



## CENTER FOR BIOLOGICAL DIVERSITY

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### **Settlement to Protect Snails, Shrimp, and Water Quality in New Mexico and Texas Rare Animals at Risk from Oil and Gas Drilling**

The Center for Biological Diversity and Forest Guardians settled a lawsuit on October 14 with the U.S. Fish and Wildlife Service and Interior Secretary Gale Norton in an agreement requiring them to finalize a decision on whether to protect four invertebrate animals in New Mexico and Texas as endangered species and designate critical habitat for them. The agency's final action in compliance with the settlement agreement must be made by August 1, 2005.

"These tiny creatures have been anonymous spring-dwellers for millennia," said Michael J. Robinson of the Center for Biological Diversity in Pinos Altos, New Mexico. "They signal to us that we still have clean groundwater in the Pecos River basin. We are very pleased that they and their pure waters will finally be protected."

The subjects of the agreement are the Roswell springsnail, Koster's tryonia, Pecos assiminea and Noel's amphipod. The first three are snails and Noel's amphipod is a crustacean (also known as a freshwater shrimp).

The New Mexico Department of Game and Fish originally petitioned the U.S. Fish and Wildlife Service to protect these animals under the authority of the Endangered Species Act in 1985. Although the Act gives the Service two years to propose and finalize action on such technical petitions, the agency failed to act.

After sixteen years of delay, in August, 2001, the Center for Biological Diversity and Interior Secretary Gale Norton settled a series of lawsuits over imperiled species with an agreement that the Service would prioritize listings for some of the most endangered, including these four invertebrates.

The next year, in February 2002, the Service proposed listing them as endangered and designating 1,127 acres at Bitter Lake National Wildlife Refuge and 397 acres of Nature Conservancy land in Texas as critical habitat. However, the agency failed to finalize that proposal and thus left these creatures and their habitats in limbo, in violation of the law.

On April 22, 2004, the Center for Biological Diversity and Forest Guardians sued to garner the final listing and critical habitat rule, which led to today's settlement agreement. The groups were represented by the Environmental Law Clinical Partnership at the University of Denver College of Law.

Each of these invertebrates evolved in and depends on one or a small handful of springs and associated streams in the Pecos River basin of eastern New Mexico and West Texas, where the Chihuahuan Desert merges with the southern Great Plains. This habitat is increasingly threatened by water pollution and excessive ground water pumping as a result of residential development, agriculture, and oil and gas development.

The only known surviving populations are in Bitter Lake National Wildlife Refuge in Chaves County, New Mexico and in two properties managed by the Nature Conservancy in Pecos and Reeves County, Texas. As of February 2002, there were at least 190 oil wells in the area surrounding Bitter Lake NWR and since that time, the federal Bureau of Land Management has sought to authorize 91 more wells in this area. (This proposal is currently under appeal by Forest

Guardians.) The Nature Conservancy lands also harbor active drilling sites.

“Federal protection for these unique and critically endangered aquatic wildlife species can help safeguard the Bitter Lake refuge,” stated Dr. Nicole Rosmarino of Forest Guardians. “We need an end to business as usual for oil and gas companies looking to drill in fragile and irreplaceable wildlife habitats.”

Because each of these four species is isolated and separated from other populations by large areas of unsuitable habitat, they are very vulnerable to localized extinctions. Endangered listings for them will lead to recovery plans that might include measures such as reintroduction to suitable sites. Critical habitat designation limits the authority of the federal government to authorize developments that would adversely effect their survival, such as reckless expansion of oil and gas drilling on public lands in southeastern New Mexico.

Such drilling and associated industrial operations can deplete groundwater supplies and pollute both ground and surface water with oil and other contaminants, which would doom these rare animals. Already, some have disappeared from other springs that have dried up or become contaminated.

The snails and crustacean are so small they are barely visible through the naked eye. But they are indicators of the purity of the ground water that they depend on and that they have evolved to live in over tens of thousands of years.

The Endangered Species Act was proposed by President Richard M. Nixon in February 1972 and signed by him into law on December 28, 1973, with the explicit intent of conserving threatened and endangered species and the ecosystems on which they depend. The mandatory deadlines for the Fish and Wildlife Service to list species and designate their critical habitats -- as well as the citizen suit provision on which this litigation is based -- were put into place by Congress in 1978 in response to agency intransigence and refusal to comply with the intent of the law.

#### Descriptions of the species

The Roswell springsnail (*Pyrgulopsis roswellensis*) is 3 to 3.5 mm long with a narrowly conical shell that is tan in color and can have up to five whorls or twists. In the past the snail lived in various springs in the vicinity of Roswell, New Mexico. However, several of these habitats have completely dried up due to groundwater pumping, eliminating these populations. Currently, the only known populations of the Roswell springsnail live within three discrete areas of Bitter Lake National Wildlife Refuge in Chaves County, New Mexico.

Koster's tryonia (*Tryonia kosteri*) is 4 to 4.5 mm long, with a narrowly conical tan colored shell with 4 ¼ to 5 ¾ whorls. Although it was historically found within the Bitter Lake NWR and other springs in the Roswell area, much of its habitat has dried up due to groundwater pumping, leaving only two known populations, both within the refuge.

Pecos assiminea (*Assiminea pecosensis*) is the smallest of the snails, 1.55 to 1.87 mm in length. It has a regularly conical shell that is chestnut-brown and nearly transparent with as many as 4 ½ whorls. Pecos assiminea prefers habitats where it is not completely immersed in water, such as wet mud or beneath vegetation mats, typically within a few centimeters of running water. Historically, this species occurred in Texas, New Mexico, and Mexico, but now it only survives at two sites within the Bitter Lake NWR and in two properties managed by the Nature Conservancy in Pecos and Reeves County, Texas.

Noel's amphipod (*Gammarus desperatus*) is a freshwater crustacean ranging in size from 8.5 to 14.8 mm long with the males slightly larger than females. This freshwater shrimp is brownish green with kidney-shaped eyes and red bands along its body. It is very sensitive to light and thus dwells at the bottom of water courses, where it is darker. As its scientific name (*desperatus*) suggests, it is in dire peril. Historically found within the Bitter Lake NWR and other springs in the Roswell area, it has been extirpated outside the refuge and its habitat on the refuge was severely damaged by a 2002 fire. That fire reduced the population to just four organisms, due to deposits of ash and sediment and loss of vegetative cover which previously sheltered them from light.