

The following language is proposed to be negotiated as part of the 2006 Title I and Title IV funding agreements regarding fiduciary trust records management:

The Tribe/Consortium and Secretary agree to implement the Policy on Fiduciary Trust Records Management for Title I and Title IV Tribes/Consortia by working cooperatively in records creation, maintenance and disposition and training activities.

The Tribe/Consortium agrees to:

(a) Preserve, protect and manage all fiduciary trust records, as defined in the Secretary of Interior's Policy on Fiduciary Trust Records Management for Title I and Title IV Tribes/Consortia created and maintained by Tribes/Consortia during their management of trust programs in their Title I/Title IV agreements;

(b) Make available to the Secretary all fiduciary trust records maintained by the Tribe/Consortium, provided that the Secretary gives reasonable oral or written advance request to the Tribe/Consortium. Access shall include visual inspection and the production of copies as necessary and shall not include the involuntary removal of the records; and

(c) Store and permanently retain all inactive fiduciary trust records at the Tribe/Consortium or allow such records to be removed and stored at the American Indian Records Repository (AIRR) in Lenexa, Kansas at no cost to the Tribe/Consortium.

The Secretary agrees to:

(a) Allow the Tribe/Consortium to determine what records it maintains to implement the trust program assumed under a Title I or Title IV agreement except it must maintain the information required by statute and regulation;

(b) Store all inactive fiduciary trust records at AIRR at no cost to the Tribe/Consortium when the Tribe/Consortium no longer wishes to keep the records. Further, the Tribe/Consortium will retain legal custody and determine access to these records;

(c) Work with the Tribe/Consortium on a tribal storage and retrieval system for fiduciary trust records stored at AIRR; and

(d) Provide technical and financial assistance for Tribes/Consortia in preserving, protecting and managing their fiduciary trust records from available funds appropriated for this purpose.

Dated: January 26, 2005.

Abraham E. Haspel,

Assistant Deputy Secretary—Office of the Secretary.

[FR Doc. 05-1869 Filed 2-1-05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of Lesser Long-nosed Bat, Black-capped Vireo, Yuma Clapper Rail, Pima Pineapple Cactus, Gypsum Wild-Buckwheat, Mesa Verde Cactus, and Zuni Fleabane

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 5-year review of the lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*), the black-capped vireo (*Vireo atricapilla*), the Yuma clapper rail (*Rallus longirostris yumanensis*), Pima pineapple cactus (*Coryphantha sheeri* var. *robustispina*), gypsum wild-buckwheat (*Erigonum gypsophilum*), Mesa Verde cactus (*Sclerocactus mesae-verde*), and Zuni fleabane (*Erigeron rhizomatus*) under the Endangered Species Act of 1973 (Act). The purpose of reviews conducted under this section of the Act is to ensure that the classification of species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (50 CFR 17.12) is accurate. The 5-year review is an assessment of the best scientific and commercial data available at the time of the review.

DATES: To allow adequate time to conduct this review, information submitted for our consideration must be received on or before May 3, 2005. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Information submitted on these species should be sent to the U.S. Fish and Wildlife Service at the following addresses. Information received in response to this notice of review will be available for public inspection by appointment, during normal business hours, at the same addresses.

Information regarding the lesser long-nosed bat, Yuma clapper rail, and Pima pineapple cactus should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021.

Information regarding the black-capped vireo should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, Ecological Services, 711 Stadium Drive, Suite 252, Arlington, TX 76011.

Information regarding gypsum wild-buckwheat, Mesa verde cactus, and Zuni fleabane should be sent to the Field Supervisor, Attention 5-year Review, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna Road NE, Albuquerque, NM 87113.

