
DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removal of *Gambusia amistadensis*, the Amistad Gambusia, From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service is removing the Amistad gambusia (*Gambusia amistadensis*) from the List of Endangered and Threatened Wildlife. This action is based on a review of all available data, which indicate that this fish is extinct. The species is known to have occurred naturally only in Goodenough Spring, Val Verde County, Texas. It was eliminated there by inundation from the Amistad Reservoir, an impoundment constructed on the Rio Grande River in

1968. All other springs considered likely to harbor the species have been examined, but it was never found. Captive populations of *G. amistadensis* were maintained, but have since died or been eliminated through hybridizations with and predation by the mosquitofish (*Gambusia affinis*). Removing the Amistad gambusia from the List constitutes Service recognition of its extinction and removes Federal protection under the Endangered Species Act.

DATE: This rule becomes effective on January 4, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gerald L. Burton, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

The Amistad (Goodenough) gambusia (*Gambusia amistadensis*) is known to have occurred only in Goodenough Spring, a tributary of the Rio Grande in Val Verde County, Texas. It was described by Dr. Alex Peden in 1973, based on specimens collected in 1968 from Goodenough Spring just prior to its inundation by Amistad Reservoir. The species was not recognized as distinct until well after reservoir construction began (Peden 1973). During extensive collecting by Peden (1973) in spring areas immediately upstream and downstream from the Amistad Reservoir, no additional *G. amistadensis* were found, and Peden believed that the species was restricted to the Goodenough Spring area.

In July 1968, backwaters of the Amistad Reservoir, constructed by the U.S. Army Corps of Engineers, began permanent flooding of the area. In subsequent visits to the area after the reservoir had filled, the spring was found to be under more than 21.3 meters (70 feet) of silt-laden water, and Peden (1973) believed that the species was probably extirpated there. In 1979, all Texas springs listed by Brune (1981) as being within 50 kilometers (31 miles) of Goodenough Spring with outflow in excess of 10 liters per second (0.353 cubic feet per second) were surveyed, but no *G. amistadensis* were found, and the species is believed to be extinct (Hubbs and Jensen 1984).

Gambusia amistadensis was listed as endangered on April 30, 1980 (45 FR 28721), under provisions of the Endangered Species Act of 1973, as amended, at which time it occurred only in captivity at the University of Texas and Dexter National Fish Hatchery in New Mexico. Since that time, all captive populations have died or been eliminated through hybridization with and predation by the mosquitofish, *Gambusia affinis*. In the **Federal Register** of March 11, 1987 (52 FR 7462-7463), the Service published a proposed rule to delist the Amistad gambusia.

Summary of Comments and Recommendations

In the March 11, 1987, proposed rule (52 FR 7462) and associated notifications, all interested parties were requested to submit information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Del Rio News-Herald* on April 3, 1987. Five comments were received and are discussed below.

Comments of support were received from the Texas Parks and Wildlife Department, the American Society of Ichthyologists and Herpetologists, a faculty member from the University of Texas at Austin, and a faculty member from Pan American University. A letter of opposition was received from a faculty member from the University of Oklahoma.

The commenter from the University of Oklahoma stated that he could see no benefit to delisting because of presumed extinction, and if the species remains on the list, it will automatically have protection if any other populations are discovered. The Service responds that maintaining a species on the List when it is presumed extinct causes an unnecessary burden on Federal Agencies when they evaluate projects in the context of section 7 of the Endangered Species Act. In addition, if the species is rediscovered, it can be relisted expeditiously under emergency provisions of the Act.

Summary of Status Findings

After a careful review of all available data, the Service has determined that *Gambusia amistadensis* is extinct and no longer requires protection pursuant to the Endangered Species Act of 1973, as amended. If evidence to the contrary is presented later, listing may be repropoed.

Regulations at 50 CFR 424.11 state that a species may be delisted if: (1) It becomes extinct, (2) it recovers, or (3) the original classification data were in error. The Service believes that enough evidence exists to recognize *Gambusia amistadensis* as extinct. The Endangered Species Act requires that certain factors be considered before a species can be listed, reclassified, or delisted. These factors and their application to *G. amistadensis* are as follows:

A. *The present or threatened destruction, modification or curtailment of its habitat or range.* The Amistad gambusia was known to occur only in Goodenough Spring, tributary to the Rio Grande in Val Verde County, Texas. In July of 1968, backwaters of the Amistad Reservoir began permanent flooding of the area. The Amistad gambusia is believed to have been extirpated in that area.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* All captive populations of *G. amistadensis* have died or been eliminated due to hybridization with and predation by the mosquitofish (*Gambusia affinis*).

