the capacity to timely and sufficiently adapt to warming temperatures and drying conditions.

Groundwater Pumping

Bleached sandhill skippers are found across two different groundwater basins. The Pueblo Slough and Rincon Creek populations are found within Continental Lake Valley groundwater basin, and the Gridley Lake population is found within Gridley Lake Valley groundwater basin (Service 2024, pp. 31–39). Pumping of groundwater occurs in these basins for many uses, but the vast majority is for irrigation of agricultural crops (Nevada Division of Water Resources (NDWR) 2023a, p. 1; NDWR 2023b, p. 1). Groundwater pumping that exceeds aquifer recharge may result in surface or groundwater level decline, spring drying and degradation, or the loss of aquatic habitat (Zektser et al. 2005, pp. 396–397; Aldous and Gannett 2021, p. 10). Saltgrass and rabbitbrushes are groundwater-dependent species with shallow root systems. Because of their shallow root systems, they can be harmed by long-term declining or fluctuating water tables (Groeneveld 1994, entire; Manning 1999, entire; Elmore et al. 2006, pp. 775–776; Patten et al. 2008, p. 8). With declining water tables, as the depth to groundwater increases, the ability of shallow roots to access this water resource is affected. A long-term decline in groundwater supply may shift the vegetative community from groundwater-dependent plants to more upland species that rely on precipitation rather than groundwater (Patten et al. 2008, p. 10) or to successional dead-ends where further disturbance results in bare soils dominated by nonnative species (Manning 1999, p. 236).

Groundwater pumping for irrigation occurs hydrologically upgradient from all three populations. Increasing depth-to-groundwater levels have been documented for several groundwater wells upgradient of the Pueblo Slough population (Service 2024, pp. 31–38). Although there are no wells upgradient of the other two populations with sufficient data to determine trends, the increasing depth-to-groundwater trend near Pueblo Slough, coupled with an analysis of normalized vegetation difference index (NVDI) data (a measure of vegetation health; higher values mean more dense and green vegetation) adjusted for climate variability, suggests a drying of the groundwater- dependent vegetation communities across the two water basins where bleached sandhill skipper are found. These data suggest that pumping is currently contributing to increasing the depth-to-groundwater levels at Pueblo Slough and Gridley Lake and drying of the groundwater-dependent vegetation (Service 2024, pp. 31–38). Gridley Lake Valley groundwater basin (where the Gridley Lake population is located) is currently appropriated and pumped above perennial yield, which is consistent with this assessment. Continental Lake Valley groundwater basin (where Rincon Creek and Pueblo Slough populations are located) is close to fully appropriated and pumped around 25 percent of perennial yield. Our assessment of the available data clearly indicates that, despite being pumped below perennial yield in this valley, the increasing depth-to-groundwater trend is still being realized (Service 2024, pp. 38–39).

In the near-term (years 2020–2029), continued and/or increased groundwater pumping is projected, which will continue to increase the depth to groundwater, impairing the ability of saltgrass and rabbitbrushes to connect with the water table (due to shallow root systems) (Service 2024, p. 65). Thus, we anticipate that continued groundwater pumping, coupled with the impacts of climate change, will continue to cause drying of these areas such that they will no longer support a vegetation community needed to support bleached sandhill skipper populations.

Conservation Efforts and Regulatory Mechanisms

The Nevada Department of Wildlife and the Nevada Department of Conservation and Natural Resources do not have authority to manage or conserve terrestrial invertebrates such as the bleached sandhill skipper. Nevada Revised Statute (NRS) section 501.110 outlines the ''Classification of Wildlife'' in Nevada and lists the Nevada Department of Wildlife as having authority over wild mammals, wild birds, fish, reptiles, amphibians, mollusks, and crustaceans but does not mention insects. The Nevada Department of Agriculture has statutory authority over insects that are ''normally considered to be a pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the Director [of the Department of Agriculture] declares to be a pest'' (NRS section 555.005(5)). Because the bleached sandhill skipper is not an agricultural pest, it is functionally unmanaged by any State agency.

