

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

##### § 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Maine is amended by removing DTV Channel \*15 and adding DTV Channel \*10 at Calais.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01-19413 Filed 8-3-01; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 01-1828, MM Docket No. 01-171, RM-10158]

#### Television Broadcast Service; Destin, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Kaleidoscope Partners, E. Terrill Weiss d/b/a West Florida TV Acquisition Company, Delta Media Corporation, Marri Broadcasting Corporation, ValueVision International, Inc., and Winstar Broadcasting Corporation,

mutually exclusive applicants for a construction permit for a new TV station on channel 64+ at Destin, Florida, requesting the substitution of channel 48 for channel 64+ at Destin. TV channel 48 can be allotted to Destin, Florida, in compliance with Section 73.623(c) of the Commission's Rules with a zero offset at coordinates 30-30-52 N. and 86-13-12 W. Pursuant to the provisions outlined in the Commission's Public Notice, released November 22, 1999, DA 99-2605, we will not accept competing expressions of interest in the use of TV channel 48 at Destin.

**DATES:** Comments must be filed on or before September 24, 2001, and reply comments on or before October 9, 2001.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Howard M. Weiss, Fletcher, Heald & Hildreth, PLC, 11th Floor, 1300 North 17th Street, Arlington, Virginia 22209-3801 (Counsel for joint applicants).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-171, adopted July 31, 2000, and released August 2, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications

Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

##### § 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Florida is amended by removing TV Channel 64+ and adding TV Channel 48 at Destin.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01-19504 Filed 8-3-01; 8:45 am]

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#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AG99

#### Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Availability of the Draft Economic Analysis for Proposed Critical Habitat for the Oahu Elepaio

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

**ACTION:** Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis for the proposed determination of critical habitat for the Oahu elepaio (*Chasiempis sandwichensis ibidis*), a bird, on the island of Oahu, Hawaii. We are also providing notice of the reopening of the public comment period for the proposal to designate critical habitat for this bird to allow all interested parties to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this reopened public comment period and will be fully considered in the final rule.

**DATES:** We will accept public comments until September 5, 2001.

**ADDRESSES:** Written comments and information should be submitted to Field Supervisor, U.S. Fish and Wildlife

Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001. For electronic mail address and further instructions on commenting, refer to Public Comments Solicited section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Paul Henson, Field Supervisor, or Eric VanderWerf, Biologist, U.S. Fish and Wildlife Service, at the above address (telephone: 808/541-3441; facsimile: 808/541-3470).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Oahu elepaio is a small forest-dwelling bird, and is a member of the monarch flycatcher family Monarchidae. It is dark brown above and white below, with light brown streaks on the breast. The tail is long and often held up at an angle. Adults have conspicuous white wing bars, a white rump, and white tips on the tail feathers. Oahu elepaio inhabit a variety of forest types, but are most common in riparian vegetation along streambeds and in mesic forest with a tall canopy and a well-developed understory. They are not currently found in very wet, stunted forest on windswept summits or in very dry shrub land, but these areas may be used by dispersing individuals. Forest structure appears to be more important to elepaio than plant species composition, and unlike many Hawaiian forest birds, elepaio are found in disturbed forest composed of introduced plants. Historically the elepaio was common and widespread on Oahu, but it has declined seriously and the current population is approximately 1,982 birds distributed in six core subpopulations and several smaller subpopulations.

We were petitioned by Mr. Vaughn Sherwood on March 22, 1994, to list the Oahu elepaio as an endangered or threatened species with critical habitat. The November 15, 1994, Animal Notice of Review (59 FR 58991) classified the Oahu elepaio (then *Chasiempis sandwichensis gayi*) as a category 1 candidate. Category 1 candidates were those species for which we had sufficient data in our possession to support a listing proposal. On June 12, 1995 (60 FR 30827), we published a 90-day petition finding stating that the petition presented substantial information that listing may be warranted. Category 1 candidates were those taxa for which we had on file sufficient information of biological vulnerability and threats to support preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing

