

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Chapter I**

[CC Docket No. 97-146, FCC 97-219]

Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of July 17, 1997, a document concerning a Notice of Proposed Rulemaking (NPRM) for complete detariffing for all non-ILEC providers of interstate exchange access services. Inadvertently no due date for Reply Comments or OMB Comments was provided. This document provides those dates.

FOR FURTHER INFORMATION CONTACT: William Bailey, (202) 418-1520.

SUPPLEMENTARY INFORMATION:**Correction**

In the **Federal Register** issue of July 17, 1997, in FR Doc. 97-18882, on page 38244, in the first column, correct the **DATES** caption to read:

DATES: Comments are due on or before August 18, 1997. Reply comments are due on or before September 17, 1997. Written comments submitted by the Office of Management and Budget (OMB) on the proposed modifications to information collections are due on or before September 26, 1997.

Dated: July 22, 1997.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

[FR Doc. 97-19775 Filed 7-25-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AE31

Endangered and Threatened Wildlife and Plants; Proposed Rule to List the Illinois Cave Amphipod as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered

Species Act of 1973, as amended (Act), for the Illinois cave amphipod, *Gammarus acherondytes*. Historically, the amphipod was known from six cave streams in Monroe and St. Clair counties, Illinois. Recent surveys have found the species at only three of the original six sites. This species is believed to be threatened primarily by groundwater pollution which is likely due to the application of pesticides in cave stream recharge areas (the area of land surface from which water drains into a particular cave stream). A possible secondary threat is contamination of subsurface water by human and animal wastes from sewage and septic systems and livestock feedlots.

DATES: Comments from all interested parties must be received by September 26, 1997. Public hearing requests must be received by September 11, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Ecological Services Field Office, 4469 48th Avenue Court, Rock Island, Illinois. Comments and materials received will be available for public inspection by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard C. Nelson, Field Supervisor, Illinois Field Office (see **ADDRESSES** section) (telephone 309/793-5800; facsimile 309/793-5804).

SUPPLEMENTARY INFORMATION:**Background**

The Illinois cave amphipod was described by Hubricht and Mackin (1940). Type specimens were collected by Leslie Hubricht in 1938 from Morrison's Cave (now Illinois Caverns), near Burksville, Illinois.

Sexually mature males are up to 20.0 millimeters (mm) (0.8 inch (in.)) long; sexually mature females are 12.0 to 16.0 mm (0.5 to 0.6 in.) long. Their color in light is light gray-blue and their eyes are reniform, small and degenerate with the pigment drawn away from the facets in an irregular black mass. Their first antenna is long and slender, more than one-half the length of the body. The primary flagellum has up to forty segments and the secondary flagellum has up to six segments. The second antenna is about three-fourths as long as the first antenna. The flagellum of the second antenna has up to 18 segments and lacks sensory organs in either sex. Hubricht and Mackin (1940), reported that its clutch size is up to 21 eggs and Holsinger (1972) reported that ovigerous

(egg-bearing) females have been observed in summer and fall.

This species is best differentiated from other amphipods in the field, especially from *G. fasciatus*, which it resembles, by its color, small degenerate eyes, and a much longer first antenna. It is usually associated with the larger *G. troglophilus* (Hubricht and Mackin 1940) but is much less common (Holsinger 1972).

This species is a troglobitic (cave dependent) species inhabiting the dark zone of cave streams. As a group, amphipods require cold water and are intolerant of wide ranges in temperature. They are strongly sensitive to touch and react negatively to light. High levels of dissolved oxygen appears to be an environmental necessity. They are omnivorous scavengers, feeding on dead animal and plant matter or the thin bacterial film covering most submerged surfaces throughout their aquatic habitat.

The Illinois cave amphipod is endemic to the Illinois Sinkhole Plain of Monroe and St. Clair counties and was historically known from six cave systems, which are all within a 16 kilometer (10 mile) radius of Waterloo, Illinois. The main entrances to two of the caves, Illinois Caverns and Fogelpole Cave, are in public ownership and the other four are privately owned. The cave streams from which this species is historically known are each fed by a separate and distinct watershed or recharge area, and there are no known interconnections between them, with the possible exception of two caves that may become hydrologically connected during extremely high rainfall over short periods of time (Samuel V. Panno, Illinois Natural History Survey, Champaign, IL, *in litt.*, 1996). Thus, it is believed that there is virtually no opportunity for this species to become distributed to other cave systems via natural pathways.