FOR FURTHER INFORMATION CONTACT: For the lesser long-nosed bat, contact Scott Richardson at the U.S. Fish and Wildlife Service Arizona Ecological Services Tucson Sub-Office, 201 North Bonita, Suite 141, Tucson, AZ 84745, 520-670-6150 x 242, scott_richardson@fws.gov. For the Pima pineapple cactus, contact Mima Falk at Tucson Sub-Office address above, 520-670-6150 x 225, mima_falk@fws.gov. For the black-capped vireo, contact Omar Bocanegra at the U.S. Fish and Wildlife Service, Ecological Services Field Office, 711 Stadium Drive, Arlington, TX 76011, 817-277-1100, omar_bocanegra@fws.gov. For the Yuma clapper rail, contact Lesley Fitzpatrick at the U.S. Fish and Wildlife Service Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021, 602-242-0210 x 236, lesley_fitzpatrick@fws.gov. For the gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane, contact Nancy Baczek at the New Mexico Ecological Services Field Office, 2105 Osuna Road, NE, Albuquerque, NM 87113, 505-761-4711, nancy_baczek@fws.gov.

SUPPLEMENTARY INFORMATION:

Why Is a 5-Year Review Conducted?

Section 4(c)(2)(A) of the Act (16 U.S.C. 1531 *et seq.*) requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B) and the provisions of subsections (a) and (b), to determine, on the basis of such a review, whether or not any species should be removed from the List of Endangered and Threatened Wildlife and Plants (delisted), or reclassified from endangered to threatened (downlisted), or from threatened to endangered (uplisted). The 5-year review is an assessment of the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any new information (best scientific and commercial data) on the following species since their original listings as either endangered (lesser long-nosed bat, black-capped vireo, Yuma clapper rail, and Pima pineapple cactus) or threatened (gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane).

If the present classification of any of these species is not consistent with the best scientific and commercial information available, the Service will recommend whether or not a change is warranted in the Federal classification of that species. Any change in Federal classification would require a separate final rule-making process.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the lesser long-nosed bat, black-capped vireo, Yuma clapper rail, Pima pineapple cactus, gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane.

What Information Is Considered in the Review?

A 5-year review considers all new information available at the time of the review. These reviews will consider the best scientific and commercial data that has become available since the current listing determination or most recent status review of each species, such as:

A. Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions, including but not limited to amount, distribution, and suitability;

C. Conservation measures that have been implemented to benefit the species;

D. Threat status and trends (see five factors under heading "How do we determine whether a species is endangered or threatened?"); and

E. Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List of Endangered and Threatened Wildlife and Plants, and improved analytical methods.

Specific Information Requested for the Lesser Long-Nosed Bat

We are especially interested in the results of survey and monitoring efforts that provide a better understanding of current population numbers and the status, security, and location of roost sites in the U.S. and Mexico. We also specifically request any recent information regarding the impacts of agave plant harvest and/or livestock grazing on the numbers and distribution of agaves and associated impacts on forage availability for lesser long-nosed bats.

Specific Information Requested for the Black-Capped Vireo

We are especially interested in the following information: (1) Distribution of populations and suitable habitat across the breeding range and the degree of protection afforded these populations and habitat; (2) evaluation of the viability of breeding populations; (3) the distribution of wintering populations and evaluation of the extent and security of wintering habitat in Mexico; and (4) short- and long-term effects of various management activities on vireo populations and breeding habitat, including brown-headed cowbird control, brush management, prescribed fire, and livestock grazing.

Specific Information Requested for the Yuma Clapper Rail

We specifically request information regarding the distribution of listed populations and evaluation of the degree of habitat protection for each population, and information regarding management plans and techniques for maintaining clapper rail habitat. We also are particularly interested in recent information regarding the effects of selenium on clapper rail reproductive success.

Special Consideration of a Taxonomic Question Regarding the Pima Pineapple Cactus

Two studies of character variation within the species *Coryphantha robustispina* have recently become available to us: One was recently published by Schmalzel *et al.* (2004), and the other is a report by Baker (2004) of Arizona State University regarding a study carried out under our cooperative agreement with the Arizona Department of Agriculture under section 6 of the Endangered Species Act. These two studies reach different conclusions concerning the taxonomic validity of the Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*).