proposals of higher priority. In our February 28, 1966, **Federal Register** Notice of Review of Plant and Animal Taxa that are Candidates for Listing as Endangered or Threatened Species (61 FR 7595), we discontinued designation of multiple categories of candidates. Only those taxa meeting the definition of former category 1 are now considered candidates for listing. On October 6, 1998 (63 FR 53623), we published the proposed rule to list the Oahu elepaio as an endangered species. Because *C. s. gayi* is a synonym of *C. s. ibidis*, the proposed rule constituted the final 12-month finding for the petitioned action. On April 18, 2000 (65 FR 20760), we published the final rule to list the Oahu elepaio as an endangered species.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require 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. Our regulations (50 CFR 424.12(a)(1)) also state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. In the proposed listing rule we indicated that designation of critical habitat for the Oahu elepaio was not prudent because we believed a critical habitat designation would not provide any additional benefit beyond that provided through listing as endangered. Based partly on comments we received on the proposed listing rule and on recent court rulings which address the prudency standard, in the final listing rule we determined that a critical habitat designation for the Oahu elepaio was prudent because such a designation could benefit the species beyond listing as endangered by extending protection under section 7 of the Act to currently unoccupied habitat and by providing informational and educational benefits.

Although we determined in the final listing rule that critical habitat designation for the Oahu elepaio would be prudent, we also indicated in the final listing rule that we were not able to develop a proposed critical habitat designation for the Oahu elepaio at that time due to budgetary and workload constraints. However, on June 28, 2000, the United States District Court for the District of Hawaii established, in the case of *Conservation Council for Hawaii v. Babbitt*, CIV. NO. 00-00001 HG-BMK,

a timetable to designate critical habitat for the Oahu elepaio, and ordered that the Service publish the final critical habitat designation by October 31, 2001.

On November 9, 2000, we mailed letters to 32 landowners on Oahu informing them that the Service was in the process of designating critical habitat for the Oahu elepaio and requesting from them information on management of lands that currently or recently (within the past 25 years) supported Oahu elepaio. The letters contained a fact sheet describing the Oahu elepaio and critical habitat, a map showing the historic and current range of the Oahu elepaio, and a questionnaire designed to gather information about land management practices, which we requested be returned to us by November 27, 2000. We received 11 responses to our landowner mailing with varying types and amounts of information on current land management activities. Some responses included detailed management plans, provided new information on locations where elepaio have been observed recently, and described management activities such as fencing, hunting, public access, fire management, methods for controlling invasive weeds and introduced predators, and collaboration with conservation researchers. In addition, we met with several landowners and managers, including the U.S. Army and the Hawaii State Division of Forestry and Wildlife, to obtain more specific information on management activities and suitability of certain habitat areas for elepaio. The information provided in the responses and during public meetings was considered and incorporated into the proposed rule to designate critical habitat for the Oahu elepaio published in the **Federal Register** on June 6, 2001 (66 FR 30372).

We have proposed to designate critical habitat consisting of five units whose boundaries encompass a total area of approximately 26,853 hectares (ha) (66,354 acres (ac)) on the island of Oahu, Hawaii.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act (16 U.S.C. 1531 *et seq.*) with regard to actions carried out, funded, or authorized by a Federal agency. Section 4(b)(2) of the Act requires that the Secretary shall designate or revise critical habitat based upon the best scientific and commercial data available, and after taking into consideration the economic impact of specifying any particular area as critical habitat. Based upon the previously

published proposal to designate critical habitat for the Oahu elepaio, and comments received during the previous comment periods, we have prepared a draft economic analysis of the proposed critical habitat designations. The draft economic analysis is available at the Internet and mailing addresses in the Public Comments Solicited section below.

#### Public Comments Solicited

We will accept written comments and information during this reopened public comment period. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and proposed rule by any of several methods:

(1) You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001.

(2) You may send comments by electronic mail (e-mail) to: *FW1PIE\_OahuElep\_crithab@r1.fws.gov*. If you submit comments by e-mail, please submit them as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018-AG99" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Pacific Islands Office at telephone number 808/541-3441.

(3) You may hand-deliver comments to our Pacific Islands Office at the address given above.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business

hours at the address under (1) above. Copies of the draft economic analysis are available on the Internet at <http://pacificislands.fws.gov/wesa/endspindex.html> or by request from the Field Supervisor at the address and phone number under (1 and 2) above.

#### Author(s)

The primary author of this notice is John Nuss, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, Oregon 97232-4181.

#### Authority

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

Dated: July 27, 2001.

#### Rowan W. Gould,

*Acting Regional Director, Region 1, Fish and Wildlife Service.*

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