DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 222 and 229

[Docket No. FRA–1999–6439, Notice No. 6; Docket No. FRA–1999–6440]

RIN 2130–AA71

Use of Locomotive Horns at Highway-Rail Grade Crossings

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Public Hearings.

SUMMARY: This document provides notice of additional public hearings to be held in Chicago, Illinois and Madison, Wisconsin regarding FRA Docket Nos. 1999–6439 and 1999–6440. On January 13, 2000 (65 FR 2230), FRA published a Notice of Proposed Rulemaking (NPRM) on the Use of Locomotive Horns at Highway-Rail Grade Crossings (Docket No. FRA–1999–6439). On the same date FRA released a Draft Environmental Assessment (DEIS) (Docket No. FRA–1999–6440) pertaining to the proposals contained in the NPRM. In both documents, FRA stated that public hearings would be held in a number of locations throughout the country. On February 15, 2000 (65 FR 7483), March 22, 2000 (65 FR 15298), and March 29, 2000 (65 FR 16559) FRA published in the **Federal Register** documents regarding the locations of combined hearings on the NPRM and DEIS to be held in various cities. This document provides notice of two additional public hearings to be held in Chicago and Madison, Wisconsin. This document provides information pertaining to those hearings as well as repeating information previously published regarding hearings to be held after the date of this document.

DATES: *Public Hearings:* Public hearings will be held in:

1. Chicago, Illinois area on the following dates:
   Western Springs, Illinois on April 25, 2000, beginning at 12 noon;
   Chicago, Illinois on April 26, 2000, beginning at 9 a.m.;
   Saint Xavier University campus on April 26, 2000, beginning at 5 p.m;
   Des Plaines, Illinois on April 27, 2000; beginning at 9 a.m.;
2. Berea, Ohio on May 1, 2000, beginning at 6 p.m; and
3. Madison, Wisconsin on May 3, 2000, beginning at 9 a.m.

Please see **SUPPLEMENTARY INFORMATION** below for further information concerning participation in the public hearings.

ADDRESSES: *Public Hearings:* Public hearings will be held at the following locations:

1. *Chicago, Illinois:* On April 25, 2000, beginning at 12 noon, at Lyons Township High School, South Campus, The Little Theater, 4900 Willow Springs Road, Western Springs, Illinois;
   On April 26, 2000, beginning at 9 a.m., at The Field Museum of Natural History (James Simpson Theater) 1400 South Lake Shore Drive, Chicago, Illinois 60605;
   On April 26, 2000, beginning at 5 p.m, at Saint Xavier University (McGuire Hall) 3700 West 103rd Street, Chicago, Illinois 60655;
   On April 27, 2000, beginning at 9 a.m., at the Federal Aviation Administration (The Minnesota Room), 2300 East Devon Avenue, Des Plaines, Illinois 60018; and
2. *Berea, Ohio:* Baldwin-Wallace College, Kleist Center for Art and Drama, 95 E. Bagley Road, Berea, Ohio 44017; and
3. *Madison, Wisconsin:* The Madison Concourse Hotel and Governor's Club (Madison Wisconsin Room), 1 West Dayton Street, Madison, Wisconsin 53703.

FRA Docket Clerk: Docket Clerk, Office of Chief Counsel, Mail Stop 10, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590. E-mail address for the FRA Docket Clerk is renee.bridgers@fra.dot.gov.

FOR FURTHER INFORMATION CONTACT: Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, NW,Washington, DC 20590 (telephone: 202–493–6299); or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590 (telephone: 202–493–6038).

SUPPLEMENTARY INFORMATION: Any person wishing to provide testimony at one of the public hearings should notify FRA's Docket Clerk at the address above at least three working days prior to the date of the hearing. The notification should also provide either a telephone number or e-mail address at which the person may be contacted. If a participant will be representing an organization, please indicate the name of the organization.

FRA will attempt to accommodate all persons wishing to provide testimony, however depending on the number of people wishing to participate, FRA may find it necessary to limit the length of oral comments to accommodate as many people as possible. Participants may wish to submit a complete written statement for inclusion in the record, while orally summarizing the points made in that statement.

Issued in Washington, DC on April 18, 2000.

Michael T. Haley,

Deputy Chief Counsel, Federal Railroad Administration.