There are few data on which to base population, productivity or trend estimates for this species. Sampling for cave fauna is difficult at best and is compounded by the relatively small size of this species. Survey data do not, and probably cannot, show a decline in numbers of this small subterranean invertebrate, but they do demonstrate a decline in its range and number of extant populations. Since Hubricht's initial 1940 collections of unknown numbers from two caves, other collections have been made in 1965 (at least 19 specimens taken from the two 1940 caves, plus a third cave), 1972 (unknown numbers taken from two additional caves), 1974 (six specimens taken from one of the 1940 caves), 1986

(two specimens taken from one of the 1940 caves and from a new, sixth cave), 1992 (20 specimens taken from one of the 1940 caves), and 1993 (11 specimens taken from two 1940 caves) (Webb 1995).

The most recent and extensive sampling effort was in 1995 in which the Illinois Natural History Survey (INHS) investigated 25 caves in the Illinois Sinkhole Plain and confirmed the presence of the species in only three of the original six cave systems, all in Monroe County (Webb *et al.* 1993; Webb 1995). In 1995, 56 specimens were taken from Illinois Caverns, 19 specimens from Fogelpole Cave and two specimens from a third, privately owned cave. Although the number of specimens taken in 1995 is greater than the number taken at any other time, this is likely due to a much more concentrated effort to search for this species rather than to an increase in the species' population. The species has probably been extirpated from the two privately owned caves where no specimens have been collected since 1965 or 1986. Its status in a sixth, privately owned cave is currently unknown, because the cave entrance has been closed by the landowner, and the cave has not been re-surveyed since 1965. It is possible, but unlikely, that there are populations in other caves in the Illinois Sinkhole Plain; however, INHS personnel made a particular effort to collect in all small side rivulets and drip pools in the 25 caves. The INHS study manager does not believe the species is abundant in any cave (Donald Webb, INHS, *in litt.* 1996).

Previous Federal Action

On May 22, 1984, (49 FR 21664) the Service published a notice of review which included the Illinois cave amphipod as a category 2 candidate species. The species was again included as a category 2 species in the notice of review published on January 6, 1989 (54 FR 554). On November 21, 1991, (56 FR 58804) the Service published a notice of review in which the species was elevated to category 1. The species was again included as a category 1 species in a notice of review published on November 15, 1995 (59 FR 58982). On February 28, 1996, (61 FR 7596) the Service published a notice of review which eliminated the candidate category designations of previous notices and included the amphipod as a candidate species with a listing priority of 2.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species determined to be an endangered or threatened species may be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the Illinois cave amphipod are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The degradation of habitat through the contamination of groundwater is believed to be the primary threat to the Illinois cave amphipod. Karst terrain, where this amphipod is found, is a land formation typified by sinkholes and fissures that provide direct and rapid conduits for water-borne material from the surface to the groundwater, thereby avoiding the filtering and cleansing mechanisms normally provided by overlying soils. Recharge to the water table in karst terrain often is nearly instantaneous, and flood pulses following a rainstorm may cause levels of contaminants to become transiently higher (Libra *et al.* 1986), up to 10,000 times higher than before the event (Quinlan and Alexander 1987).

There are several possible mechanisms by which cave streams may be degraded, three of which are—(1) The seasonal application of pesticides and fertilizers, evidence of which has been found in spring and well water samples in Monroe County (Panno *et al.* 1996); (2) bacterial contamination from human and animal wastes, which finds its way to subsurface water via septic systems, the direct discharge of sewage waste into sinkholes, or from livestock feedlots (Panno *et al.* 1996); and (3) the accidental or intentional dumping of a toxic substance into a sinkhole.

