

[4310-55]

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE  
AND PLANTSPropose Critical Habitat for the Colorado  
SquawfishAGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Proposed rulemaking.

**SUMMARY:** The Service issues this proposed rulemaking which would determine critical habitat for the Colorado squawfish (*Ptychocheilus lucius*). This action is being taken because of the threatened modification of its remaining habitat. Destruction of habitat in the past has been and is presently the primary factor which jeopardizes the continued existence of the Colorado squawfish. This proposal would provide for Federal protection of the remaining habitat for this species. The proposed critical habitat is located in Colorado and Utah.

**DATES:** Comments from the public must be received by November 13, 1978. Comments from the Governors of the State involved with this action must be received by December 13, 1978.

**ADDRESSES:** Submit comment to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 202-343-4646 or Mr. Harvey Willoughby, Regional Director, Fish and Wildlife Service, 10597 West Sixth Street, Denver, Colo. 80215 303-234-2209.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

In 1976, the U.S. Fish and Wildlife Service requested the Colorado Squawfish Recovery Team to make recommendations for critical habitat for the squawfish under the provisions of section 7 of the Endangered Species Act of 1973. The team recommended that all areas where the fish is currently known to occur be determined to be critical habitat. The team presented

its reasons for recommending the entire currently occupied areas as follows: (1) There has been a decline or elimination of the squawfish from the majority of its historic range, (2) there has been a continued alteration of much of the remaining habitat, and (3) there are ever increasing demands on the remaining habitat.

In compliance with the intent of the Endangered Species Act of 1973 and the Memorandum of Understanding on Interagency Cooperation in Non-emergency Critical Habitat Determinations Pursuant to section 7 of the Endangered Species Act of 1973, with the Bureau of Land Management and the Bureau of Reclamation, requests for comments on the recommended areas were sent to all concerned State and Federal agencies. All of these agencies have now responded to that request. They are:

Arizona Game and Fish Department, Phoenix Ariz.; Utah Division of Wildlife Resources, Salt Lake City, Utah; Colorado Division of Wildlife, Denver, Colo.; Bureau of Land Management, Colo.; Bureau of Land Management, Ariz.; Bureau of Land Management, Utah; Bureau of Reclamation, Boulder City, Nev.; Bureau of Reclamation, Salt Lake City, Utah; and U.S. Forest Service, Region 3, Albuquerque, N. Mex.

Copies of these comments are on file in the U.S. Fish and Wildlife Service's Regional Office in Albuquerque, N. Mex. The comments and objections generally fall into several, similar categories, including: (1) Criteria used to delineate the recommended areas; (2) how designating an area as critical habitat will affect proposed or ongoing projects in the areas and the watersheds above the areas; (3) conflicts over who has the authority to designate critical habitat and who must abide by the decision; (4) what part public participation will have and the final designation; and (5) questions about specific areas recommended by the recovery team.

After reviewing all of the comments and suggestions from the above agencies, the Service finds that only those from the U.S. Forest Service and Bureau of Reclamation contain data which are biologically relevant. The other comments are either not of a biological nature or have already been addressed in the April 22, 1975 and January 4, 1978 FEDERAL REGISTER discussion of critical habitat (40 FR 17764-17765 and 43 FR 870-876). In answer to the relevant biological questions, a recent letter from Dr. Paul B. Holden indicates Colorado squawfish have been recently collected from the Gunnison River and the Yampa River above Maybell, Colo. Reaches above these points, although historic range for the species, are not known to support Colorado squawfish at present, and therefore, can no longer be consid-

ered critical to survival of the species. Surveys within the past 5 years have failed to find Colorado squawfish in the Salt River above Roosevelt Dam or in the Grand Canyon portion of the Colorado River, both localities in Arizona. Thus, protection of these areas seems less critical for the continued survival of the species than those areas presently supporting populations and therefore, the former areas are not being proposed as critical habitat at this time.

Several professional fisheries organizations have recently passed resolutions supporting the designation of critical habitat for the Colorado squawfish and the work of the recovery team.