We have carefully reviewed both reports and have identified several technical issues on which we are particularly soliciting review and comment by knowledgeable experts during this status review of the Pima pineapple cactus.

Schmalzel *et al.* (2004) concluded that their data suggest that the Pima pineapple cactus, a listed variety of *C. robustispina* (based on Taylor (1998) nomenclature), is not a valid taxonomic entity, and therefore does not meet the definition of "species" under the Act. They based this conclusion on (1) clinal variation in certain characters from west to east, and (2) overlap in characters

between the populations of *C. robustispina*.

The term "cline" comes from "cline," which is a gradation in measurable characters (Huxley 1938). The existence of clinal patterns in characters within a species can be compatible with recognition of taxa (named units) below the level of species (infra-specific taxa). Julian Huxley (1938) first proposed the term "cline" as "an auxiliary taxonomic principle," and observed that clines could be intragroup, or within a population, or intergroup, as in "connecting the mean values of the subspecies of a polytypic species." The plant varieties recognized as valid for listing under the ESA are biologically equivalent to subspecies (USFWS 1978). We seek comment and additional information regarding the conclusions of Schmalzel *et al.* (2004) with regard to clinal variation in *C. robustispina*.

Regarding overlap in characters, Schmalzel *et al.* interpret their principle components analysis as demonstrating overlap in geographic groups of *C. robustispina*, and suggest this overlap is further evidence that the varieties are not distinct. The morphometric analysis provided by Schmalzel *et al.* (2004) did not include four of the characters (stem branching and three floral characters) identified by Benson (1982) for distinguishing varieties of *C. robustispina*, although a general narrative discussion of those characters was provided. We seek comment on their conclusions with regard to character overlap and the implications of not including the characters identified by Benson (1982) in the analysis.

Baker (2004) assessed character variation in *C. robustispina* with respect to the three recognized varieties, including the Pima pineapple cactus. Baker (2004) included stem branching in his study, but did not include floral characters. Baker's ongoing research will address floral characters, to be completed in 2005. To date, Baker has found statistically significant differences among the named varieties for most characters, although Pima pineapple cactus did not significantly differ from the variety that was closest geographically in two of the characters (radial spine length and central spine curvature) used by Benson (1982) to distinguish varieties of *C. robustispina*.

The plots of Baker's (2004) principal components analysis show points corresponding to the Pima pineapple cactus to be largely separate from, but having some overlap with, points representing *Coryphantha robustispina uncinata*, the variety geographically

nearest to the Pima pineapple cactus. The amount of overlap appears to be at least grossly comparable to the corresponding amount in Fig. 10 of Schmalzel *et al.* (2004). Baker's (2004) discriminant function analysis showed that the character data correctly identified individuals of *C. robustispina* from Pima and Santa Cruz Counties, Arizona, as Pima pineapple cactus 92.3 percent of the time. Baker (2004) concluded that, based on the allopatry (disjunct geographic distributions) and observed morphological separation of the varieties, all three varieties of *C. robustispina* are taxonomically valid.

Stebbins (1950 provided the following definition for the term subspecies: "The subspecies or geographic variety is a series of populations having certain morphological and physiological characteristics in common, inhabiting a geographic subdivision of the range of the species or a series of similar ecological habitats, and differing in several characteristics from typical members of other subspecies, although connected with one or more of them by series of intergrading forms." Stuessy's (1990) general standards for recognition of plant subspecies or varieties are consistent with Stebbins' definition. Stuessy states that plant subspecies are largely allopatric (occupying geographically different areas), but allows for some degree of contact, hybridization, and overlap.

