

warranted" on April 2, 1998 (63 FR 16218).

On June 8, 1999, a complaint was filed by the Biodiversity Legal Foundation and Peter Hovingh challenging the "not warranted" finding as violating the ESA and the Administrative Procedure Act. The complaint alleged that the "not warranted" finding was inconsistent with the 8 years of prior determinations by the Service that the spotted frog deserved ESA listing, that spotted frog populations had declined during the course of the 8-year administrative process, that the Conservation Agreement contained future and voluntary actions that had yet to be implemented and had not proven successful at protecting spotted frog populations prior to the "not warranted" decision, and that all measures identified by the Service as having previously been implemented had either failed, had been rejected by the Service as inadequate, or were adopted to mitigate specific projects that had already destroyed spotted frogs and their wetland and aquatic habitat.

On August 6, 2001, a settlement was reached between the plaintiffs and the Government regarding this complaint. The settlement stipulates that we remand for reconsideration the "not warranted" finding and start a new status review and 12-month finding on the Wasatch Front population of the spotted frog. The revised finding is to be completed by July 31, 2002. The agreement also states that we will not vacate our previous determination in the interim. Therefore, the candidate status of the species will not be restored unless and until we determine in the revised 12-month finding that the species is warranted for listing, or warranted but precluded from listing by higher listing priority actions.

#### References Cited

A complete list of all references cited is available upon request from the Utah Field Office (see **ADDRESSES** section).

#### Author

The primary author of this document is Jessica L. Gourley (see **ADDRESSES** section).

#### Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 30, 2001.

**Ralph O. Morgenweck,**  
Regional Director, Denver, CO.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Availability of a Draft Environmental Assessment for the Mandalay Bank Protection Project (Demo) Terrebonne Parish, LA

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

**ACTION:** Notice.

The Service announces the availability of the draft EA for the Mandalay Bank Protection Project. A more detailed description of the project is outlined in the **SUPPLEMENTARY INFORMATION** section below. A Copy of the draft EA may be obtained by sending a written request to the Service's Louisiana Field Office (see **ADDRESSES**). Requests must be made in writing to be processed. This notice is provided pursuant to NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA.

If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Louisiana Field Office (see **ADDRESSES**). You also may comment via the internet to "[martha\\_segura@fws.gov](mailto:martha_segura@fws.gov)". Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at the telephone numbers listed below (see **FOR FURTHER INFORMATION**). Finally, you may hand deliver comments to the Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however,

consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**DATES:** Written comments on the draft EA should be sent to the Service's Louisiana Field Office (see **ADDRESSES**) and should be received on or before October 10, 2001.

**ADDRESSES:** Persons wishing to review the draft EA may obtain a copy by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, Louisiana 70506. Documents will be available for public inspection by appointment during normal business hours at the Service's Louisiana Field Station (Attn: Martha Segura), or Mandalay National Wildlife Refuge, 3599 Bayou Black Drive, Houma, Louisiana 70360 (Attn: Paul Yakupzack). Written data or comments regarding the draft EA should be submitted to the Service's Louisiana Field Office. The data and comments must be submitted in writing to be adequately considered in the Service's decision-making process.

**FOR FURTHER INFORMATION CONTACT:** Ms. Martha Segura, Fish and Wildlife Biologist, (see **ADDRESSES** above), telephone: 337/291-3110 or 337/291-3100, facsimile: 337/291-3139.

**SUPPLEMENTARY INFORMATION:** The Mandalay Bank Protection Project (Demo), is being funded through the Coastal Wetlands Planning, Protection and Restoration Act on the Ninth Priority Project List as a Demonstration Project. The project purpose is to evaluate less-costly, effective alternatives to traditional rock rip-rap for protecting and restoring highly erodible banks along waterways traversing coastal wetlands.

The project is located in Mandalay National Wildlife Refuge along the southern bank of the Gulf Intracoastal Waterway (GIWW). The banks of the GIWW are severely eroded and there are many locations where the bank has "blown out", exposing the fragile interior marshes to erosion from the wakes and surges of passing boat and barge traffic. The preferred alternative is to install and evaluate four alternatives to rock rip-rap which would protect and restore these easily erodible banks.

Dated: August 30, 2001.

**H. Dale Hall,**

Acting Regional Director.

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