The most commonly used herbicides (and their proprietary names) in Monroe County are atrazine, alachlor (Lasso), cyanazine (Bladex), metolachlor (Dual), glyphosate (Roundup), 2,4-D, imazaquin (Scepter), imazethapyr (Pursuit), and pendimethalin (Prowl) (Omar Koester, University of Illinois Extension Service, *in litt.* 1996). The Illinois State Geological Survey (ISGS) analyzed water samples from nine springs, one cave stream, and 33 wells in Monroe County for bacteria and pesticides to determine if contamination is occurring (Panno, *et al.* 1996). The agricultural herbicides atrazine and/or

alachlor were detected in 83 percent of groundwater samples taken from springs in the study area, often exceeding the U.S. EPA Maximum Contaminant Levels of 2.0 parts per billion (ppb) and 3.0 ppb, respectively, during and following spring rainfalls. They reported maximum atrazine levels in spring samples as high as 98 ppb with the maximum level in Illinois Caverns being 1.38 ppb (Panno, *et al.* 1996). Macek *et al.* (1976) observed acute toxicity to the amphipod *Gammarus fasciatus* from a 48 hour exposure to the herbicide atrazine at 2.4 parts per million (ppm) (LC₅₀ = 5.7 ppm). In addition, they reported reproductive effects and impaired survival of offspring from concentrations as low as 0.14 ppm of atrazine during chronic tests lasting 30–119 days (Macek *et al.* 1976).

The most commonly used insecticides in the region include carbaryl, carbofuran, chlorpyrifos, malathion, permethrin, methyl parathion, and phosmet. Mayer and Eilersieck (1985) reported that Gammaridae were most sensitive to the five insecticides carbaryl, DDT (dichloro-diphenyl-trichloroethane), endrin, malathion, and methoxychlor and postulate that pulses of pesticides characteristic of karst springs could have major impacts on biota such as amphipods. Webb *et al.* (1993) analyzed amphipod and isopod tissue samples from numerous caves, including the three caves known to contain the amphipod, for pesticides and PCB's (polychlorinated biphenyls). DDE (dichlorodiphenyl-dichloroethylene) and DDD (1,1-dichloro-2,2-bis(p-chloro-phenyl) ethane) (breakdown products of DDT) were detected in isopods from Fogelpole Cave reflecting the historical use of the insecticide DDT in the drainage basin. In addition, dieldrin, the persistent breakdown product of the insecticide aldrin, was detected in invertebrate samples from Fogelpole Cave. Both DDT and aldrin have been banned from use in the United States since 1973 and 1974, respectively. These data demonstrate some of the long term detrimental effects that agricultural chemicals can have on cave ecosystems. Interestingly, neither DDD, DDE, nor dieldrin were detected in water samples from Fogelpole Cave, supporting the premise that cave invertebrates accumulate and concentrate these toxins even though they do not exist at detectable levels in the cave water, thus serving as indicators of past and present contamination.

Webb *et al.* (1993) also found detectable quantities of bromide, fluoride, sulfate, and nitrate in Illinois Caverns and Fogelpole Cave. In

addition, they found detectable concentrations of calcium, sodium, magnesium, iron, manganese, silicon, and barium in water samples from Fogelpole Cave, and these plus aluminum, potassium, and phosphorus in Illinois Caverns (Webb *et al.* 1993). In amphipod tissue samples from Fogelpole Cave, they reported detectable concentrations of aluminum, boron, barium, calcium, chromium, copper, iron, potassium, magnesium, manganese, sodium, phosphorus, and zinc (Webb *et al.* 1993). The six highest ranked metals detected in amphipod samples were also the six highest ranked metals detected in water samples, indicating an apparent relationship between the relative concentrations of these metals in both water and tissue. The acute and chronic effects of these ions on the Illinois cave amphipod are currently unknown but their presence in amphipod tissues and the water samples provides evidence of potential harm.

In addition to chemical contamination, Panno *et al.* (1996) report that all springs and cave streams they sampled, as well as 29 of 33 wells, contained concentrations of coliform, fecal coliform, enterococcus, and numerous other bacterial species that exceeded drinking water standards. The bacterial species present strongly suggest contamination from both human and livestock sources. Prior to 1988, private and aeration-type septic systems were allowed to discharge directly into sinkholes and most of those systems are still in existence (Panno *et al.* 1996). Although the practice was prohibited in 1987, exceptions are still granted in the study area (Panno *et al.* 1996).