The taxonomic question that we must evaluate in the present status review is whether the observed amount of overlap in characters between Pima pineapple cactus and other varieties of *C. robustispina* is acceptable for continued recognition of the Pima pineapple

cactus as a valid taxon. It appears to us that the two studies summarized in this notice generally agree in the gross amount of overlap (although it was not quantified by Schmalzel *et al.* 2004) but disagree in the taxonomic significance of that overlap.

We are soliciting review and comment on any issue related to the listed status of the Pima pineapple cactus in order to determine whether its continued listing under the Act is justified. If the best available scientific and commercial information indicates that the Pima pineapple cactus is not a valid taxon, we will develop a proposal to remove it from the List of Endangered and Threatened Wildlife and Plants. It is therefore important that we have a full understanding of current concepts and standards of plant taxonomy as they apply to the taxonomic standing of the Pima pineapple cactus to ensure that our decision is based on the best available information. Other issues on which we would like comment are the use of herbarium specimens for this type of work, and the appropriate sample size for evaluating differences within populations and between varieties. Given the different taxonomic conclusions of the two recent studies, we are particularly soliciting review and comment by knowledgeable experts in multivariate methods and plant taxonomy on the two studies summarized in this notice and identification of the taxonomic issues that we have provided.

A copy of Baker's study is available on our Web site at: <http://southwest.fws.gov/>. The citation for the study by Schmalzel *et al.* (2004) is provided below.

Literature Cited

Baker, Marc. 2004. Phenetic analysis of *Coryphantha*, section *Robustispina* (Cactaceae), part 1: stem characters. Section 6 Grant Report, 4 May 2004.
 Benson, L. 1982. The Cacti of the United States and Canada. Stanford University Press, Stanford, California.
 Huxley, J. 1938. Clines: an auxiliary taxonomic principle. *Nature* 3587:219-220.
 Schmalzel, R. J., R. T. Nixon, A. L. Best, J. A. Tress, Jr. 2004. Morphometric variation in *Coryphantha robustispina* (Cactaceae). *Systematic Botany* 29(3):553-568.
 Stebbins, G. L. 1950. Variation and Evolution in Plants. Columbia University Press, NY. 643 pp.
 Stuessy, T. F. 1990. Plant Taxonomy; The Systematic Evaluation of Comparative Data. Columbia University Press, New York. 514 pp.
 USFWS (U.S. Fish and Wildlife Service). 1978. Determination that 11 plant taxa are endangered species and 2 plant taxa are threatened species. **Federal Register** 43(81):17910-17916; April 26, 1978.

How Are Lesser Long-Nosed Bat, Black-Capped Vireo, Yuma Clapper Rail, Pima Pineapple Cactus, Gypsum Wild-Buckwheat, Mesa Verde Cactus, and Zuni Fleabane Currently Listed?

The List of Endangered and Threatened Wildlife and Plants (List) is found in 50 CFR 17.11 (wildlife) and 17.12 (plants). Amendments to the List through final rules are published in the **Federal Register**. The List is also available on our Internet site at <http://endangered.fws.gov/wildlife.html#Species>. In Table 1 below, we provide a summary of the listing information for the species under active review.

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR LESSER LONG-NOSED BAT, YUMA CLAPPER RAIL, PIMA PINEAPPLE CACTUS, GYPSUM WILD-BUCKWHEAT, MESA VERDE CACTUS, AND ZUNI FLEABANE

