

## **U. S. FISH AND WILDLIFE SERVICE**

### **ENVIRONMENTAL ACTION STATEMENT FOR CATEGORICAL EXCLUSION**

#### **Candidate Conservation Agreement with Assurances for the Spring Pygmy Sunfish AUGUST 2013**

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the following proposed action is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4, 516 DM 2.3A, 516 DM 2 Appendix 1, and 516 DM 6 Appendix 1.4.

#### **Proposed Action and Alternatives.**

The proposed action is the approval and implementation of a Candidate Conservation Agreement with Assurances (CCAA), proposed by Kathy Garrett of Greenbrier Enterprises, LLC. to undertake management activities on his property to enhance, restore, or maintain habitat benefiting the spring pygmy sunfish. Candidate Conservation Agreements with Assurances, and the subsequent permits we may issue under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.), encourage private and other non-Federal property owners to implement conservation efforts for target species, by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of the species on their property, if that species becomes listed under the Act in the future. Application requirements and issuance criteria for permits through the Candidate Conservation Agreement with Assurances are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). For this action, the CCAA was the only alternative proposed, and is the alternative preferred by the landowner. The CCAA has defined goals, objectives and strategies to achieve the stated action. The actions further detailed in the CCAA have been identified, addressed, and authorized in the document.

#### **Categorical Exclusion(s).**

Categorical Exclusion Department Manual 516 DM 6, Appendix 1 Section 1.4, B 1-11, which states the exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. In addition to the actions listed in the departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service resource management actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

Specific points of the *(B) Resource Management* pertinent to this document include:

(1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.

(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included:

i. The installation of fences.

ii. The construction of small water control structures.

iii. The planting of seeds or seedlings and other minor vegetation actions.

iv. The construction of small berms or dikes.

v. The development of limited access for routine maintenance and management purposes.

(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with departmental and Service procedures.

(6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

(7) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.

(8) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of land management practices.

(9) The issuance of new or revised site, unit, or activity-specific management plans for land use, or other management activities when minor changes are planned.

(10) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.

This CCAA involves only the provisions for technical assistance, continuation of resource monitoring, and minor upkeep when needed such as mowing, vegetation maintenance, fencing out livestock and possible small construction. Therefore property owners will not be subjected to increased land use restrictions as a result of their efforts with the Service to conserve, recover, manage and maintain the spring pygmy sunfish and its' habitat.

**Permits/Approvals.** No additional permits are required or needed before this proposed action can be implemented.

**Public Involvement/Interagency Coordination.**

Public support for the activity has been expressed by Dr. Mike Sandel (researcher and petitioner for the species); Dr. Tom Jandebour (retired species researcher from Athens State University); Banks Sewell (landowner of the spring head and recharge area of Beaverdam Spring/Creek; current holder of CCAA agreement); the Land Trust of Huntsville and North Alabama, and Marie Bostick, City Planner, City of Huntsville, Alabama.

There are opportunities provided to the public, other agencies, and/or Tribes to get involved with the proposed action through public notification and public meetings with written comments.

**Supporting Documents.** Supporting documents for this determination include relevant office file material and the following key references:

Boschung, H. T. and R. L. Mayden. 2004. Fishes of Alabama. Smithsonian Books, Washington, D.C. 736 pp., pp. 614-615.

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Cook, M., Moss, N., and A. Rogers. 2013. Water Quantity and Quality Assessment for the Beaverdam Spring Area of Limestone County, Alabama. Tuscaloosa. Geological Survey of Alabama. <http://portal.gsa.state.al.us/download/SGAP>

Drennen, D. 2007. Status review of the spring pygmy sunfish, *Elassoma alabamae* (Mayden 1993). U.S. Fish and Wildlife Service. In office report. Jackson. 5 pp.

Field, R. and D. Sullivan. 2003. Wet-weather flow in the urban watershed; technology and management. CRC Press. Lewis Publishers. 384 pp.

Hoos, A. and M. Woodside. 2001. Effects of stream flow on the quality of source water for the City of Huntsville, Alabama. Abstract #27955. The 129<sup>th</sup> Annual Meeting of APHA. p.1.

- Hallerman, E. 2003. Population genetics, principles and applications for fisheries scientists. American Fisheries Society, Bethesda, MD. 458 pp. pp. 363-364.
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- Jandebeur, T.S. 1979. Distribution, life history, and ecology of the spring pygmy sunfish, *Elassoma* species. Unpublished report prepared for Albert McDonald. 22 pp.
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- Kingsbury, J. 2003. Shallow Ground-Water Quality in Agricultural Areas of Northern Alabama and Middle Tennessee, 2000-2001. USGS Water Investment Report 03-4181. Nashville. 38 pp. p.2.
- Maynard, C and Gale, P.C. 1995. Alabama Environmental Law Handbook. Government Institutes, Inc. Rockville, Maryland. 166 pp. pp.20-28.
- Mayden, R.L. 1993. *Elassoma alabamae*, a new species of pygmy sunfish endemic to the Tennessee River drainage of Alabama (Teleostei: Elassomatidae). Bulletin of the Alabama Museum of Natural History. No. 16. 44 pp., pp.1-14.
- Mettee, M.F. and J. Pulliam, III. 1986. Reintroduction of an undescribed species of *Elassoma* into Pryor Branch, Limestone County, Alabama. Proceedings of the S.E. Fishes Council 4:14-15. 6-7 pp.14-15.
- NAWQA. 2001. <http://water.usgs.gov/nawqa/digmap.html>
- NAWQA. 2009. <http://water.usgs.gov/nawqa/digmap.html>
- Powell, J. 2003. Response of fish communities to cropland density and natural environmental setting in the Eastern Highland Rim Ecoregion of the lower Tennessee River Basin, Alabama and Tennessee. U.S. Geological Survey Water Investigations. Report 02-4268. Nashville. 48 pp.
- Sandel, M. 2008. Conservation genetics and status update of the spring pygmy sunfish, *Elassoma alabamae*. Final report submitted to Alabama Department of Conservation and Natural Resources, Division of Wildlife and Freshwater Fisheries, Montgomery, AL.

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- Warren, M.L. 2004. Spring Pygmy Sunfish. Pp. 184-185. In: R. E. Mirarchi, J. T. Garner, M. F. Mettee, and P. E. O'Neil (eds.), Alabama Wildlife. Volume 2. Imperiled aquatic mollusks and fishes. The University of Alabama Press, Tuscaloosa. pp. 184-185.
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