

innovative solutions for achieving compliance. After considering all relevant factors, including the need to allocate and prioritize scarce agency resources to best accomplish the agency's safety mission, the agency has decided to deny the petition.

**Authority:** 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: July 12, 1995.

**Barry Felrice,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 95-17434 Filed 7-14-95; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Say's Spiketail Dragonfly as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Say's spiketail dragonfly (*Cordulegaster sayi*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted.

**DATES:** The finding announced in this document was made on June 20, 1995.

**ADDRESSES:** Comments or questions concerning this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael M. Bentzien, Assistant Field Supervisor, at the above address (904/232-2580).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial

scientific or commercial information, the Service make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) of the Act requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings shall be published promptly in the **Federal Register**.

On February 15, 1994, the Service received a petition dated January 13, 1994, from Ms. Nancy Fraser Williams on behalf of the Rock Creek Owners' Association, Gainesville, Florida, to list the Say's spiketail dragonfly (*Cordulegaster sayi*) as endangered. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was announced in the **Federal Register** on October 26, 1994 (59 FR 53776). The finding also announced the Service's formal review of the species' status and solicited information and public comment regarding population trends, biological vulnerability, and threats to this species. Comments and information received by December 27, 1994, were considered in the 12-month finding.

On the basis of the best available scientific and commercial information, the Service finds that listing the Say's spiketail dragonfly is not warranted at the present time.

The earliest description of this dragonfly was made by Selys (1854) from a British Museum specimen taken in Georgia. Westfall (1953) reported three males collected at Lake City in 1896 and 1897 as the first specimens from Florida. Westfall and Johnson (unpublished) attributed additional state records to misidentifications with congeneric species. Their review demonstrated that the only known specimens of *Cordulegaster sayi* in existence were collected from eight specific historic sites in either Georgia or Florida. The current range includes central Georgia to northern and western Florida. Rock Creek is the best described and most productive of the eight historic sites. Sites on public land include Gordonia-Altamaha State Park in Georgia; Gold Head Branch and Torreya State Parks, San Felasco Hammock State Preserve, and Blackwater River State Forest in Florida.

Besides Rock Creek, private land sites include Lake City, Columbia County, and Camp Crystal Lake, Clay County, Florida. Approximately a dozen specimens have been collected from these other sites. The most recent collections were made in 1994 from Blackwater River State Forest. Kroetzer and Kroetzer (unpublished) collected a specimen from Conecuh National Forest in Alabama in 1994 which has characteristics of both *Cordulegaster sayi* and its congener *C. bilineata*.

Say's spiketail dragonfly is associated with trickling hillside seepages in deciduous forests (Dunkle 1989). Adults have been collected from late February through late April in open areas within about a half mile of seepage breeding sites (Westfall and Mauffray 1994). Westfall (pers. comm. 1994) collected larvae of various instars from seepage pools and beneath wet leaves within and on the border of the seepage streamlets. Larval collections indicate that the species has a multi-year life cycle (Westfall and Mauffray 1994, Mauffray in litt. 1994).

Two seepages modified by development of the Rock Creek subdivision are the only known adverse habitat changes at this site (Mauffray in litt. 1994). Despite these modifications, Mauffray (Westfall and Mauffray 1994) discovered a sizable population in 1992. The collection of larvae from flooded seeps in 1993 (Westfall and Mauffray 1994) following two successive flood events did not support Mauffray's belief (in litt. 1994) that unflooded seeps are needed as dragonfly refugia for population survival. An observed increase in adult numbers from 1993 to 1994 would also not have been predicted following two consecutive annual floods. The observed fluctuations in adult numbers before and after surrounding land development may therefore be more a function of asynchronous emergence due to the species' presumed multi-year life cycle rather than an adverse response to flooding. Concerns for seepage damage by cattle (Daigle in litt. 1985) and pedestrians and vehicles (V. Compton, Blackwater Forestry Resource Administrator, pers. comm. 1994) in Blackwater River State Forest are the only other known instances rangewide of possible habitat impacts. Despite these observations, two adults were collected in 1994 in the vicinity of the historic collection site (J. Daigle, Florida Department of Environmental Protection, pers. comm., 1994).

Between 1970 and 1994, Mauffray (in litt. 1994) conservatively estimated that collecting had removed over 140 adult specimens from Rock Creek. This level

of collecting was related to the sites' uniqueness and accessibility. Despite this collecting pressure, the population persisted. The species' short flight season, variable emergence, lack of collection pressure on larvae, and increased conservation awareness probably mitigated serious collecting impacts.