| Common name | Scientific name | Status | Where listed | Final listing rule |
|-----------------------------|---|-----------------------------------|---|-----------------------------|
| Lesser long-nosed bat | <i>Leptonycteris curasoae yerbabuena</i> ¹ . | Endangered | Across species range (U.S.A., Mexico, Central America). | 53 FR 38456, (30-SEP-1988). |
| Black-capped vireo | <i>Vireo atricapilla</i> ² | Endangered | U.S.A. (Kansas, Oklahoma, Texas, Mexico) ³ . | 52 FR 37420, (6-OCT-1987). |
| Yuma clapper rail | <i>Rallus longirostris yumanensis</i> . | Endangered | U.S.A (Arizona, California) | 32 FR 4001, (11-MAR-67). |
| Pima pineapple cactus | <i>Coryphantha scheeri</i> var <i>robustispina</i> . | Endangered | Across species range (southern Arizona and northern Sonora, Mexico). | 58 FR 49875, (25-OCT-93). |
| Gypsum wild-buckwheat ... | <i>Erigonum gypsophilum</i> | Threatened with Critical Habitat. | Across species range (Eddy County, New Mexico). | 46 FR 5730, (19-JAN-81). |
| Mesa Verde cactus | <i>Sclerocactus mesae-verdae</i> . | Threatened | Across species range (southwest Colorado, northwest New Mexico, northeast Arizona). | 44 FR 62471, (30-OCT-79). |

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR LESSER LONG-NOSED BAT, YUMA CLAPPER RAIL, PIMA PINEAPPLE CACTUS, GYPSUM WILD-BUCKWHEAT, MESA VERDE CACTUS, AND ZUNI FLEABANE—Continued

| Common name | Scientific name | Status | Where listed | Final listing rule |
|---------------------|----------------------------------|------------------|--|---------------------------|
| Zuni fleabane | <i>Erigeron rhizomatus</i> | Threatened | Across species range (Arizona and New Mexico). | 50 FR 16680, (26-APR-85). |

¹ Synonyms for this species include *L. sanborni*, *L. nivalis sanborni*, *L. yerbabunae*, and *L. curasoeae*.

² The scientific name of this species has recently been changed from *V. atricapillus* to *V. atricapilla* (Dave, N. and M. Gosselin. 2002. Gender agreement of the avian species names. Bull. Brit. Orn. Club 122: 14-49).

³ We believe the table concluding the Final Rule for the black-capped vireo erroneously included Nebraska and Louisiana as part of the historic range of the species.

Definitions Related to This Notice

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature.

B. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

C. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the five 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.

Section 4(a)(1) of the Act requires that our determination be made on the basis of the best scientific and commercial data available.

What Could Happen as a Result of This Review?

If we find that there is new information concerning lesser long-nosed bat, black-capped vireo, Yuma clapper rail, Pima pineapple cactus, gypsum wild-buckwheat, Mesa Verde cactus, or Zuni fleabane indicating a change in classification may be warranted, we may propose a new rule that could do one of the following: (a) Reclassify the species from endangered to threatened (downlist); (b) reclassify the species from threatened to

endangered (uplist); or (c) remove the species from the List. If we determine that a change in classification is not warranted, then these species will remain on the List under their current status.

Public Solicitation of New Information

We request any new information concerning the status of lesser long-nosed bat, black-capped vireo, Yuma clapper rail, Pima pineapple cactus, gypsum wild-buckwheat, Mesa Verde cactus, and Zuni fleabane. See "What information is considered in the review?" heading for specific criteria. Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the supporting record, which we will honor to the extent allowable by law. There also may be circumstances in which we may withhold from the supporting 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. We will not consider anonymous comments, however. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Authority: This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: December 16, 2004.

Geoffrey L. Haskett,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 05-1924 Filed 2-1-05; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Adult Education Annual Report Form, OMB Control No. 1076-0120, requires renewal. The information collection requirement, with no appreciable changes, is submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 4, 2005.

ADDRESSES: Comments are to be sent to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior. Comments may be sent via facsimile to (202) 395-6566 or you may send e-mail to: OIRA_DOCKET@omb.eop.gov. Copies of comments should be sent to Edward Parisian, Acting Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C St., NW., Mail Stop 3609-MIB, Washington, DC 20240, or hand delivered to room 3609 at the above address.

FOR FURTHER INFORMATION CONTACT: Garry Martin, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, 202-208-3478.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for adult education programs in accordance with 25 CFR 46, subpart A, sections 46.20 Program Requirements and 46.30