[FR Doc. 00–10155 Filed 4–21–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF79

Endangered and Threatened Wildlife and Plants; Notice of Proposed Critical Habitat Determination for the Plant *Silene spaldingii* (Spalding's Catchfly) and Reopening of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of critical habitat determination and reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose a critical habitat determination for *Silene spaldingii* (Spalding's catchfly) pursuant to the Endangered Species Act of 1973, as amended (Act) and reopen the comment period on the proposed rule to list this species. On December 3, 1999, we proposed to list *S. spaldingii* as a threatened species. The proposed rule stated that we would publish a critical habitat determination for *S. spaldingii* in the **Federal Register** subsequent to the proposed rule. We now propose that designation of critical habitat is prudent for *S. spaldingii.* We request comments on this proposed prudency determination and reopen the comment period for the proposed listing. We will make the final prudency determination with the final listing determination for *S. spaldingii.* If this final determination is that a critical habitat designation is prudent, we will develop a proposal to designate critical habitat for *S. spaldingii* as soon as feasible, considering our workload priorities and budgetary capabilities.

DATES: Comments from all interested parties must be received by June 23, 2000. Public hearing requests must be received by June 8, 2000.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Supervisor, Snake River Basin Office, U.S. Fish and Wildlife Service,

1387 S. Vinnell Way, Room 368, Boise, Idaho 83709. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the above address (telephone 208/378–5243; facsimile 208/378–5262).

SUPPLEMENTARY INFORMATION:

Background

Silene spaldingii is a long-lived perennial herb currently known from a total of 52 populations that are primarily restricted to mesic (neither extremely wet nor extremely dry) grasslands (prairie or steppe vegetation) that make up the Palouse region (a Pacific Northwest bunchgrass habitat type). Seven populations occur in west-central Idaho; 7, in northeastern Oregon; 9, in western Montana; 28, in eastern Washington; and 1, in adjacent British Columbia, Canada. This taxon is threatened by a variety of factors including habitat destruction and fragmentation from agricultural and urban development, grazing and trampling by domestic livestock and native herbivores, herbicide treatment, and competition from nonnative plant species.

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. 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 destroy or adversely modify its critical habitat.

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, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the 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 human activity, and 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 December 3, 1999, proposed rule, we did not propose a critical habitat determination for *Silene spaldingii*. We stated that we would publish a critical habitat determination for *S. spaldingii* in the **Federal Register** subsequent to the proposed rule. The Final Listing Priority Guidance for FY 1999/2000 (64 FR 57114) states that the processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat ''will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as conservation efforts demand and in light of resource constraints.'' As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act.

We now propose that designation of critical habitat is prudent for *Silene spaldingii*. In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g.*, *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we believe that designation of critical habitat would be prudent for *S. spaldingii*.

Due to the small number of populations, *Silene spaldingii* is vulnerable to unrestricted collection, vandalism, or other disturbance. We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, at this time we do not have specific evidence for *S. spaldingii* of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we believe that the identification of critical habitat is unlikely to increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that identification of critical habitat would increase threats to a species, if any benefits would result from a critical habitat designation, then a prudent finding is warranted. In the case of this species, designation of critical habitat may provide some benefits. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, in certain instances, section 7 consultation might be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. Designating critical habitat may also provide some educational or informational benefits. Therefore, we propose that designation of critical habitat is prudent for *Silene spaldingii*. However, deferral of a critical habitat designation for *S. spaldingii* would allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, without delaying the final listing decision. We anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Listing Priority Guidance, such as the designation for this species, than we have in recent fiscal years.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will make the final critical habitat determination with the final listing determination for *Silene spaldingii*. If this final critical habitat determination is that designation of

critical habitat is prudent, we will develop a proposal to designate critical habitat for *S. spaldingii* as soon as feasible, considering our workload priorities and budgetary capabilities. Unfortunately, for the immediate future, most of Region 1's listing budget must be directed to complying with numerous court orders and settlement agreements, as well as due and overdue final listing determinations.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we are soliciting comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed prudency determination and the proposed listing of *Silene spaldingii* as threatened. We are particularly seeking comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

We will take into consideration for any decision on this proposal the comments and additional information we receive, and such communications may lead to a final regulation that differs from this proposal.

National Environmental Policy Act

We have determined that an environmental assessment and environmental impact statement, 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 Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is required. An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. For additional information concerning permits and associated requirements for threatened plants, see 50 CFR 17.72.

Authority

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

Dated: April 5, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–10049 Filed 4–21–00; 8:45 am]

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