Neither the city of Gainesville, Florida, nor Alachua County have local ordinances which mandate special local protection for the dragonfly or the habitat at Rock Creek (M. Drummond, Alachua County Environmental Protection Department, pers. comm.). Both Florida and Georgia have statutes intended to provide special protection and conservation measures for species designated according to specific criteria within the respective state laws. Say's spiketail dragonfly currently has no special designation in either state.

Agencies administering and managing parks and preserves in both states prohibit the removal of non-exempt fauna and flora from lands entrusted to them without prior written permission from the authorized representative (B. Wert in litt. 1995, D. Bryan in litt. 1995). The same requirement applies to the Florida state forest system (V. Compton, pers. comm.).

The current status and condition of the Lake City collection site is unknown since the collections were made nearly 100 years ago and exact locations were not specified. The Camp Crystal Lake site consists of open fields and three ravines administered respectively by the Alachua County School Board and the city of Keystone Heights Airport Authority. Both areas have controlled access. Leases provided to Camp Crystal Lake and Keystone Heights Sportsmen's Club by the Airport Authority which permit ravine access also prohibit property destruction or alteration as well as the removal of any plants or animals other than specified game animals without prior permission from the lessor (G. Reid, Keystone Heights, Airport Authority, pers. comm., 1994). An Airport Authority property manager patrols the areas three days a week.

Although existing regulatory mechanisms do not protect all Say's spiketail habitat, available information indicates that some protection is being afforded on public lands.

The Clean Water Act (section 404) is the primary federal law that provides some protection of aquatic habitats determined by the U.S. Army Corps of Engineers to be jurisdictional wetlands. These laws provide no protection against modification or development of upland habitats adjacent to the seepage breeding sites.

Where habitat of this species occurs on other Federal lands, including but not limited to the Forest Service, Park Service and Department of Defense, each agency's standard natural resource and wildlife protection guidance are implemented.

Mauffray (in litt. 1994) expressed concern for the Rock Creek population's survival from other man-made and natural factors such as insecticides, fertilizers from adjacent turf and landscape areas, fire, and drought. The Service acknowledges that man-made drains traversing the Rock Creek riparian corridor could serve as conduits for limited point and non-point source pollution within breeding sites. Mosquito spraying also may impact adult dragonflies and chemicals reaching breeding sites from sheet flow of surface and subsurface waters likewise may impact larvae. Information which substantiates these impacts, however, was not found. The dragonfly's apparent semi-aquatic larval stage should help it survive periods of low water. The Service considers the probable impacts from fire low because of the habitat's relative resistance to burning. The potential impact of agriculture and silviculture on habitat rangewide is unknown.

The distance separating known collection sites suggests that gene flow among populations of this habitat specialist was historically restricted. The adults' presumed short flight range further restricts potential exchange of genetic material. Although impacts to the Rock Creek deme (local populations with little or no outbreeding) might result in some loss of genetic diversity from the species genome, it would have little or no significance to the genetic fitness of other demes.

The Service believes that the floodwater retention project, if implemented, would not result in the extirpation of the Rock Creek population. An analysis of historic population fluctuations and Westfall and Mauffray's 1993 Rock Creek study does not support their contention that additional flooding would severely impact this dragonfly. Other factors such as chemicals, fire, and drought were assessed for cumulative impacts. Some impact might be expected if the factors occurred close enough in time to affect multiple life stages or generations. The Service's position is that the factors are either not factually supported and/or that the probability for their close temporal occurrence resulting in cumulative impacts is very low. The petitioner's concern for imminent impact to the population from the proposed project has been eliminated

since Gainesville has placed the project on hold for an estimated three to five years while it updates its planimetric database (G. Pearson, City Engineer, Public Works Department, pers. comm.).

Seven of the eight historic collection sites remain intact and six receive some protection and management. Adults were recently collected at one of these sites and suitable habitat also exists at other as yet unsurveyed sites. The Service therefore concludes that the probability of finding other reproducing populations rangewide is high. The Service has funded a systematic survey of historic sites and other public lands in portions of Florida, Georgia, and Alabama. The survey hopes to better delineate the species' range and distribution. A single specimen representing a new site has since been collected at Camp Blanding National Guard Military Reservation in Clay County, Florida.

On the basis of the best available scientific and commercial information, the Service finds that listing Say's spiketail dragonfly as endangered is not warranted at the present time because the taxon presently is not in danger of extinction or likely to become so in the foreseeable future. The species will continue to be retained in category 2 at least until the results of the current status survey have been assessed. Category 2 candidates are those for which information now in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability and threat are not currently available to support proposed rules. In addition, the status of the proposed floodwater retention project will be monitored as will the Rock Creek population. The condition of new and other existing populations will be evaluated and pre-listing conservation actions instituted, where feasible, to further protect and restore this species and its habitat. The Service will continue to seek additional information about population trends, biological vulnerability and threats to this species. If additional information becomes available in the future indicating that listing as endangered or threatened is appropriate, the Service may reassess the listing priority for this species.

