

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AF76

Endangered and Threatened Wildlife and Plants; Extension of Comment Period and Notice of Public Hearing on Proposed Critical Habitat Determination for the Spikedace and Loach Minnow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held and the comment period extended on the proposed determination of critical habitat for two threatened fishes, the spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga* = (*Rhinichthys*) *cobitis*). The hearing and the extension of the comment period will allow all interested parties to submit oral or written comments on the critical habitat proposal and the draft Economic Analysis and draft Environmental Assessment for the proposal.

DATES: The public hearing will be held from 7:00 p.m. to 9:30 p.m. on January 31, 2000, in Sierra Vista, Arizona. The comment period for this proposal will be extended from January 14, 2000, to February 14, 2000. Comments on the proposal, draft Economic Analysis, and draft Environmental Assessment must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: The public hearing will be held at Buena Performing Arts Center (Buena High School), 5225 Buena School Boulevard, Sierra Vista, Arizona. Written comments should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. Copies of the proposal, draft Economic Analysis, and draft Environmental Assessment are available from the State Supervisor or on the Internet at <http://ifw2es.fws.gov/Arizona>. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Humphrey, at the above address, 602/640-2720.

SUPPLEMENTARY INFORMATION:**Background**

We, the Fish and Wildlife Service, proposed designation of critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the spikedace and the loach minnow in the **Federal Register** (64 FR 69324) on December 10, 1999. This proposal was made in response to a court order *Southwest Center for Biological Diversity v. Clark*, CIV 98-0769 M/JHG, directing us to complete designation of critical habitat for the spikedace and loach minnow by February 17, 2000. The court has provided an extension of the deadline to April 21, 2000.

The spikedace, a small fish, was listed as a threatened species under the Act on July 1, 1986 (51 FR 23769); however, final designation of the proposed critical habitat was postponed until March 8, 1994 (59 FR 10906). Similarly, the loach minnow, another small fish, was listed as a threatened species under the Act on October 28, 1986 (51 FR 39468) and final designation of the proposed critical habitat was postponed until March 8, 1994 (59 FR 10898). Critical habitat for spikedace and loach minnow was set aside by order of the Federal courts in *Catron County Board of Commissioners, New Mexico v. U.S. Fish and Wildlife Service*, CIV No. 93-730 HB (D.N.M., Order of October 13, 1994). The court cited our failure to analyze the effects of critical habitat designation under the National Environmental Policy Act (NEPA) as its basis for setting aside critical habitat for the two species. As a result, we removed critical habitat for spikedace and loach minnow on March 25, 1998 (63 FR 14378).

We have proposed approximately 1,443 kilometers (km) (894 miles (mi)) of rivers and creeks for the two species. The entire designation is proposed as critical habitat for the loach minnow and approximately 1325 km (822 mi) of those miles are proposed as critical habitat for the spikedace in portions of the Gila, San Francisco, Blue, Black, Verde, and San Pedro rivers and some of their tributaries in Apache, Cochise, Gila, Graham, Greenlee, Pima, Pinal, and Yavapai counties in Arizona, and Catron, Grant, and Hidalgo counties in New Mexico.

If this proposed rule is finalized, Federal actions that may affect the areas designated as critical habitat will be subject to consultation with the Fish

and Wildlife Service, pursuant to section 7(a)(2) of the Act.

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. However, due to the expeditious treatment of these proposed critical habitat determinations under Federal District Court order as described in the proposed rules, the Service arranged for and conducted three public hearings in proximity to the areas proposed for critical habitat designation. Granting of an extension by the District Court allows us to conduct an additional public hearing on the date and at the address described above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Service. Legal notices announcing the date, time, and location of the hearings will be published in newspapers concurrently with the **Federal Register** notice.

The current comment period on this proposal closes on January 14, 2000. In order to accommodate this public hearing, the Service extends the public comment period. Written comments may now be submitted until February 13, 2000, to the Service office in the **ADDRESSES** section.

Author: The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531-1544).

Dated: January 5, 2000.

Ren Lohofener,

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

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