Important reports and publications which were utilized in preparing this proposal are as follows:

1. Baxter, G. T., and J. R. Simon. 1970. Wyoming Fishes. Wyoming Game, Fish Dep. Bull. 4. 168 pp.
2. Beckman, W. C. 1953. Guide to the Fishes of Colorado. Colorado Fish and Game Dep., Denver. 110 pp.
3. Colorado River Fishes Recovery Team. 1978. Colorado Squawfish Recovery Plan. Fish and Wildlife Service, Denver, Colo. 31 pp.
4. Colorado River Wildlife Council—Endemic Species Committees. 1977. Endemic Fishes of the Colorado River System. 15 pp.
5. Cross, J. N. 1975. Ecological Distribution of the Fishes of the Virgin River (Utah, Arizona, Nevada). M. S. Thesis, Univ. Nevada, Las Vegas. 187 pp.
6. Holden, P. B. 1973. Distribution, Abundance and Life History of the Fishes of the Upper Colorado River Basin. Ph. D. Dissertation, Utah State University, Logan. 59 pp.
7. Holden, P. B. 1977. Habitat Requirements of Juvenile Colorado River Squawfish. Fish and Wildlife Service, Biological Services Program Report, Fort Collins, Colo. 59 pp.
8. Holden, P. B., and C. B. Stalnaker. 1975. Distribution and Abundance of Mainstream Fishes of the Middle and Upper Colorado River Basins, 1967-73. Trans. Am. Fish. Soc. 104(2):217-231.
9. Holden, P. B., and C. B. Stalnaker. 1975. Distribution of Fishes in the Dolores and Yampa River Systems of the Upper Colorado Basin. Southwest, Natur. 19(4):403-412.
10. Holden, P. B., W. White, G. Somerville, D. Duff, R. Gervais, and S. Gloss. 1974. Threatened Fishes of Utah. Proc. Utah Acad. Sci., Arts, Lett., Proc. 51(Part 2):46-65.
11. Johnson, J. E. 1976. Status of Endangered and Threatened Fish Species in Colorado. U.S. Department of the Interior, Bur. Land Manage. Tech. Note. Form 1220-5. 21 pp. plus 2 appendices.
12. Joseph, T. W. and J. A. Sinning. 1977. An Evaluation of the Status, Life History, and Habitat Requirements of Endangered and Threatened Fishes of the Upper Colorado River System. Fish and Wildlife Service, Biological Services Program Report, Fort Collins, Colo. 183 pp.

13. Koster, W. J. 1957. Fishes of New Mexico. Univ. New Mexico Press, Albuquerque. 116 pp.
14. Koster, W. J. 1960. *Ptychocheilus lucius* (Cyprinidae) in the San Juan River, N.M. Southwest. Natur. 5(3):174-175.
15. LaRivers, I. 1962. Fishes and Fisheries of Nevada. Nevada States Fish Game Comm., State Printing Office, Carson City. 782 pp.
16. Miller, R. R. 1961. Man and the Changing Fish Fauna of the American Southwest. Michigan Acad. Sci., Arts, Lett. 46:365-404.
17. Miller, R.R. 1972. Threatened Freshwater Fishes of the United States. Trans. Am. Fish. Soc. 101(2):239-252.
18. Minckley, W. I. 1973. Fishes of Arizona. Arizona Game Fish Dep., Phoenix. 293 pp.
19. Pearson, W. D., R. H. Kramer, and D. R. Franklin. 1968. Macroinvertebrates in the Green River Below Flaming Gorge Dam, 1964-65 and 1967. Utah Acad. Sci., Arts, Lett., Proc. 45:148-167.
20. Seethaler, K. H., C. W. McAda, and R. S. Wyodski. 1977. Endangered and Threatened Fish in the Yampa and Green Rivers of Dinosaur National Monument. Utah Coop. Fish. Res. Unit, Utah State Univ., Logan. 22 pp.
21. Sigler, W. F., and R. R. Miller. 1963. Fishes of Utah. Utah State Dep. Fish Game, Salt Lake City. 203 pp.
22. Stalnaker, C. B., and P. B. Holden. 1973. Changes in the Native Fish Distribution in the Green River System, Utah-Colorado. Utah Acad. Sci., Arts, Lett., Proc. 51(Part 1):25-32.
23. Sublette, J. E. 1977. A Survey of the Fishes of the San Juan River basins, With Particular Reference to the Endangered Species. 95 pp.
24. Suttkus, R. D., G. Clemmer, C. Jones and R. Shoop. 1976. Survey of Fishes, Mammals and Herpetofauna of the Colorado River and Adjacent Riparian Areas of the Grand Canyon National Park. National Park Service report (contract number CX821060006. 21 pp. plus 8 Appendices.
25. Vanicek, D. C. 1967. Ecological Studies of Native Green River Fishes Below Flaming Gorge Dam, 1964-1966. Ph. D. Thesis. Utah State Univ., Logan. 124 pp.
26. Vanicek, C. D., and R. H. Kramer. 1969. Life History of the Colorado Squawfish, *Ptychocheilus lucius*, and the Colorado Chub, *Gila robusta*, in the Green River in Dinosaur National Monument, 1964-1966. Trans. Amer. Fish. Soc. 98(2):193-208.
27. Vanicek, C. D., R. H. Kramer, and D. R. Franklin. 1970. Distribution of Green River Fishes in Utah and Colorado Following Closure of Flaming Gorge Dam. Southwest. Natur. 14(3):297-315