Effects of Rule

This action removes this species from the List of Endangered and Threatened Wildlife. Federal agencies are no longer required to consult with the Secretary to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of the Amistad gambusia. Federal restrictions on taking this species no longer apply. There is no designated critical habitat for this species.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Brune, G. 1981. *Springs of Texas*, 1. Branch-Smith, Inc. Ft. Worth, Texas.
Hubbs, C. and B.L. Jensen. 1984. Extinction of *Gambusia amistadensis*, an endangered fish. *Copeia* 1984(2):529-530.
Peden, A.E. 1973. Virtual extinction of *Gambusia amistadensis* n. sp., a poeciliid fish from Texas. *Copeia* 1973(2):210-221.

Primary Author

The primary author of this final rule is Alisa M. Shull, Endangered Species Biologist, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing *Amistad gambusia* (*Gambusia amistadensis*) under "Fishes" from the List of Endangered and Threatened Wildlife.

Dated: October 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-27912 Filed 12-3-87; 8:45 am]

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Summary of Comments and Recommendations

In the January 14, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the *San Juan Star* on February 6, 1987. Six letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Secretary of the Puerto Rico Department of Natural Resources supported the proposed listing of *Crescentia portoricensis*. The Federal Highway Administration, U.S. Forest Service, and Environmental Protection Agency each acknowledged the proposal and stated that no specific actions under consideration by their agencies would affect the species. The Natural History Society of Puerto Rico indicated no objection to the proposal but also noted that *Crescentia portoricensis* might occur on the Cabo Rojo National Wildlife Refuge. The Service can find no record of such occurrence, and considers that this suggestion may refer to another species of *Crescentia*. The U.S. Army Corps of Engineers responded with a request for more information; this request was answered, and the Corps elected not to comment on the proposal at this time.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Crescentia portoricensis* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Crescentia portoricensis* Britton (Higuero de Sierra) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The indirect effects of deforestation, particularly habitat modification and direct destruction of plants through erosion or landslides caused by accelerated runoff

and flash flooding, appear to be the most serious threats to *Crescentia portoricensis*. Although the surviving populations exist within units of the Commonwealth Forest system, the alteration of surrounding lands continues to affect the species and its habitat. In addition, flood control projects, which include large reservoirs in the mountains of the Maricao area, have been proposed by the Army Corps of Engineers. If these are constructed, impoundments could extend into drainages where the species may occur.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Taking for these purposes has not been a documented factor in the decline of this species, but could become so in the future. Species of the genus *Crescentia* (calabash) are widely cultivated throughout the Old and New World tropics. Overcollection could prove a serious problem for this species, since only 42 individuals are known to exist in the wild.

C. Disease or predation. Disease and predation have not been documented as factors in the decline of this species.

D. The inadequacy of existing regulatory mechanisms. The Commonwealth of Puerto Rico has recently adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Crescentia portoricensis* is not yet on the Commonwealth list. Federal listing would provide the Act's recovery and protection provisions to this small tree.

E. Other natural or manmade factors affecting its continued existence. The known populations of *Crescentia portoricensis* are confined to geographically small areas and thus are susceptible to a variety of natural disturbances, such as major storms and resulting landslides or flooding. Although the species is probably adapted to survive such events, these natural threats are exacerbated by the manmade conditions outlined in factor "A" above. In addition, with only 42 plants known to exist, and no seedlings ever observed, rarity is itself a factor affecting continued survival.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Crescentia portoricensis* as endangered. Since there are few individuals remaining and a continuing risk of damage to the plants and/or their habitat, endangered status seems an accurate assessment of the

species' condition. It is not prudent to designate critical habitat because of the reasons given below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Crescentia portoricensis* at this time. The distribution of this species is so restricted that collecting or vandalism could seriously damage or eliminate the remaining populations. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners will be notified of the location and importance of protecting this species' habitat, and such protection will be addressed through the recovery process and through section 7 procedures (see "Available Conservation Measures," below).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation action by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to

destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Crescentia portoricensis*, as discussed above. Federal involvement is expected only if flood control projects are begun by the U.S. Army Corps of Engineers. However, through careful planning, adverse impacts to this species can be minimized.

Section 9(a)(2) of the Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate for foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Although there may be

some horticultural interest in *Crescentia portoricensis*, it is anticipated that few trade permits would ever be sought or issued since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S., and R.A. DeFilipps. 1978. Endangered and Threatened Plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC, xv + 403 pp.
 Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Crescentia portoricensis* Britton. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, 28 pp.

Author

The primary author of this final rule is Mr. David Densmore, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

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2. Amended § 17.12(h) by adding the following, in alphabetical order under Bignoniaceae, to the List of Endangered and Threatened Plants:

§17.12 Endangered and threatened plants:
 * * * * *
 (h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Bignoniaceae—Bignonia family:						
<i>Crescentia portoricensis</i>	Higuero de Sierra	U.S.A. (PR)	E	301	NA	NA

Dated: October 22, 1987.
 Susan Recce,
 Acting Assistant Secretary for Fish and Wildlife and Parks.
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