The bleached sandhill skipper has been placed on Nevada's list of ''at-risk species'' by the Nevada Division of Natural Heritage (Nevada Division of Natural Heritage 2022, p. 16). However, species included on the At-Risk Plant and Animal Tracking List are not provided any protections by the State (Nevada Division of Natural Heritage 2022, p. 1). The bleached sandhill skipper is considered a BLM Sensitive

Species in Nevada (BLM 2017, p. 24). BLM Sensitive Species are ''species requiring special management consideration to promote their conservation and reduce the likelihood and need for future listing under the Act'' (BLM 2008, p. 3). Beyond the Sensitive Species designation, other BLM regulations do not provide protections for the bleached sandhill skipper. The BLM Winnemucca District Resources Management Plan requires that proposed actions on BLM land do not affect a species in such a way that it may lead to further listing under the Act (BLM 2013, p. 34). This is the only regulatory mechanism providing any level of protection for the bleached sandhill skipper.

Cumulative Effects

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the subspecies. To assess the current and future condition of the subspecies, we evaluate the effects of all the relevant factors that may be influencing the subspecies, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire subspecies, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Current and Near-Term Conditions

Since 2010, periodic standardized surveys (visual encounter techniques resulting in numbers of individuals counted) have been conducted at Pueblo Slough (Service and BLM 2014, entire; Service and BLM 2022, entire); count data are available for 6 out of the last 10 years (figure 2). At Pueblo Slough, bleached sandhill skipper counts have steeply declined since 2014, with counts decreasing from an estimated 7,482 individuals in 2014 to an estimate of 245 individuals in 2023 (figure 2). Prior to 2014, bleached sandhill skipper numbers were suggested to be in the thousands, but this information is anecdotal as standardized surveys were not conducted before that time. Although the count data do not provide an abundance estimate, the decline from thousands of butterflies to hundreds of butterflies indicates that the population size is now much smaller, approximately 97 percent less than it had been in 2014. Thus, these data also suggest a declining population trend.

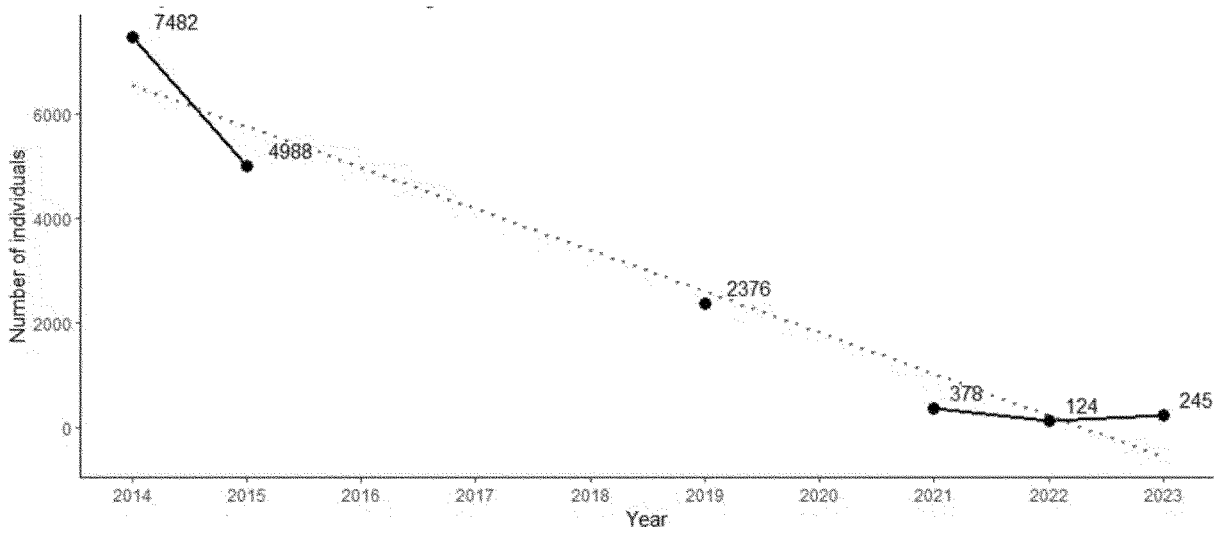

Figure 2—Number of Individuals Counted During Standardized Transect Surveys at Pueblo Slough

(Stantec 2015, p. 14; Stantec 2016, p. 9; Stantec 2020, p. 10; Arid West 2022, p. 10; Arid West 2023, p. 11; Stantec 2023, p. 2. Trend line: linear model in R using Tidyverse, ggplot2, and Viridis packages.)

From Gridley Lake, we have only 1 year of count data (from 2023), and the number of bleached sandhill skippers counted was low (313 individuals). Similarly, we have only 1 year of count data (from 2015) from Rincon Creek, and the number of bleached sandhill skippers counted there was also low (78 individuals). Therefore, data are not available to discern population trends for either Gridley Lake or Rincon Creek populations.