Copies of the U.S. Fish and Wildlife Service reports referred to above are available from U. S. Fish and Wildlife Service Regional Office, 10597 West Sixth Street, Denver, Colo. 80215.

#### EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with section 7 of the act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their

authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 7 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation an appropriate with the affected States, to be -Critical."

A definition of the term "critical habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciable decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas from reasonable population expansion."

As specified in the regulations for Interagency Cooperation as published in the January 4, 1978, FEDERAL REGISTER (43FR-870-876), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing of offspring; and generally,
- (5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Colorado squawfish, the portions of the rivers proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. The stream areas proposed have backwater areas where there is little or no current and a firm silt bottom with shallow depths (1 to 2 feet) which are required by young-of-the-year Colorado squawfish. Juvenile Colorado squawfish inhabit similar backwater areas but are found in a wider range of depths (up to 3 feet). Juveniles also in-

habit eddies 2 to 3 feet deep along the edge of backwater areas. These areas also support a good population of crustaceans and aquatic insects which are utilized as food by the squawfish.

The deeper runs and eddies in the proposed stream areas provide habitat for subadult and adult Colorado squawfish. These areas also support populations of aquatic insects and small fishes which are prey for subadult and adult Colorado squawfish. Deep backwater areas are used by adult Colorado squawfish during periods of high discharge. The portions of the rivers proposed are representative of the geographical distribution of this species. There may be many kinds of action which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies only to Federal agencies, and essentially is an official notification to those agencies that their responsibilities pursuant to section 7 of the act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated. In this respect the Service, in cooperation with other Federal agencies, has drawn up a set of regulations which, in part, establish consultation and assistance process for helping to evaluate the possible effects of actions on critical habitat. The regulations for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying

with section 7 of the Endangered Species Act of 1973.

#### PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the critical habitat of the Colorado squawfish. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of critical habitat regulations will take into consideration all comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of the proposed rule are Dr. James D. Williams and Dr. James Johnson, Office of Endangered Species 202-343-7814.

#### REGULATION PROMULGATION

Accordingly, it is hereby proposed to amend Title 50, Chapter I, § 17.95(e) by adding critical habitat of the Colorado squawfish after the spotfin chub, as follows:

(e) *Fishes*. . . .

##### COLORADO SQUAWFISH (*Ptychocheilus luctus*)

*Utah.* San Juan, Wayne, Grand, Emery, Carbon, and Uintah Counties. Colorado River, main channel from backwaters of Powell Reservoir in San Juan County upstream to the Utah-Colorado State line in Grand County. Green River, main channel from its junction with the Colorado River in San Juan County upstream to the Utah-Colorado State line in Uintah County.

*Colorado.* Mesa and Moffat Counties. Colorado River, main channel from the Colorado-Utah State line upstream to the junction of Plateau Creek, all within Mesa County. Gunison River, main channel from its junction with the Colorado River upstream to the Colorado State Highway 141 crossing at Whitewater, Mesa County. Green River, from the Colorado-Utah State line upstream to the junction of the Yampa River. Yampa River from its junction with the Green River upstream to the junctions of Milk Creek, approximately 12 air miles southwest of Craig, Moffat County.

#### PROPOSED RULES

##### SQUAWFISH MAP OF ORIGINAL RANGE



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 7, 1978.

ROBERT S. COOK,  
Acting Director,  
Fish and Wildlife Service.

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