In his studies, Poulson (1991) concluded that bacterial pollution from human and livestock wastes has varying degrees of impact on cave biota. At high levels of contamination, a high biochemical oxygen demand (BOD) kills all macroscopic organisms and leaves only strands of colonial sewage bacteria and associated protozoa. If the BOD is high but does not completely remove oxygen, then tubificid sewage worms become part of the faunal community. If the amount of wastes is not too great, as with the diffuse input from septic fields, the sewage fauna is only minimally developed, but the increased organic food supply favors survival and reproduction of shorter-lived non-cave-dependent macrofauna which may replace cave-dependent species. If the input of waste decreases later, chironomid midges and other non-cave-dependent species survive but can no longer reproduce, while the reproduction of short-lived cave-

dependent isopods and flatworms is stimulated. At still lower impact levels, the reproduction of larger cave-dependent species, like crayfish, may also be stimulated.

The effects of bacterial contamination on the Illinois cave amphipod are unknown. However, bacterial contamination is evidence of water quality deterioration and could pose a threat to the species. Monroe County is within commuting distance of the St. Louis, Missouri, metropolitan area and is rapidly undergoing residential development (Poulson 1991). In fact, the increase in bacterial contamination of well water in the county coincided with the onset of accelerated development about 1987 (Poulson 1991). It is likely that the increase in bacterial contamination was the result of the installation of private septic systems in areas with soils of limited waste assimilation capacity, inadequate soil thickness, and systems that discharge septic effluent directly into sinkholes (Joan Bade, Monroe-Randolph Bi-County Health Department, Waterloo, IL., pers. comm. 1996).

The toxicity of contaminants to cave-dwelling species may be quite different than the response of their surface-dwelling relatives, making the results of chemical analysis difficult to interpret. Due to their adaptations to a narrow range of environmental conditions, obligate cave species may be hypersensitive to chemical changes in ways that are not detectable by standard toxicity tests (Poulson 1991). Contaminants known to be toxic to amphipods and other crustaceans have been shown to be present and increasing in cave streams in the local area. While direct mortality cannot be conclusively attributed to such agricultural chemicals as atrazine, carbaryl, DDT, or malathion, or to bacterial contamination, the presence of such contaminants in the amphipod's environment constitutes strong circumstantial evidence that the deterioration of water quality is the primary cause of the decrease in its range and number of extant populations.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overexploitation or scientific collecting are not believed to be factors affecting the species' continued existence at this time, but the Federal listing will prohibit unauthorized collection of individuals of the species. Exact numbers are unknown, but at a minimum only 139 specimens have been collected from 6 caves over a 55-year period. Protection from collection may become important, because

collectors may seek the species once it becomes listed.

Human utilization of cave environments is a potential threat to this species. The accidental or intentional introduction of materials toxic to this species, unauthorized collecting, direct injury or mortality, and habitat disturbance are potential hazards during visits to caves. None of the caves occupied by the amphipod have improved pedestrian walkways, and visitors must pass through the cave streams to access deeper passages. Such activities can physically disturb cave stream habitat, but the subsequent impact on the amphipod is unknown. Cave ecosystems are considered to be delicate and are easily damaged.

The State of Illinois owns the main entrances to Illinois Caverns and Fogelpole Cave and manages them as satellites of the Kaskaskia River State Fish and Wildlife Area. The State allows a maximum of 25 individuals at a time to enter Illinois Caverns, unsupervised, provided they obtain a permit and agree to conditions that prohibit littering or removal of biological materials. The Caverns are staffed during business hours by an on-site attendant.

The main entrance to Fogelpole Cave, a dedicated Nature Preserve, is gated. The State does not allow any visitation of this cave except by permit for scientific purposes only. Three privately owned entrances to the third cave containing the amphipod have also been dedicated as Illinois Nature Preserves. Such dedication implements landowner agreements to preserve and maintain existing conditions at these sites.

C. Disease or Predation

The importance of these factors is presently unknown.

D. The Inadequacy of Existing Regulatory Mechanisms

This species has no protection under Federal law. The Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301-4309; 102 Stat. 4546) seeks to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people. However, at this time, the Cave Resources Protection Act provides no protection to any caves containing, or potentially containing, Illinois cave amphipods, because none of the caves are on or under Federal land or are located in the immediate vicinity of Federal ownership. Therefore, these caves are ineligible for Federal protection under the Cave Resources Protection Act.