Data are too limited to assess whether the extent and health of saltgrass and rabbitbrushes have changed over time at all three populations. However, NVDI data suggest that the health of the vegetation community has declined at Pueblo Slough and Gridley Lake and this trend is expected to continue into the near-term.

The steep decline in bleached sandhill skipper population counts coupled with recent studies implicating climate change as the cause of butterfly declines in the Southwestern United States (Crossley et al. 2021, p. 2,707; Forister et al. 2021, p. 1,044) suggest that climate change is a key driver in bleached sandhill population dynamics at Pueblo Slough. Given the regional extent of climate change, it is likely that it is a key driver of the population dynamics at Gridley Lake and Rincon Creek populations as well. Taken together with the magnitude of warming and drying that has occurred in the last couple of decades, it can be reasonably discerned that climate change and groundwater pumping is having negative impacts on all three bleached sandhill skipper populations.

Current and Near-Term Condition Summary

Bleached sandhill skipper viability requires multiple, resilient populations (high abundance and strong growth rates). Until recently, bleached sandhill skipper populations appeared to have sufficient abundances and growth rates to withstand unfavorable environmental conditions despite its narrow geographic range (low redundancy) and seemingly low representation (owing to the limited ability to shift its range and its low within and among population genetic diversity). However, over the

last 10 years, bleached sandhill skipper abundance has been declining at Pueblo Slough, due to climate change and groundwater pumping. Gridley Lake and Rincon Creek populations, because of their proximity to Pueblo Slough, are likely experiencing and responding similarly to rising temperatures and drying conditions. Thus, given its overall declining population health (low number of individuals, deteriorating habitat conditions), the subspecies is considered to have low resiliency.

Because the subspecies is limited to a relatively small area (three populations within an approximately 14-mile (22-kilometer) area), and because all three populations are considered to have low resiliency, the subspecies is considered to have little redundancy. A single catastrophic event, such as a severe drought or heat wave, could result in the extinction of the subspecies. Additionally, given the subspecies' narrow range and limited to no dispersal capabilities, we consider the subspecies to have low representation, and we do not expect any significant changes in behavioral, ecological, or genetic variation.

Within the near-term (by 2029), the synergistic effects of climate change and groundwater pumping are projected to intensify, further reducing the bleached sandhill skipper's ability to sustain itself, while concurrently impairing the subspecies' ability to withstand stochasticity and catastrophic events. Moreover, current and near-term declining population health will further constrain the bleached sandhill skipper's low representation, thereby exacerbating declines in the subspecies' resiliency and redundancy over time.

Future Condition

As part of the SSA, we also developed three future-condition scenarios to capture the range of uncertainties regarding future threats and the projected responses by the bleached sandhill skipper. Our scenarios assumed a moderate to major increase in the warming and drying conditions within bleached sandhill skipper habitats, due to climate change and the synergistic effects of continued or enhanced groundwater pumping activities. Because we determined that the current condition of the bleached sandhill skipper is consistent with an endangered species (see Determination of Bleached Sandhill Skipper Status, below), we are not presenting the results of the future scenarios in this proposed rule. Please refer to the SSA report (Service 2024, pp. 58–81) for the full analysis of future scenarios.

Determination of the Bleached Sandhill Skipper Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species in danger of extinction throughout all or a significant portion of its range and a ''threatened species'' as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following 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.

We presented summary evaluations of the primary threats analyzed in the SSA report including climate change (Factor E) and groundwater pumping (Factor A). We also evaluated existing regulatory mechanisms (Factor D) and ongoing conservation measures. In the SSA report, we also considered additional threats: livestock grazing (Factor A) and geothermal development (Factor A). We concluded that, as indicated by the best available scientific and commercial information, livestock grazing and geothermal development currently have no impact to minor impacts on the bleached sandhill skipper and its habitat and, thus, the overall effect of these activities now and into the near-term is expected to be minimal. However, we consider each of these factors in the determination for the subspecies, because although they may have low impacts on their own, combined with impacts of other threats, they could further reduce the already low number of bleached sandhill skippers.

