



Environmental Group Ends Suit Over Land for Endangered Frog

By The Associated Press
July 1, 2019

NEW ORLEANS — An environmental group has dropped its legal fight over critical habitat for an endangered frog, but the group also says the story isn't over.

“It might not be ‘that’s it,’ but it is for now. The decision will go back to the U.S. Fish and Wildlife Service,” said Collette Giese, attorney for the Center for Biological Diversity.

Dusky gopher frogs once were found in Louisiana, Mississippi and Alabama. They're now in the wild only in a few small parts of Mississippi, but the government designated 1,500 acres (610 hectares) in Louisiana as critical habitat for them.

The decision to drop that tract from the government's critical habitat list cannot be considered as a precedent for any future court case, according to a settlement made public Monday in federal court.

“We think the agency should have the chance to make the decision ... There's so many policy and science-based factors that weigh in, we don't think it's something the court should have for the first decision,” she said.

Landowners' attorneys didn't immediately return calls for comment.

The frogs are dark, warty amphibians that make a snoring noise instead of a croak and put their forefeet over their eyes when picked up. They breed in ponds so shallow they dry up in the summer, limiting potential predators. Scientists say the land in St. Tammany Parish has five such ponds within hopping distance, while those that the animals once used in Alabama all are overgrown or developed.

Environmentalists had backed the designation as a needed environmental protection. Opponents called it an unjust land grab by an overreaching bureaucracy.

Edward Poitevent, one of the landowners, has said it would halt his own plans to develop the land, currently used for timber. Neither Poitevent, who is an attorney, nor attorney Mark Miller of the Pacific Legal Foundation responded immediately to calls and emails requesting comment Monday.

The U.S. Supreme Court had unanimously overturned court decisions upholding the designation.

The justices said courts must look at the meaning of “habitat” and consider whether the tract qualifies as habitat for frogs that haven’t lived there for decades.

The 8-0 ruling also said lower courts should have considered whether the benefits involved in designating the land as critical habitat outweighed the costs.

Designation as critical habitat requires Fish and Wildlife Service consultation on any federal contracts but doesn’t affect anything else, officials have said.

The owners said it would have taken extensive work to make the land suitable for the frogs, and they wouldn’t do it.

Giese said, “I really did have hope the landowners would eventually come to see the importance of those Louisiana lands to frog recovery and they would look at what happened in Mississippi, and see that development could go hand in hand with frog conservation.”

“It was difficult to come to the realization they were dead set against doing anything for the frog.”

Whatever Fish and Wildlife decides next likely will wind up back in court.

“If they go ahead and decide to redesignate that Louisiana land, the owners could sue again if they like,” Giese said. “If the Fish and Wildlife Service decides against designating it as critical habitat, folks like the Center could sue if they like.”