

C. Paperwork Reduction Act

The proposed rule does not impose any reporting or recordkeeping requirements which require OMB approval under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, it is proposed that 48 CFR Part 252 be amended as follows:

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

1. The authority citation for 48 CFR Part 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 252.228-7001 is amended by revising paragraphs (d)(2), (e), (i) introductory text, (i)(1), (i)(2) introductory text, and (k) to read as follows:

**252.228-7001 Ground and flight risk.**

\* \* \* \* \*

(d) \* \* \*

(2) Is sustained during flight if the flight crew members have not been approved in writing as delineated in the combined, tri-service regulation entitled "Contractor's Flight and Ground Operations" (Air Force Regulation 55-22, Army Regulation 95-20, NAVAIR Instruction 3710.1C; and Defense Logistics Agency Manual 8210.1);

\* \* \* \* \*

(e) With the exception of damage, loss, or destruction in flight, the Contractor assumes the risk and shall be responsible for the first \$25,000 of loss or damage to the aircraft in the open or during operation resulting from each separate event, except for reasonable wear and tear and to the extent the loss or damage is caused by negligence of Government personnel. If the Government elects to require that the aircraft be replaced or restored by the Contractor to its condition immediately prior to the damage, the equitable adjustment in the price authorized by paragraph (i) of this clause shall not include the dollar amount of the risk assumed by the Contractor. In the event the Government does not elect repair or replacement, the Contractor agrees to credit the contract price or pay the Government \$25,000 (or the amount of the loss, if less) as directed by the Contracting Officer.

\* \* \* \* \*

(i) If prior to delivery and acceptance by the Government, the aircraft is

damaged, lost, or destroyed and the Government assumed the risk, the Government shall either—

(1) Require that the aircraft be replaced or restored by the Contractor to the condition immediately prior to the damage, in which event the Contracting Officer will make an equitable adjustment in the contract price and the time for contract performance; or

(2) Terminate this contract with respect to the aircraft. If this contract is terminated with respect to the aircraft, the Contractor shall be paid the contract price for the aircraft (or if applicable, any work to be performed on the aircraft) less any amount the Contracting Officer determines—

\* \* \* \* \*

(k) The Contractor agrees to be bound by the operating procedures contained in the combined, tri-service regulation entitled "Contractor's Flight and Ground Operations" in effect on the date of contract award.

3. Section 252.228-7002 is amended by revising paragraphs (c) introductory text and (e) to read as follows:

**252.228-7002 Aircraft flight risks.**

\* \* \* \* \*

(c) Unless the flight crew members previously have been approved in writing as delineated in the combined, tri-service regulation entitled "Contractor's Flight and Ground Operations" (Air Force Regulation 55-22, Army Regulation 95-20, NAVAIR Instruction 3710.1C; and Defense Logistics Agency Manual 8210.1), the Contractor shall not be—

\* \* \* \* \*

(e) The Contractor agrees to be bound by the operating procedures contained in the combined, tri-service regulation entitled "Contractor's Flight and Ground Operations" in effect on date of contract award.

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Notice of Extension of Comment Period on Reports and Other Data Pertaining to the Listing of the Bruneau Hot Springsnail**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of extension of public comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) gives notice that the comment period on reports and other data pertaining to the listing of the Bruneau hot springsnail (*Pyrgulopsis bruneauensis*) is extended. The notice of availability opening the public comment period was published on September 12, 1995 (60 FR 47339), which opened the comment period until November 13, 1995. This document extends the comment period until December 15, 1995.

**DATES:** The comment period is extended until December 15, 1995. Any comments and materials received by the closing date will be considered in the final determination.

**ADDRESSES:** Comments and materials concerning the reports and other information pertaining to the listing of the Bruneau hot springsnail should be submitted to the U.S. Fish and Wildlife Service, Snake River Basin Office, 4696 Overland Road, Room 576, Boise, Idaho 83705. Reports and other data cited in this notice, and public comments and other materials received will be available for public inspection during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Robert Ruesink, Supervisor, at the address listed above (telephone 208/334-1931, facsimile 208/334-9493).

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 25, 1993, the U.S. Fish and Wildlife Service (Service) published a final rule in the Federal Register determining the Bruneau hot springsnail (*Pyrgulopsis bruneauensis*) to be an endangered species (58 FR 5946). In its decision to list the springsnail the Service relied, in part, on a provisional draft of a U.S. Geological Survey (USGS) report (Berenbrock 1992) analyzing the hydrology of the geothermal aquifer in the Bruneau Valley area. The USGS provided the Service with the draft report, but did not release it to the public and requested that the Service not release the report to the public, pending agency review and approval.