The Illinois cave amphipod is listed as an endangered species under the

Illinois Endangered Species Protection Act. As such, it is protected from direct taking (i.e., injury or mortality) regardless of whether it is on public or private land. However, "take" under State law does not include indirect harm through such mechanisms as habitat alteration. As long as landowners are otherwise in compliance with the law, Illinois law is unable to provide habitat protection for this species resulting from private actions.

State law requires consideration of this species during the planning processes of State agencies and local units of government which must consult with the Illinois Department of Natural Resources (DNR) on the impacts of their proposed actions. The DNR will provide recommendations on how the impacts to the species can be avoided or minimized. The unit of government may accept or reject any or all recommendations (Illinois Administrative Code).

As mentioned in section B above, several of the entrances to caves containing the species are dedicated as Illinois Nature Preserves, which is the strongest land protection mechanism in Illinois. Such dedication restricts future uses of the land, in perpetuity, for the purpose of preserving the site in its natural state. The removal of biota from the site is prohibited except by permit and for scientific purposes only. Allowable uses of the site are limited to nonconsumptive, nondestructive activities only. The landowner may decide whether to allow public access to the site and management is accomplished in accordance with a master management plan prepared jointly by the Illinois Nature Preserve Commission and the landowner. Dedicated properties cannot be subdivided and the dedication instrument is attached to the deed and recorded.

Ownership or protection of cave entrances does not necessarily ensure protection of the caves' environment, particularly water quality. Water quality is largely a function of land use in cave stream recharge areas, and the vast majority of the watersheds of all caves containing the amphipod is in private ownership and land use is primarily agriculture. Recharge areas may be several square miles in size, and runoff and seepage from thousands of acres of agricultural land may be funneled into one cave system, thus increasing the magnitude of any toxic hazard posed by the use of agricultural chemicals. The application of pesticides is regulated by the U.S. Environmental Protection Agency (EPA) and maximum allowable application levels and use restrictions

are printed on pesticide container labels. While pesticide applicators may be applying chemicals fully in compliance with the restrictions, adverse impacts to the species may still result.

Current State and local regulations are inadequate for protecting water quality in a sensitive geological formation like karst. St. Clair and Monroe counties are rapidly developing as residential communities for the St. Louis, Missouri, Metropolitan Area with most home sites being served by individual wells and septic systems. Septic systems may not perform as designed and, in some cases, septic effluent is allowed to drain directly into sinkholes. Studies have shown that there is no general housing density in karst terrain that assures that groundwater quality will be protected when septic systems are used (Aley and Thompson 1984). The more houses there are in a spring or cave stream recharge area, the greater the chance that some of them will introduce contaminants into the groundwater system, and the greater the chance that one or more of the septic field systems will constitute a major source of groundwater contamination (Aley and Thompson 1984).

E. Other Natural or Manmade Factors Affecting Its Continued Existence

As a group, aquatic amphipods have adapted to the extremes of natural events such as spring floods or high discharge following a rainstorm and, no doubt, some individuals are washed out of the cave environment during such events. However, because of the low numbers of the Illinois cave amphipod and a highly restricted range, even the loss of a few individuals may be significant to the species' survival. The species being extant in only three cave systems within a relatively small geographic area, it is conceivable that a heavy spring snowmelt or rainstorm could cause a flushing of all three systems at one time. As a consequence, there may not be enough individuals remaining in the caves for the species to reproduce and survive.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Illinois cave amphipod as endangered.

Critical Habitat

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 geographical 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.

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Illinois cave amphipod at this time. Service regulations (50 CFR 424.12(a)(1)) state that 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.

The Service believes critical habitat is not prudent for the Illinois cave amphipod because both of the situations described above are believed to exist. The nature of karst terrain means that surface features such as sinkholes, fissures, and disappearing streams provide a direct connection to the cave streams inhabited by the amphipod. Publishing a critical habitat map would delineate the recharge areas of the three caves. The Service believes such a map would make it easy to locate the sinkhole accesses to the cave streams and could promote vandalism in the form of intentional introduction of toxic chemicals into the underground system. Listing the Illinois cave amphipod as an endangered species publicizes the present vulnerability of this species, and, thus can be reasonably expected to increase the threat of vandalism or intentional destruction of the species habitat. In light of the great vulnerability of this species to vandalism or the intentional destruction of its habitat, publication of maps providing its precise locations within increasing developing areas and descriptions of critical habitat, as required for the designation of critical habitat, would reasonably be expected to increase the degree of threats to the species, increase

the difficulties of enforcement, and further contribute to the decline of the Illinois cave amphipod.

