

Gopher frog habitat designation called 'land grab'

February 7, 2013

Written by Janet McConnaughey
Associated Press

NEW ORLEANS — A property rights nonprofit claims federal wildlife officials made an illegal land grab by listing 1,500 acres of private land in Louisiana as critical habitat for an endangered burrowing frog now found only in Mississippi.

The Pacific Legal Foundation sued the U.S. Fish and Wildlife Service on Thursday over the dusky gopher frog.

About 100 to 200 of the creatures are known to live in Mississippi, with fewer than 900 more in zoos around the country.

Fish and Wildlife exceeded its authority because none of the frogs lives on the land in question, and the acreage would need extensive work — which landowner Edward Poitevent will not do — to be suitable for them, said Pacific Legal Foundation attorney M. Reed Hopper. He filed the lawsuit in federal court in New Orleans.

Designation as critical habitat requires the agency's consultation for federal permits. About 5,000 acres in Mississippi, much of it on federal land, also was designated as critical habitat last June.

"If an agency can designate critical habitat based on a mere hope that a particular piece of property can someday be usable to maintain the species, the agency would have the authority to designate any piece of property as critical habitat based on the same hope," Hopper said.

People working to bring back the frogs say one feature makes this land essential: a series of five ponds so shallow they dry up in summer, each within hopping distance of the next. Dusky gopher frogs lay their eggs only in such temporary ponds, which

are free of fish that would eat frog eggs, and the St. Tammany Parish land was their last known Louisiana breeding ground.

"We continue to support our biologists in their efforts to do the right thing to save this frog. They've done the right scientific things, they've done the research, and they know what's needed to recover this very unique species," said Tom MacKenzie, Southeastern regional spokesman for Fish and Wildlife.

U.S. Sen. David Vitter, R-La., applauded the lawsuit. "I support protecting endangered species and don't want to see a species go anywhere near extinction, but in this instance in St. Tammany Parish, Washington bureaucrats are telling a private landowner that despite there being no frogs, his land is to be used as they see fit," he said in a news release.

The agency says the designation doesn't take lands out of business and the agency cannot compel any action on them, though it has programs to provide money and technical help for landowners interested in conservation.

The frogs, also known as Mississippi gopher frogs, have bodies about three inches long. Their dark backs are covered with darker spots and warts that secrete a bitter, milky fluid. When picked up, they cover their eyes with their forefeet, possibly to protect their faces until predators taste the liquid and drop them.

They live in stump holes and burrows dug by other animals and are part of an ecology that depends on regular fires to burn away brush and smaller trees from the longleaf pine forests where they live.

A conservation nonprofit, the Center for Biological Diversity, has said it will sue Fish and Wildlife for doing too little to protect the frogs unless the agency writes up a plan for their recovery. Endangered species director Noah Greenwald said Thursday that the agency is working toward that goal.

He said his group will ask to enter Poitevent's lawsuit on the government's side.

"This is a species that's highly endangered. It basically breeds in only one pond in substantial numbers," he said, adding that more suitable sites are needed to give it a chance.

The Pacific Legal Foundation is "part of a national effort to try to remove protections for highly endangered species," Greenwald said.
"To my view, they're really out of step with the American public that really doesn't want to lose our endangered species."