

ALBUQUERQUE JOURNAL



OCTOBER 7, 2004

New Critical Habitat Proposed for Small Shiner

THE ASSOCIATED PRESS

The U.S. Fish and Wildlife Service is proposing to designate 1,244 miles of rivers in New Mexico and three other states as critical habitat for a pinky-size threatened fish, the Arkansas River shiner.

However, the agency also proposes to establish a "nonessential experimental population" of the fish, reducing the size of the critical habitat to 826 miles by removing the range for the experimental population from the designation, said Ken Collins of the agency's ecological services office in Oklahoma.

A year ago, a federal judge in New Mexico dismissed a 2002 lawsuit by a coalition of agricultural and ranching groups from New Mexico, Texas, Oklahoma and Kansas after the Fish and Wildlife Service agreed to scrap its critical habitat proposal and come up with a better plan.

The coalition argued that the federal agency did not do sufficient economic, scientific or environmental analysis in drafting its original 2001 plan.

The new plan, like the original one, would designate 300 feet of riparian area on either side of the rivers as critical habitat.

The Fish and Wildlife Service said a critical habitat designation should not have substantial economic impact on the region or private landowners.

The original plan designated about 1,148

miles of rivers as habitat for the fish, which has been listed as threatened since 1998. Most of that habitat was in Texas and Oklahoma.

The latest plan designates portions of the Canadian River in Quay County, N.M., Texas and Oklahoma, the Beaver-North Canadian River of Oklahoma, the Cimarron River in Kansas and Oklahoma and the Arkansas River in Arkansas, Kansas and Oklahoma as critical habitat.

However, if the plan goes through, the actual critical habitat would be reduced because the agency would exclude the areas where it establishes the nonessential population — the Beaver-North Canadian River in Oklahoma and the Arkansas River in Arkansas, Kansas and Oklahoma.

Experimental populations encourage local cooperation by allowing more flexibility in management than is generally permitted under the Endangered Species Act.

For example, certain prohibitions against harming or capturing a threatened or endangered species might not apply.

Jerry Brabander, supervisor of the ecological services office, said the agency needs the flexibility to help the Arkansas River shiner recover.

"This flexibility would be of little value if a designation of critical habitat overlaps the experimental population," he said.

The Endangered Species Act allows areas to be excluded as critical habitat if the benefits of excluding them outweigh the benefits of inclusion.

"We think we've made some headway and we think we can continue to work with the service to make it better," said Caren Cowan, executive director of the New Mexico Cattlegrowers Association in Albuquerque, a member of the agricultural coalition.

But Kieran Suckling of the Center for Biological Diversity in Tucson, Ariz., which sued to get critical habitat for the shiner, said a designation is supposed to cover all areas essential to a species.

"They're now saying that rather than protect areas . . . we're going to do just the opposite and put fish in there and call them nonessential. . . . So the Bush administration is throwing the species' most essential habitat out the window, and declaring the fish not to be essential. That's just the opposite of what the law and common sense require."

He expects the center to take the matter back to court "to assure that the species recovers."

Comments on the proposal will be accepted until April 30. The final designation would be issued on Sept. 30, 2005.