proposed rulemaking notice should be addressed to Forest Service, USDA, attn: Director, Minerals and Geology Management, at Mail Stop 1126, Washington, DC 20250–1126; by electronic mail to 36cf2r251@fs.fed.us; or by fax to (703) 605–1575; or by the electronic process available at Federal e-Rulemaking portal at http://www.regulations.gov. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 1601 N. Kent Street, Suite 500 Arlington, Virginia 22209 during regular business hours (8:30 a.m. to 4 p.m.), Monday through Friday, except holidays. Visitors are encouraged to call ahead to (703) 605–4792 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT:
Ivette E. Torres, Liaison Specialist, Minerals and Geology Management.
Phone Number: (703) 605–4792, or (703) 615–7813. E-mail: ietorres@fs.fed.us.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

Dated: March 5, 2009.
Abigail R. Kimball,
Chief, Forest Service.

[FDR Doc. E9–5318 Filed 3–11–09; 8:45 am]
Refuge. Accordingly, the February 12, 2002, proposed critical habitat designation is reinstated for these invertebrates with respect to Bitter Lake National Wildlife Refuge and we announce the reopening of the public comment period for the February 12, 2002, proposed rule in order to reconsider designation of these lands. This re-evaluation of the designation of critical habitat at Bitter Lake National Wildlife Refuge does not affect the designation of critical habitat at Diamond Y Spring and Sandia Spring. Comments previously submitted on the February 12, 2002, proposed rule (67 FR 6459) need not be resubmitted as they have been incorporated into the public record as part of this reopening of the comment period and will be fully considered in preparation of the final rule. Additionally, so that we may fully consider any new information available, we are also soliciting comments and information on the final economic analysis and final environmental assessment that were made available concurrent with the August 9, 2005, final designation of critical habitat.

DATES: We will accept comments received or postmarked on or before May 11, 2009. We must receive requests for public hearings, in writing, at the address shown in the ADDRESSES section by April 27, 2009.

ADDRESSES: You may submit information by one of the following methods:

• Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

• U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R2-ES-2009-0014; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information received on http://www.regulations.gov. This generally means that we will post any personal information you provide us (see the Public Comments Solicited section below for more details).

FOR FURTHER INFORMATION CONTACT: Wally "J" Murphy, Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113; telephone 505-761-4781; facsimile 505-346-2542. If you use a telecommunications device for the deaf (TTD), you may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

The Roswell springsnail (Pyrgulopsis roswellensis), Koster’s springsnail (Jutarnia kosteri), Noel’s amphipod (Gammarus desperatus), and Pecos assiminea (Assiminea pecos) (four invertebrates) occupy springs, seeps, sinkholes, and wetlands near Roswell, New Mexico, and in Reeves and Pecos counties, Texas. On February 12, 2002 (67 FR 6459), we published a proposed rule to list the four invertebrates as endangered under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 et seq.) and to designate critical habitat for them. The proposed rule included two complexes on Bitter Lake National Wildlife Refuge (Refuge) totaling 456 hectares (ha) (1127 acres (ac)), one complex at Diamond Y Springs in Reeves County, Texas, of 153.8 ha (380 ac), and one complex at East Sandia Spring in Reeves County, Texas, of 6.7 ha (16.5 ac). On August 9, 2005, we published our final rule listing the four invertebrates as endangered with critical habitat (70 FR 46304). In that final rule, critical habitat was designated at the Diamond Y Spring and East Sandia Spring complexes but was not designated on the Refuge on the ground that these areas did not meet the definition of “critical habitat” under section 3(5)(A) of the Act (70 FR 46323). On December 19, 2007, Forest Guardians (now WildEarth Guardians) filed a complaint challenging the merits of our critical habitat designation for the four invertebrates, including the exclusion of the Refuge from the final critical habitat designation. The plaintiffs alleged that the Refuge should have been included in the designation because it is the last known occupied habitat for three of the four species (Roswell springsnail, Koster’s springsnail, and Noel’s amphipod) and that the Refuge’s Comprehensive Conservation Plan would not adequately protect the species from threats, including oil and gas development, outside of the Refuge boundaries. Pursuant to a settlement agreement, the court has partially vacated the August 9, 2005, critical habitat decision (70 FR 46304) with respect to the areas excluded under section 3(5)(A) of the Act.

If the proposed rule with respect to the Bitter Lake National Wildlife Refuge is made final, section 7 of the Act will prohibit adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing any activities that may affect areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act. This re-evaluation of the designation of critical habitat on the Refuge does not affect the August 9, 2005, final designation of critical habitat (70 FR 46304) with respect to designated critical habitat at Diamond Y Spring and Sandia Spring, and consultation on activities that may result in destruction or adverse modification of critical habitat is still required in these areas. Further, section 7(a)(4) of the Act and regulations at 50 CFR 402.10 require Federal agencies to confer with us on any action that is likely to result in destruction or adverse modification of proposed critical habitat. Thus, Federal agencies are required to confer with the Service on any such action that may affect the proposed critical habitat on the Refuge as identified in the February 12, 2002, proposed rule (67 FR 6459).

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. A final economic analysis and final environmental assessment were made available concurrent with the publication of the August 9, 2005, final critical habitat designation (70 FR 46304). We solicit data and comments from the public on the final economic analysis and final environmental assessment, as well as on all aspects of the proposed rule. We will review and consider all best available information including public comments or other information submitted previously or as part of the present comment period, as we develop our final determination. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Public Comments Solicited

To ensure that the final critical habitat designation is complete and based on the best available scientific information, we are soliciting information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek information concerning:

(1) The reasons why habitat on the Refuge should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of inclusion of these areas outweigh the benefits of exclusion from critical habitat designation;
(2) Specific information on the distribution of the four invertebrates and their habitats, and which habitats are essential to the conservation of the species and why;

(3) Land use management and current or planned activities in the subject area and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, environmental, or other impacts resulting from the proposed designation of critical habitat;

(5) Whether the economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat; and

(6) Whether the economic analysis appropriately identifies all costs that could result or have already resulted from the designation.

Comments previously submitted on the February 12, 2002, proposed rule (67 FR 6459) need not be resubmitted as they have been incorporated into the public record as part of this reopening of the comment period and will be fully considered in preparation of the final rule. Comments submitted during this comment period also will be incorporated into the public record and will be fully considered in the final rule.

You may submit comments and materials concerning the proposed rule, the associated economic analysis, and the associated environmental assessment by one of the methods listed in the ADDRESSES section. We will not consider comments sent by e-mail or fax, or to an address not listed in the ADDRESSES section.

If you submit a comment via http://www.regulations.gov, your entire comment—including your personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on http://www.regulations.gov.

Comments and materials we receive, as well as supporting documentation we used in preparing this notice, will be available for public inspection on http://www.regulations.gov, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see FOR FURTHER INFORMATION CONTACT).

You may obtain copies of the proposed rule, the final economic analysis, and the final environmental assessment on the Internet at http://www.regulations.gov, or by mail from the New Mexico Ecological Services Field Office.

Author

The primary authors of this notice are the staff of the New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113.

Authority

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


Jane Lyder,
Assistant Deputy Secretary for Department of the Interior.

[FR Doc. E9–5357 Filed 3–11–09; 8:45 am]
BILLING CODE 4310–55–S