

1. Present and threatened destruction, modification, and curtailment of habitat is caused by highway construction projects, the activities of introduced alien pigs, and the spread of introduced alien weeds (Ellis *et al.* 1993, Sherwood 1993).

2. Diseases such as avian malaria and avian pox are thought to have contributed to the decline of this taxon (Ellis *et al.* 1993). Mosquitoes carrying alien diseases are now found throughout the entire range of the Oahu 'elepaio.

3. Inadequacy of existing regulatory mechanisms to prevent continued loss of habitat associated with highway construction projects. This taxon currently receives no protection from federal or state activities which adversely affect its habitat.

4. Other factors, including the relatively low number of individuals (ca. 200–500 birds) places this subspecies at risk of extinction due to inbreeding, stochastic events, and catastrophes (Ellis *et al.* 1993).

More detailed information may be obtained from the Service's Pacific Islands Ecoregion. The Service is requesting comments on the petition to designate critical habitat for this species. Interested persons or parties are invited to submit data, information, and comments on the Oahu 'elepaio (see **ADDRESSES** section above).

## References Cited

Berger, A.J. 1981. Hawaiian Birdlife. Second Edition. University of Hawaii Press, Honolulu. 260 pp.

Ellis, S., C. Kuehler, R. Lacy, K. Hughes, and U.S. Seal. 1993. Hawaiian Forest Birds Conservation Assessment and Management Plan. Captive Breeding Specialist Group.

Pratt, H.D., P.L. Bruner, and D.G. Berrett. 1987. The birds of Hawaii and the Tropical Pacific. Princeton University Press, Princeton. 409 pp.

Sherwood, V. 1993. The Oahu 'elepaio (*Chasiempis sandwichensis gayi*): population histories and habitat: island of Oahu, Hawaii. Honors Thesis, University of Hawaii, Manoa. 110 pp.

**Author.** The author of this document is Dr. Loyal A. Mehrhoff, Ecological Services, Pacific Islands Ecoregion, (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.*).

Dated: May 23, 1995.

**Bruce Blanchard,**

Deputy Director, Fish and Wildlife Service.

[FR Doc. 95-14249 Filed 6-9-95; 8:45 am]

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## 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Grass Lake/Green Cove Creek Population of the Olympic Mudminnow as Endangered and To Designate Critical Habitat

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

**ACTION:** Notice of 90-day petition finding.

**SUMMARY:** The Fish and Wildlife Service (Service) announces a 90-day finding for a petition to list the Grass Lake/Green Cove Creek population of the Olympic mudminnow (*Novumbra hubbsi*) under the Endangered Species Act of 1973, as amended. The Service finds that the petition did not present substantial scientific or commercial information indicating that listing this population may be warranted. The Service concludes that the Olympic mudminnows occupying the Grass Lake/Green Cove Creek drainage do not constitute a distinct population segment.

**DATES:** The finding announced in this document was made on May 23, 1995.

**ADDRESSES:** Data, information comments, or questions concerning this petition should be submitted to the State Supervisor, U.S. Fish and Wildlife Service, Ecological Services Office, 3704 Griffin Lane SE., Suite 102, Olympia, Washington 98501–2192. 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:** David C. Frederick, Field Office Supervisor, see **ADDRESSES** section above or telephone 206–753–9440.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. If the finding is that substantial information was presented, the Service also is required to

commence a review of the status of the species involved if one has not already been initiated under the Service's internal candidate assessment process.

The Service has made a finding on a petition to list the Grass Lake/Green Cove Creek population of the Olympic mudminnow (*Novumbra hubbsi*). The petition, dated September 15, 1994, was submitted by Theodore A. Mahr, attorney representing the "Save Allison Springs" Citizens Committee, and several members of the "Save Allison Springs" Citizens Committee. The "Save Allison Springs" Citizens Committee is located in Olympia, Washington. The petition requests the Service to list the Grass Lake/Green Cove Creek population of the Olympic mudminnow as an endangered species and to simultaneously designate critical habitat for the population. The petitioner stated that the Olympic mudminnow in the Grass Lake/Green Cove Creek Basin may be an evolutionarily significant unit due to the apparent geographic isolation of this population; that this population may be imperiled by present and proposed housing developments in the Green Cove Creek Basin; and that existing regulatory mechanisms may not be adequate to protect this population.