Status Throughout All of Its Range

After evaluating threats to the subspecies and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we have determined that the bleached sandhill skipper has limited resiliency, redundancy, and representation to maintain viability over time. Since 2014, counts of bleached sandhill skipper have been declining at Pueblo Slough, due to climate change and exacerbated by groundwater pumping. Gridley Lake and Rincon Creek populations have limited population data, but because of their proximity to Pueblo Slough, they are likely experiencing and responding similarly to warming temperatures and drying conditions. Because the subspecies is limited to a relatively small area (three populations within an approximately 14-mile (22-kilometer) area), the subspecies is considered to have little redundancy. A single catastrophic event, such as a severe drought or heat wave, could result in the extinction of the subspecies. Additionally, given the subspecies' narrow range and limited to no dispersal capabilities, we consider the subspecies to have low representation, and we do not expect any significant changes in behavioral, ecological, or genetic variation.

Within the near-term (by 2029), the synergistic effects of climate change and groundwater pumping are projected to intensify, further reducing the bleached sandhill skipper's ability to sustain itself, while concurrently impairing the subspecies' ability to withstand stochasticity and catastrophic events. Moreover, current and near-term declining population health will further constrain the bleached sandhill skipper's seemingly low evolutionary potential, thereby exacerbating declines in the subspecies' resiliency and redundancy over time.

With declining population health (low number of individuals, deteriorating habitat conditions) coupled with its small geographic range, the subspecies currently has limited ability to withstand inherent stochasticity (environmental, demographic, and genetic), catastrophic events (*e.g.,* heat waves and droughts), and changing environmental conditions (*e.g.,* chronic increases in temperatures, drying conditions). Thus, extirpation risks at all three populations are expected to continue and increase in the near-term.

We do not find the bleached sandhill skipper meets the definition of a threatened species because the subspecies currently has a low number of individuals, has already shown population declines resulting in low resiliency of its populations, and has deteriorating habitat conditions driven or exacerbated by the identified threats. Because the bleached sandhill skipper has low redundancy and representation is limited, the subspecies is vulnerable to even a single catastrophic heat wave or drought event. Thus, after assessing the best scientific and commercial data available, we conclude that the bleached

sandhill skipper is currently in danger of extinction throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. We have determined that the bleached sandhill skipper is in danger of extinction throughout all of its range and accordingly did not undertake an analysis of any significant portion of its range. Because the bleached sandhill skipper warrants listing as endangered throughout all of its range, our determination does not conflict with the decision in *Center for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020), because that decision related to significant portion of the range analyses for species that warrant listing as threatened, not endangered, throughout all of their range.

Determination of Status

Our review of the best available scientific and commercial information indicates that the bleached sandhill skipper meets the definition of an endangered species. Therefore, we propose to list the bleached sandhill skipper as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting'') and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/program/endangered-species*), or from our Reno Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this subspecies is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Nevada would be eligible for Federal funds to implement management actions that promote the protection or recovery of the bleached sandhill skipper. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Although the bleached sandhill skipper is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this subspecies. Additionally, we invite you to submit any new information on this subspecies whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled, ''Interagency Cooperation,'' and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

In contrast, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Although the conference procedures are required

only when an action is likely to result in jeopardy or adverse modification, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion may be adopted as a biological opinion and serve as compliance with section 7(a)(2).

Examples of discretionary actions for the bleached sandhill skipper that may be subject to conference and consultation procedures under section 7 are land management or other landscape-altering activities on Federal lands administered by the BLM, the Natural Resources Conservation Service, and the Federal Highway Administration as well as actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the local Service Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, and the Service's implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. Certain exceptions to these prohibitions apply to employees or agents of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

II. Critical Habitat

Background

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the

species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information compiled in the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Critical Habitat Determinability

Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

We reviewed the available information pertaining to the biological needs of the bleached sandhill skipper and habitat characteristics where the subspecies is located. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of acquiring the complex information needed to perform that assessment. Therefore, due to the current lack of data sufficient to perform required analyses, we conclude that the designation of critical habitat for the bleached sandhill skipper is not determinable at this time. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Required Determinations

Clarity of the Rule

We are required by Executive Order (E.O.) 12866 and E.O. 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.

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, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations (ANCs) on a government-to-government basis. In accordance with Secretaries' 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. We will work with Tribal entities during the future development of a proposed rule for the designation of critical habitat for the bleached sandhill skipper.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Reno Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTAC**T).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Reno Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

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

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.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding an entry for ''Skipper, bleached sandhill'' in alphabetical order under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
Insects				
*	*	*	*	*
Skipper, bleached sandhill	*Polites sabuleti sinemaculata.*	Wherever found	E	[**Federal Register** citation when published as a final rule].
*	*	*	*	*

Stephen Guertin,

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

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