

**FREQUENTLY ASKED QUESTIONS**  
**FINAL LISTING RULE FOR SPRING PYGMY SUNFISH**  
**September 2013**

**1. What is the spring pygmy sunfish and where does it occur?**

The spring pygmy sunfish is the smallest member of its genus (*Elassoma*), with adults typically less than an inch in length. This species is associated with springs, and its single remaining population is located in Limestone County, Alabama, in the Beaverdam Spring/Creek system. Within this system, this fish occupies approximately six miles of the spring run and 1,400 acres of spring-fed wetlands, including four spring pools.

**2. Why does the spring pygmy sunfish need protection under the Endangered Species Act (ESA)?**

The spring pygmy sunfish is currently known to have a single population. Two other populations no longer exist. Studies show a decline in this species caused, at least in part, by poor water quality and a reduction in water quantity, both of which continue to pose threats to this species. A large scale industrial and residential development, which is planned in the immediate vicinity of the only remaining population, poses a significant threat to this sunfish. The development and its associated activities might impact the hydrology of the spring system where the sunfish occurs and further contribute to a decline in water quality and reduced water quantity. Population fragmentation and isolation caused by habitat degradation and impoundments also pose problems for the sunfish.

**3. Why is the spring pygmy sunfish being listed as Threatened and not Endangered?**

The Service used the best scientific information available to evaluate the status of this species, and current information shows the spring pygmy sunfish meets the definition of a threatened species, one which is likely to become endangered within the foreseeable future. Conservation measures for the upper portion of the species' current range in the Beaverdam Spring/Creek system, and most of the spring recharge area, are provided for through an established Candidate Conservation Agreement with Assurances (CCAA) with Belle Mina Farm, Ltd. to address known threats to the species on the landowner's property. The Service is currently working with two other landowners to finalize proposed CCAs on their lands which would contribute to the conservation of the species in the middle portion of the species' current range. However, the conservation measures in the current and proposed CCAs are not enough to ameliorate the threats to the species to the level that listing under the ESA is not necessary, particularly in light of the impending adjacent large-scale development.

**4. Why is there no critical habitat determination in the listing rule since the species was proposed for listing with critical habitat?**

Due to internal changes in the review process, the Service began drafting separate rules for listings and critical habitat in 2013. The Service intends to publish a final critical habitat rule for the spring pygmy sunfish in the *Federal Register* in the near future.

## **5. What is a CCAA?**

CCAs provide participating non-federal property owners with a permit containing assurances that if they engage in certain conservation actions for species included in the agreement, they will not be required to implement additional conservation measures beyond those in the CCAA if the species is ever listed, as in this case with the spring pygmy sunfish. If a species has to be listed under the ESA, participants are assured of regulatory certainty and receive what is called an Enhancement of Survival Permit to cover their ongoing land and/or water use. That means no additional conservation actions would be required of the non-federal participant beyond what was agreed upon in the CCAA, and the Service would not impose additional limitations on the land, water or resource.

## **6. How will private landowners be affected by the listing of the spring pygmy sunfish?**

Because of the sunfish's restricted range, its listing will affect few private landowners. It is the responsibility of private landowners in the vicinity of the spring pygmy sunfish population to avoid "take" of the species. Take means to harass, harm, kill, trap, capture, or collect a species listed under the ESA. This definition includes land use activities that may result in death or harm to the species. For example, changing the hydrology or vegetation composition of the spring where the species occurs could result in harm or death to individuals or degrade the habitat to the point that essential behaviors such as breeding, feeding are sheltering are impaired; this would be a form of take.

The listing will have no effect on those landowners participating in CCAs. These landowners have agreed to implement conservation measures for the spring pygmy sunfish and to minimize incidental take of the species in the course of conducting activities addressed in the CCAA. Thus, 60 days after the announcement of the species' listing in the *Federal Register*, the permits landowners have received through their CCAs become effective. These permits contain assurances that the landowners will not be required to implement additional conservation measures or be subjected to increased land use restrictions beyond those outlined in the CCAA, without their consent.

If the current landowners sell their land, the CCAA, along with the permit, is transferable as long as the the new landowners implement the conservation measures as outlined in the agreement.

## **7. Why does this rule become effective in 60 days, rather than the standard 30 days?**

There are two proposed CCAs benefitting the sunfish, for the MacDonald and Horton Farms, that are currently undergoing public review (announced in the October 2, 2013 *Federal Register*). It is our intention to make a final determination on these proposed CCAs before this rule becomes effective; however, we are not certain that this can be accomplished within 30 days after the issuance of this rule. Therefore, the effective date of this rule will be 60 days from the publication date of this final rule, December 2, 2013, rather than our typical 30 days, to provide adequate time for the public to review and comment, and ultimately agency decision, on the two proposed CCAs.

## **8. Who can I contact for more information about the spring pygmy sunfish?**

Please contact Daniel Drennen, U.S. Fish and Wildlife Service, Mississippi Ecological Services Office, 6578 Dogwood View Pkwy, Jackson, MS 39213; telephone 601-321-1127; facsimile 601-965-4340. Also, please visit <http://www.fws.gov/jackson/> or Docket # FWS-R4-ES-2012-0068 on [www.regulations.gov](http://www.regulations.gov)