

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Channel 246C3 at Safford.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Dickens, Channel 294A; by adding Channel 255A at Floydada; by adding Channel 271A at Freer; by adding Channel 289C1 at Ozona; by adding Rankin, Channel 229C3; by adding Channel 273A at San Diego; by adding Westbrook, Channel 272A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AH91

#### Endangered and Threatened Wildlife and Plants; Extension of the Public Comment Period on Proposed Designation of Critical Habitat for the Rio Grande Silvery Minnow

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

**ACTION:** Proposed rule; reopening and extension of the public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), provide notice of an extension of the public comment period for the proposal to designate critical habitat for the Rio

Grande silvery minnow (*Hybognathus amarus*) (silvery minnow), a species federally listed as endangered under the authority of the Endangered Species Act of 1973, as amended (Act). Comments are also solicited on the associated draft economic analysis and draft environmental impact statement (draft EIS). Comments previously submitted need not be resubmitted as they have already been incorporated into the public record and will be fully considered in the final rule. The proposed rule designating critical habitat for the silvery minnow and the draft EIS were issued pursuant to a November 21, 2000, court order by the United States District Court for the District of New Mexico, in *Middle Rio Grande Conservancy District v. Babbitt*, Civ. Nos. 99-870, 99-872, 99-1445M/RPLP (Consolidated), that set aside the July 9, 1999, critical habitat designation for the silvery minnow.

**DATES:** The comment period will be extended until October 2, 2002.

Comments must be received by the closing date.

**ADDRESSES:** You may submit written comments and materials concerning the proposal, the draft economic analysis, or the draft EIS to Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM, 87113. Written comments may also be sent by facsimile to (505) 346-2542 or [R2FWE\\_AL@fws.gov](mailto:R2FWE_AL@fws.gov). All comments, including names and addresses, will become part of the administrative record and may be released. You may also hand-deliver written comments to our New Mexico Ecological Services Field Office, at the above address. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8 a.m. to 4:30 p.m., at the above address. You may obtain copies of the proposed rule from the above address or by calling 505/346-2542, or from our website at <http://ifw2es.fws.gov/Library/>.

**FOR FURTHER INFORMATION CONTACT:** Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** above); phone: 505-346-2525 or visit our website at <http://ifw2es.fws.gov/>.

#### SUPPLEMENTARY INFORMATION:

##### Background

We published a proposed rule to designate critical habitat for the silvery minnow in the **Federal Register** on June 6, 2002 (67 FR 39206). The silvery

minnow presently occurs only in the Rio Grande from Cochiti Dam, Sandoval County, downstream to the headwaters of Elephant Butte Reservoir, Sierra County, New Mexico. We proposed to designate critical habitat within this last remaining portion of the occupied range in the middle Rio Grande (Cochiti Dam to Elephant Butte Dam) in New Mexico. The proposed critical habitat designation defines the lateral extent (width) as those areas bounded by existing levees or, in areas without levees, 91.4 meters (300 feet) of riparian zone adjacent to each side of the middle Rio Grande.

We have not proposed critical habitat designation for two areas important for the conservation of the silvery minnow (*i.e.*, the river reach of the middle Pecos and lower Rio Grande in Big Bend National Park and downstream to the Terrell/Val Verde County line). We proposed a conservation strategy of developing one or more experimental populations under section 10(j) of the Act, because we believe this strategy outweighs any benefits that could be provided to the silvery minnow by including these areas within a designation of critical habitat.

If the proposed rule is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to result in the "destruction or adverse modification" of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat. We request data and comments from the public and all interested parties on all aspects of the proposal, including data on economic and other impacts of the proposed designation.

We held two public hearings to receive comments from the public. The hearings were in Socorro and Albuquerque, NM, on June 25 and 26, 2002 respectively. Public hearings are designed to gather relevant information that the public may have that we should consider in our rule-making. During the hearings, we presented information about the proposed action. We invited the public to submit information and comments either at the hearings or in writing.

#### Public Comments Solicited

We solicit comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning the proposal, the draft economic analysis, or draft EIS. Our practice is to make all comments, including names and home

addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the rulemaking record; we will honor these requests to the extent allowed by law. If you wish us to withhold your name or address, you must state this prominently at the beginning of your comments. 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.