In addition, designation of critical habitat would not provide significant benefits to the species or its habitat over and above those benefits which are already available through a section 7 jeopardy finding made during consultation with other Federal agencies. Consultation is likely to occur with the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS) and with the EPA for programs administered by those agencies. For a species such as this, extant in only three small, discrete populations, any significant adverse impact to its habitat would likely jeopardize the species' continued existence. Therefore, for this species the threshold for a jeopardy determination is indistinguishable from the threshold for determining adverse modification of critical habitat.

Critical habitat designation has no legal effect on private actions that do not require consultation by a Federal agency under section 7 of the Act. Therefore, because there are no significant benefits that will accrue from critical habitat designation, and because such a designation would present significant additional risks to the species, the Service determines that designation of critical habitat would not benefit the Illinois cave amphipod.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the states and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued

existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, 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 such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include activities by the NRCS such as the Conservation Reserve Program, the Environmental Quality Incentive Program, and the Highly Erodible Land and Wetland Conservation provisions of the Food Security Act of 1985. These activities will generally benefit the species through the protection of groundwater quality. In addition, conference and/or consultation may be required with the EPA on the use of pesticides in the watersheds of the species range.

The Act and implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions codified at 50 CFR 17.21, in part make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

It is the policy of the Service (59 FR 34272; July 1, 1994) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. Activities that the Service believes could potentially harm or kill the Illinois cave amphipod and result in take include, but are not limited to:

(1) Unauthorized use, application or discharge of agrichemicals, or other pollutants, particularly insecticides, onto plants, soil, ground, water or other surfaces within the recharge areas of the

species range that is likely to result in the deterioration of cave water quality and harm to the species. Use of such chemicals in violation of label directions, or any use following Service notification that such use, application or discharge is likely to harm the species, would be evidence of unauthorized use, application or discharge. A buffer zone identifying the area of greatest concern within the caves recharge area will be identified by the Service to indicate areas of special sensitivity for the Illinois cave amphipod.

(2) Discharging of agrichemicals or other pollutants including debris, garbage, trash, septic effluent or any other foreign material into sinkholes or fissures in the recharge areas of the species range.

(3) Unauthorized construction, installation of new private septic systems or any identified improper use, maintenance or servicing of existing private septic systems in the recharge areas of the species' range, if such unauthorized construction, installation or identified use, maintenance or servicing is likely to result in the contamination or degradation of cave stream water quality and harm to the species. Illegal or improper construction, installation of new systems or any improper use, maintenance or servicing of existing systems, following Service notification that such activities and the location of such activities within the caves recharge area are likely to harm the species and the expiration of a reasonable time to correct or mitigate against such system deficiencies, would be evidence of unauthorized construction, installation or improper use, maintenance or servicing.

(4) Impoundment, water diversion, draining, ditching or discharging of fill material in wetlands, sinkhole lakes and ponds, sinkholes, fissures, and reduction or loss of streams within recharge areas of the species range if such activities adversely affect the supply and quality of water in the cave streams wherein the species is found.

(5) Unauthorized visitation or use of Illinois Caverns and other caves identified as containing this species if such visitation or use is identified as likely to cause impacts to stream habitat and result in harm to the species. Visitation or use of Illinois Caverns and other caves containing the species, following Service notification that such visitation or use is likely to harm the species, would be evidence of unauthorized visitation or use.

The Service believes, based on the best available information, that the

following actions will not result in a violation of section 9:

(1) Use of fertilizers and pesticides on residential (non-agricultural) properties within the recharge areas of the species range.

(2) Construction and use of properly constructed and well functioning sewer systems within the species range.

