

**TE-050706**  
*Applicant:* David Young, Western Ecosystems Technology, Inc., Cheyenne, Wyoming  
The applicant requests a permit to take American burying beetles (*Nicrophorus americanus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.  
Dated: July 11, 2003.  
**Ralph O. Morgenweck,**  
*Regional Director, Denver, Colorado.*  
[FR Doc. 03-19582 Filed 7-31-03; 8:45 am]  
**BILLING CODE 4310-55-P**

**DEPARTMENT OF THE INTERIOR**  
**Fish and Wildlife Service**  
**Endangered and Threatened Wildlife and Plants; 5-Year Review of the Delta Smelt**  
**AGENCY:** Fish and Wildlife Service, Interior.  
**ACTION:** Notice of review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 5-year review of the delta smelt (*Hypomesus transpacificus*) under section 4(c)(2)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*). 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 (List) is accurate.  
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 delta smelt since its original listing as a threatened species in 1993. If the present classification of this species is not consistent with the best scientific and commercial information available, we

may, at the conclusion of this review, initiate a separate action to propose changes to the List accordingly.  
**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than September 30, 2003.  
**ADDRESSES:** Submit information to the Field Office Supervisor, Attention: Delta Smelt 5-year Review, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825-1846. Information received in response to this notice and review results will be available for public inspection by appointment, during normal business hours, at the above address. New information regarding the delta smelt may be sent electronically to [Lawrence\\_Host@fws.gov](mailto:Lawrence_Host@fws.gov).  
**FOR FURTHER INFORMATION CONTACT:** For the delta smelt, contact Harry McQuillen or Larry Host at the above address, or at 916/414-6547.  
**SUPPLEMENTARY INFORMATION:**

**Why Is a 5-Year Review Conducted?**  
Section 4(c)(2)(A) of the Act 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 (delisted), or reclassified from endangered to threatened, or threatened to endangered. 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 delta smelt.

**Why Is the Review Being Conducted for the Delta Smelt at This Time?**  
Conducting a 5-year review for the delta smelt at this time was agreed to in connection with the settlement of two lawsuits, *California Farm Bureau Federation et al. v. U.S. Department of the Interior et al.*, Case No. 1:02CV02328

(D.D.C., Nov. 22, 2002) and *San Luis & Delta Mendota Water Authority et al. v. U.S. Department of the Interior et al.*, Case No. CIV-F-02-6461 REC. D.B. (E.D. Cal., Nov. 22, 2002). The settlement agreement was signed by the DC district court on June 13, 2003, and by the federal district court in Fresno, California on June 19, 2003.

**What Information Is Considered in the Review?**  
The 5-year review considers all new information available at the time of the review. This review will consider the best scientific and commercial data that has become available since the current listing determination or most recent status review, 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 that 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, and improved analytical methods.

**How Is the Delta Smelt Currently Listed?**  
The 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 delta smelt.

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE DELTA SMELT

Common name	Scientific name	Status	Where listed	Final listing rule
delta smelt .....	<i>Hypomesus transpacificus</i> .....	Threatened .....	U.S.A. (CA) .....	58 FR 12863 (05-MAR-93).

**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