On May 7, 1993, the Idaho Farm Bureau Federation Owyhee County Farm Bureau, Idaho Cattleman's Association, and Owyhee County Board of Supervisors challenged the listing decision on several grounds in a lawsuit filed in United States District Court for the District of Idaho. The plaintiffs argued that the Service committed a number of procedural violations during the listing process, including not allowing the public to review the draft USGS report. On December 14, 1993,

the district court determined that the Service committed several procedural errors and set aside the final rule listing the springsnail as an endangered species.

The district court decision was appealed to the United States Court of Appeals for the Ninth Circuit by two intervening conservation groups, the Idaho Conservation League and Committee for Idaho's High Desert. On June 29, 1995, the appellate court overturned the district court decision and reinstated the Bruneau hot springsnail to the endangered species list. However, the appellate court concluded that the Service should have made the draft USGS report (i.e., Berenbrock 1992) available for public review, as the Service relied largely on this report to support the final listing rule. The appellate court directed the Service to provide an opportunity for public comment on the USGS report and other relevant information, and to reconsider its listing decision. The notice of availability complied with the court's direction.

On October 24, 1995, Susan E. Buxton requested on behalf of her client (John B. Urquidi, J & J Ranches, Bruneau, Idaho) an extension in the comment period until November 24, 1995. Ms. Buxton requested the extension in order that she and her client may review all available data. Because the Service has no objection to this short extension, the comment period is extended until December 15, 1995.

#### Available Reports and Data

In addition to the draft USGS report, which was finalized in August 1993 (i.e., Berenbrock 1993), the Service has additional reports and information pertinent to the listing decision received since the original listing rule was published January 25, 1993. The

following reports, plans, and letters contained in Service files, including other non-cited information, are available for public review and comment:

- Berenbrock, C. 1992. Effects of well discharges on hydraulic heads in and spring discharges from the geothermal aquifer system in the Bruneau area, Owyhee County, southwestern Idaho. U.S. Geological Survey, Water-Resources Investigations, Boise, Idaho. Preliminary report.
- Berenbrock, C. 1993. Effects of well discharges on hydraulic heads in and spring discharges from the geothermal aquifer system in the Bruneau area, Owyhee County, southwestern Idaho. U.S. Geological Survey, Water-Resources Investigations Report 93-4001, Boise, Idaho.
- Bruneau Valley Coalition, Inc. 1995. Habitat maintenance and conservation plan for the Bruneau hot springsnail, January, 1995. Unpublished plan.
- Bruneau Valley Coalition, Inc. 1995. Proposed amendment to the "Threatened and Endangered Species" section of the Interim Comprehensive Land Use Plan for the federally and state managed lands in Owyhee County. Unpublished amendment.
- Idaho Water Resources Research Institute. 1994. Bruneau hot springs aquifer restoration report: a proposal. Unpublished report, University of Idaho, Moscow, Idaho.
- Lee, J.A. 1994. Summary report for the control survey of the Bruneau hot springsnail. Unpublished report, Bureau of Land Management, Boise District Office, Boise, Idaho.
- Mladenka, G.C. 1993. Report on the 1993 Bruneau hot springsnail site survey. Unpublished report.
- Mladenka, G.C. 1995. Bruneau Hot Springs invertebrate survey. Unpublished report, Stream Ecology Center, Idaho State University, Pocatello, Idaho.

- Royer, T.V. and G.W. Minshall. 1993. 1993 Annual Monitoring Report: Bruneau hot springsnail (*Pyrgulopsis bruneauensis*). Unpublished report, Stream Ecology Center, Idaho State University, Pocatello, Idaho.
- U.S. Geological Survey. 1993. Unpublished letter addressing error in estimating natural recharge to geothermal aquifer system, and status of Bruneau-area ground water-levels and spring discharges. Boise, Idaho.
- U.S. Geological Survey. 1995a. Unpublished letter summarizing results of Bruneau-area ground water-level and spring discharge monitoring data through December 1994. Boise, Idaho.
- U.S. Geological Survey. 1995b. Unpublished letter commenting on Idaho Water Resources Research Institute's report and summarizing provisional, spring discharge data collected from June 1994 through July 1995 from three hot springs above Hot Creek, Idaho.
- Varricchione, J.T. and G.W. Minshall. 1995. 1994 Monitoring Report: Bruneau hot springsnail (*Pyrgulopsis bruneauensis*). Technical Bulletin No. 95-14, Idaho Bureau of Land Management.
- Varricchione, J.T. and G.W. Minshall. 1995. Gut content analysis of wild *Gambusia* and *Tilapia* in Hot Creek, Bruneau, Idaho. Unpublished report, Idaho State University, Pocatello, Idaho.

#### Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531-1544.)

#### List of Subjects in 50 CFR Part 17

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

Dated: November 6, 1995.

H. Dale Hall,  
Acting Regional Director, Region I, U.S. Fish and Wildlife Service.

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