We are particularly interested in comments or suggestions on reasons why any particular area should or should not be designated as critical habitat. We are further soliciting information or comments concerning our conservation strategy for the silvery minnow; specific information on the amount and distribution of silvery minnow habitat; what habitat is essential to the conservation of the species and why; and land use practices and current or planned activities in the subject areas, including comments or information relating to the 300-foot lateral width. Depending on public comments, information, or data received, we will evaluate whether these areas within the silvery minnow's historical range should be designated as critical habitat, and critical habitat could be revised as appropriate.

#### Authors

The primary authors of this notice are the New Mexico Field Office staff (see **ADDRESSES** section).

#### Authority

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

Dated: September 5, 2002.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AH09

#### Endangered and Threatened Wildlife and Plants; Designating Critical Habitat for Plant Species From the Northwestern Hawaiian Islands, HI

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

**ACTION:** Proposed rule; extension of comment period and notice of availability of draft economic analysis.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposed designations of critical habitat for plant species from the Northwestern Hawaiian Islands, Hawaii. In an earlier **Federal Register** notice published August 26, 2002 (67 FR 54766) we reopened the comment period for the proposed designations or non-designations of critical habitat for these plants. We are now providing notice of extending the comment period to allow peer reviewers and all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period and will be fully considered in preparation of the final rule.

**DATES:** We will accept public comments until October 15, 2002.

**ADDRESSES:** Written comments and information should be submitted to Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001. For further instructions on commenting, refer to Public Comments Solicited section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Paul Henson, Field Supervisor, Pacific Islands Office, at the above address (telephone: 808/541-3441; facsimile: 808/541-3470).

#### SUPPLEMENTARY INFORMATION:

##### Background

Six plant species reported from the Northwestern Hawaiian Islands (Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Atoll, Midway Atoll, and Kure Atoll) were listed as endangered under the Endangered Species Act of 1973, as amended (Act), between 1994 and 1996 (59 FR 56333, 61 FR 43178, 61 FR 53108). *Amaranthus brownii*, *Cenchrus agrimonoides* var. *laysanensis*, *Mariscus pennatifolius* ssp. *bryanii*, *Pritchardia remota*, and *Schiedea verticillata* are endemic to the Northwestern Hawaiian Islands, while *Sesbania tomentosa* is reported from one or more other islands, as well as the Northwestern Hawaiian Islands.

In previously published proposals (65 FR 66808, 65 FR 79192, 67 FR 3940, 67 FR 9806) we proposed that critical

habitat was prudent for *Cenchrus agrimonoides*, *Mariscus pennatifolius*, and *Sesbania tomentosa*. In a May 14, 2002, proposal (67 FR 34522), we made no change to these proposed prudency determinations, and we proposed that critical habitat designation was prudent for *Amaranthus brownii*, *Pritchardia remota*, and *Schiedea verticillata* (for which proposed prudency determinations had not been made previously) because the potential benefits of designating critical habitat essential for the conservation of these species outweigh the risks that may result from human activity because of critical habitat designation.

In the May 14, 2002, proposal, we proposed designation of critical habitat for five (*Amaranthus brownii*, *Mariscus pennatifolius*, *Pritchardia remota*, *Schiedea verticillata*, and *Sesbania tomentosa*) of the six species reported from the Northwestern Hawaiian Islands. Critical habitat is not proposed for *Cenchrus agrimonoides* var. *laysanensis* in the Northwestern Hawaiian Islands because it has not been seen in the wild for over 20 years and no viable genetic material of this variety is known to exist.

We propose critical habitat designations for five species on three islands (Nihoa, Necker, and Laysan) totaling approximately 498 hectares (ha) (1,232 acres (ac)).

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act (16 U.S.C. 1531 *et seq.*) with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available, and after taking into consideration the economic impact of specifying any particular area as critical habitat. We have prepared a draft economic analysis of the proposed critical habitat designation. The draft economic analysis is available on the Internet and from the mailing address in the Public Comments Solicited section below.

The public comment period for the May 14, 2002, proposal originally closed on July 15, 2002. On August 26, 2002, we published a **Federal Register** notice (67 FR 54766) of the reopening of the comment period for the proposed designations and non-designations of critical habitat for plant species on the Northwestern Hawaiian Islands, as well as for the proposed designations and non-designations of critical habitat for plant species on the islands of Kauai,