(3) Visitation of Fogelpole Cave by permitted individuals.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. For endangered species such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly sought 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 as provided by Section 4 of the Act;

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

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

Final promulgation of the regulation(s) on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and addressed to Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 4469 48th Avenue Court, Rock Island, Illinois.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, 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. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

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Author: The primary author of this proposed rule is Gerald Bade, U.S. Fish and Wildlife Service, 4469 48th Avenue Court, Rock Island, Illinois 61201.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulation, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.11(h) is amended by adding the following, in alphabetical order under *Crustaceans* to the list of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
CRUSTACEANS							
*	*	*	*	*	*		*
Amphipod, Illinois cave	Gammarus acherondytes.	U.S.A. (IL)	NA	E		NA	NA
*	*	*	*	*	*		*

Dated: July 10, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97-19763 Filed 7-25-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE30

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant *Sidalcea Keckii* (Keck's Checker-Mallow) From Tulare County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Sidalcea keckii* (Keck's checker-mallow) as endangered pursuant to the Endangered Species Act of 1973, as amended (Act). *Sidalcea keckii* is known only from a single population in the annual grasslands of Tulare County, California. *Sidalcea keckii* is threatened by urban development, agricultural land conversion, and naturally occurring events. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for the plant.

DATES: Comments from all interested parties must be received by, September 26, 1997. Public hearing requests must be received by September 11, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 3310 El Camino Avenue, Sacramento, California 95825. Comments and materials received will be available for public inspection, by

appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller, Sacramento Field Office (see ADDRESSES section), (telephone 916/ 979-2120; facsimile 916/ 979-2128).

SUPPLEMENTARY INFORMATION:

Background

The San Joaquin Valley of California is a large, north-south oriented, alluvial valley that is mostly farmed or urbanized. The San Joaquin Valley, from Stockton in the north to Bakersfield in the south, is approximately 700 kilometers (km) (320 miles (mi)) long and 300 km (135 mi) wide. Tulare County, one of ten counties in the San Joaquin Valley, is located toward the southern end of the valley. A single population of *Sidalcea keckii* occurs toward the southern end of the valley, in south-central Tulare County.

Sidalcea keckii is a slender, hairy, erect annual herb belonging to the mallow family (Malvaceae). The species grows 1.5 to 3.5 decimeters (dm) (6 to 13 inches (in.)) tall. The lower leaf blades have 7 to 9 shallow lobes. The upper leaves have a tapered base with 2 to 5 notches in the upper lobes. A few deep pink flowers, 10 to 20 millimeters (mm) (0.4 to 0.8 in.) wide, appear in April through May. Seeds are smooth and pink-tinted. *Sidalcea keckii* closely resembles four other annual species of *Sidalcea*—*S. calycosa*, *S. diploscyha*, *S. hartwegii*, and *S. hirsuta*. *Sidalcea calycosa* and *S. diploscyha* have ranges that overlap with *S. keckii*. *Sidalcea keckii* can be variously separated from similar species by the number and size of flowers, the arrangement of stamens, the lengths of the bract and calyx, the presence of an aggregation of linear stipules and bracts surrounding the flower at maturity, the size and shape of the stem leaves, the density of hairs on the stems, and the presence of a purplish spot on the flower.

Wiggins (1940) described *Sidalcea keckii* from specimens collected in 1935 and 1938 near White River, Tulare County. *Sidalcea keckii* was known historically from three populations occurring between 120 to 425 meters (m) (400 to 1,400 feet (ft)) in elevation, but it has not been seen at two of these sites for about 57 years. It was considered to be extinct until 1992, when the third, and only extant, population of *S. keckii* was discovered by consultants conducting a site inventory as part of the environmental compliance prior to construction of a subdivision (Woodward and Clyde, Biological Consultants, 1992). The population of *S. keckii* occurs on 20 to 40 percent slopes of red or white-colored clay in sparsely-vegetated annual grasslands. The clays are thought to be derived from serpentine (magnesian or ultramafic) soils. The population covers an area measuring 30 m by 100 m (100 ft by 320 ft) and had a total of only 60 plants in 1992. It occurs on a privately-owned parcel of land comprising an area of 280 hectare (ha) (700 acre (ac)) that is currently grazed by livestock. *S. keckii* is threatened by urban development, agricultural land conversion, and naturally occurring events.

Previous Federal Action

Federal government actions on the plant began as a result of section 12 of the original Endangered Species Act of 1973, (Act) as amended (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975, and included *Sidalcea keckii* as a threatened species. The Service published a notice on July 1, 1975 (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a