The Service has reviewed the petition, the literature cited in the petition, and other information available in the Service's files. On the basis of the best scientific and commercial information available, the Service finds the petition does not present substantial information that listing this population may be warranted.

The Olympic mudminnow, a small, brightly colored fish in the Umbridae family, represents a monotypic genus, being the only species in the genus *Novumbra*. There are four genera in the family Umbridae, three found in North America, the fourth in Europe. Distribution of the Olympic mudminnow is limited to southwestern Washington and the Olympic Peninsula. Meldrim (1968) suggests that geological history has determined the general distribution of the species, while behavior and habitat preference have maintained the present limited distribution. Dispersal is limited yet the species is often abundant where found (Wydoski and Whitney 1979). This freshwater species is generally found in quiet, slow moving waters such as in swamps, bogs, ponds, ditches, shallow lagoons and most frequently in marshy habitats. The preferred habitat type is a marshy stream with a muddy bottom, dense vegetation, and stained or dark water (Harris 1974).

A species that is in danger of extinction throughout all or a significant

portion of its range may be listed as an endangered species under the Act. The term "species" is defined in 16 U.S.C. 1532 (16) as including "any subspecies \* \* \* and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." Thus the first deliberation is whether the Olympic mudminnow in the Grass Lake/Green Cove Creek Basin is a recognized subspecies or distinct population that interbreeds.

The Service has considered two factors in determining whether this population would be eligible for listing as a distinct population segment:

1. The discreteness of the population segment in relation to the remainder of the species, and
2. The significance of the population segment to the species.

While the petitioner cited a 1994 letter from Dr. Theodore W. Pietsch (College of Ocean and Fishery Sciences, University of Washington) as evidence of the discreteness and significance of the Grass Lake/Green Cove Creek population, Pietsch only speculated in his letter about the "apparently long-term geological and genetic isolation" of this population. He also noted that the reality of whether this population represents "an 'evolutionary significant unit' \* \* \* should be explored further using modern genetic techniques." In this regard, the petitioner does not present, nor is the Service aware of any

information indicating the genetic, morphological, or behavioral distinctness of the Olympic mudminnow from the Grass Lake/Green Cove Creek Basin.

Further, Congress directed that the listing of populations be used " \* \* \* sparingly." Therefore, in addition to meeting the criteria for distinctness, the Service should consider a population's biological and ecological significance to the species as a whole. No evidence was presented to suggest that the loss of the mudminnows in Green Cove Creek would result in a significant gap in the range of the Olympic mudminnow, nor that this population occurs in an unusual or unique setting.

The Service concludes that the data contained in the petition, referenced in the petition, and otherwise available to the Service does not present substantial information that the requested action may be warranted since the Grass Lake/Green Cove Creek Basin population of Olympic mudminnows would not be eligible for listing as a distinct population. The Olympic mudminnow is recognized as a category 2 candidate species (59 FR 58999, November 15, 1994), and has been since the Service's December 30, 1982, Notice of Review (47 FR 58454). The Olympic mudminnow has been the subject of an ongoing status review since the 1982 Notice of Review. The Service will retain this species as a category 2

candidate, and will continue to seek information regarding the status or threats to the species. If additional data become available in the future, the Service may reassess the listing priority for this species or the need for listing.

#### References Cited

Harris, C.K. 1974. The geographical distribution and habitat of the Olympic mudminnow, *Novumbra hubbsi*. Unpublished report, College of fisheries, Univ. of Wash., Seattle.

Meldrim, J.W. 1968. The ecological zoogeography of the Olympic mudminnow (*Novumbra hubbsi*, Schultz). Ph.D. dissertation, Univ. of Wash., Seattle.

Wydoski, R.S. and R.R. Whitney. 1979. Inland Fishes of Washington. Univ. of Wash. Press, Seattle, Washington.

**Author.** The primary author of this document is Shelley Spalding of the Ecological Services Office in Olympia, Washington (see ADDRESSES section).

#### Authority

The authority for this action is the Endangered Species Act of 1972, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 23, 1995.

**Bruce Blanchard,**

*Acting Director, U.S. Fish and Wildlife Service.*

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