#### References

A complete list of references used in the preparation of this finding is available upon request from the Jacksonville Field Office (see ADDRESSES section).

**Author:** The primary author of this document is Mr. John F. Milio (see ADDRESSES section).

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: June 20, 1995.

**Mollie H. Beattie,**

*Director, Fish and Wildlife Service.*

[FR Doc. 95-17386 Filed 7-14-95; 8:45 am]

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#### 50 CFR Part 17

RIN 1018-AD20

#### Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Reopening of the comment period for the proposed special rule.

**SUMMARY:** On February 17, 1995 (60 FR 9484), the Fish and Wildlife Service (Service) published a proposed special rule, pursuant to section 4(d) of the Endangered Species Act (Act), to replace the blanket prohibitions against incidental take of spotted owls with a narrower, more tailor-made set of standards that reduce prohibitions applicable to timber harvest and related activities on specified non-Federal forest lands in Washington and California. The original deadline for comments on the proposed rule was May 18, 1995, however, on May 18, 1995 (60 FR 26712), a notice was published in the **Federal Register** announcing the reopening of the comment period to end July 17, 1995. The intent of this notice is to reopen the comment period to September 15, 1995.

**DATES:** The comment period for written comments is reopened until September 15, 1995.

**ADDRESSES:** Comments and materials concerning this proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and

Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181.

**FOR FURTHER INFORMATION CONTACT:** Mr. Curt Smitch, Assistant Regional Director, North Pacific Coast Ecoregion, 3704 Griffin Lane SE, Suite 102, Olympia, Washington 98501 (360/534-9330); or Mr. Gerry Jackson, Deputy Assistant Regional Director, North Pacific Coast Ecoregion, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181 (503/231-6159).

#### SUPPLEMENTARY INFORMATION:

#### Background

The implementing regulations for threatened wildlife generally incorporate the prohibitions of section 9 of the Endangered Species Act of 1973, as amended (Act), for endangered wildlife, except when a "special rule" promulgated pursuant to section 4(d) of the Act has been issued with respect to a particular threatened species. At the time the northern spotted owl, *Strix occidentalis caurina*, was listed as a threatened species in 1990, the Service did not promulgate a special section 4(d) rule and therefore, all of the section 9 prohibitions, including the "take" prohibitions, became applicable to the species. To replace the blanket prohibitions against take of spotted owls, the Service published a proposed special rule, 50 CFR Part 17, on February 17, 1995, in the **Federal Register**, pursuant to section 4(d) of the Act, which proposes a narrower, more tailor-made set of standards that reduce prohibitions applicable to timber harvest and related activities on specified non-Federal forest lands in Washington and California.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: July 10, 1995.

**Michael J. Spear,**

*Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.*

[FR Doc. 95-17422 Filed 7-14-95; 8:45 am]

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#### 50 CFR Part 18

RIN 1018-AD04

#### Importation of Polar Bear Trophies From Canada; Proposed Rule on Legal and Scientific Findings To Implement Section 104(c)(5)(A) of the 1994 Amendments to the Marine Mammal Protection Act

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Supplemental proposed rule and findings.

**SUMMARY:** This notice announces the proposed legal and scientific findings on the importation of polar bears (*Ursus maritimus*) taken in sport hunts in Canada, including ones taken, but not imported, prior to enactment of the 1994 Amendments of the Marine Mammal Protection Act (MMPA). Specifically, the U.S. Fish and Wildlife Service (Service) proposes to find that the Northwest Territories (NWT), the only area in Canada that currently allows sport hunting, has a monitored and enforced sport-hunting program that ensures polar bears are legally taken, is consistent with the purposes of the Agreement on the Conservation of Polar Bears, and is based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level, provided certain provisions are in place in the specific population. The Service proposes to approve populations where the status of the population has been stable or increasing for previous harvest seasons and local and/or joint management agreement(s) are in place. Since Canada and the United States are Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service proposes that import and export procedures are in place to meet CITES requirements. This notice also proposes regulations on the disposition of the gall bladder, tagging of trophies, and import procedures needed to monitor legal import and to ensure the import will not contribute to illegal trade in bear parts. The Service invites comment on options proposed to meet the provisions of Section 102(b) of the MMPA concerning the importation of pregnant and nursing polar bears. For polar bears taken in the NWT prior to the Amendments through the effective date of the final rule, the Service proposes to issue permits when proof of legal take is demonstrated and the provisions of the Act concerning pregnant and nursing polar bears are met. The Service intends to make these findings for multiple sport-hunting seasons pending review as required