rests on the operator and the language of the rule reflects this. Therefore, any enforcement problems that might arise should be minimized. Finally, one of MTB's goals is to eliminate unnecessary recordkeeping requirements (see 49 FR 44928, November 13, 1984, Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting), and adding a recordkeeping requirement in the absence of information showing need would be contrary to that goal.

An editorial change is made in this final rule to make the title of § 195.234 consistent with the content. The title of § 195.234 has been changed from "Welds: Nondestructive testing and retention of testing records" to simply "Welds: Nondestructive testing," deleting the reference to record retention. This title change should have been made when the record retention requirement was deleted from § 195.234 (48 FR 9014, March 3, 1983) but was overlooked at that time.

Safety Standards Committees

The NPRM was presented to the Technical Hazardous Liquid Pipeline Safety Standards Committee on November 1, 1984, and to the Technical Pipeline Safety Standards Committee for gas pipelines on February 28, 1985. Both Committees found the proposed rules to be technically feasible, reasonable, and practicable. Copies of the Committees' reports are available in the docket.

Intrastate Hazardous Liquid Pipelines

The NRPM noted that the proposed rule would be adopted for intrastate hazardous liquid pipelines should Part 195 be extended to those pipelines. There were no adverse comments to this proposal. A final rule was published (50 FR 15895, April 23, 1985) extending the Part 195 regulations to intrastate hazardous liquid pipelines effective October 21, 1985. As a consequence, this final rule is adopted for intrastate hazardous liquid pipelines, but as indicated above under the "Effective Date" heading, will not apply to those pipelines until October 21, 1985.

Classification

Since this final rule will have a positive effect on the economy of less that $100 million a year, will result in cost savings to consumers, industry, and government agencies, and no adverse impacts are anticipated, the final rule is not "major" under Executive Order 12291. Also, it is not "significant" under Department of Transportation procedures (44 FR 11034). MTB believes that the final rule will reduce the costs of nondestructive testing. However, these savings are not large enough to justify the preparation of a Regulatory Evaluation.

Based on the facts available concerning the impact of this final rule, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety, Nondestructive testing, Girth welds, Welding.

In view of the above, MTB amends Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as set forth below and any authority citations following the sections in Part 192 are removed.

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A of Part 1.

2. In § 192.243, paragraphs (d) (3) and (4) are revised to read as follows:

§ 192.243 Nondestructive testing.

* * * * *

(d) * * *

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, offshore, and within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, 100 percent unless impracticable, in which case at least 90 percent. Nondestructive testing must be impracticable for each girth weld not tested.

(4) At pipeline tie-ins, 100 percent.

PART 195—[AMENDED]

3. The authority citation for Part 195 is revised to read as set forth below and any authority citations following the sections in Part 195 are removed:

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

4. In § 195.234 the title is revised, paragraph (e) is revised, and a new paragraph (g) added to read as follows:

§ 195.234 Welds: Nondestructive testing.

* * * * *

(e) 100 percent of each day's girth welds installed in the following locations must be nondestructively tested 100 percent unless impracticable, in which case at least 90 percent must be tested. Nondestructive testing must be impracticable for each girth weld not tested:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area;

(2) Within railroad or public road rights-of-way;

(3) At overhead road crossings and within tunnels;

(4) Within the limits of any incorporated subdivision of a State government; and

(5) Within populated areas, including, but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

* * * * *

(g) At pipeline tie-ins 100 percent of the girth welds must be nondestructively tested.

Issued in Washington, DC on September 6, 1985.

M. Cynthia Douglass,

Acting Director, Materials Transportation Bureau.

[FR Doc. 85-21763 Filed 9-11-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination To Remove Three Palau Birds From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service removes the Palau fantail flycatcher (*Rhipidura lepida*), the Palau ground-dove (*Gallicolumba canifrons*), and the Palua owl (*Pyrroglaux* (=*Otus*) *podargina*) from the protection of the Endangered Species Act of 1973, as amended. This action is being taken because these species are distributed throughout their former range at near original abundances and are faced with no foreseeable threat. They suffered reductions in populations in southern Palau during World War II, but they have increased in these areas since then.

DATES: The effective date of this rule is October 15, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT:
Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Palau Fantail Flycatcher or Melimdelebteb

The fantail flycatcher (*Rhipidura lepida*), of the family Muscicapidae, is an Old World flycatcher that was first described in 1868 by Hartlaub and Finsch. It is presently distributed uniformly throughout its former range and is found on all the major and many of the smaller islands from Babeldaob to Peleliu. The fantail is common in all forest types except mangrove, and shows a preference for mixed second-growth stands with a thick and well developed understory. Early accounts suggest the fantail was common in the mid-1800's (Finsch 1875), rare in 1931 (Coultas *in* Baker 1951), and uncommon in 1945 on islands damaged by World War II (Baker 1951). Surveys completed by the Trust Territory Conservation Office in 1977–79 show that the fantail is common and widespread, and in fact is now most abundant on Peleliu, an island that was heavily damaged during the war. Observations by visiting ornithologists in the 1970's confirm the general abudance of the fantail throughout the islands (Pratt *et al.* 1980).

Palau Ground-Dove, or Omekrengukl

The Palau ground-dove (*Gallicolumba canifrons*), described by Hartlaub and Finsch in 1872, inhabits dense to open forest of rocky limestone substrates. Its historical and present range includes the many limestone islands from Koror to Angaur. A few birds also have been recorded from the large volcanic island of Babeldaob. Past accounts indicate the dove has always been uncommon, particularly on war-damaged islands after World War II (Baker 1951). Accurate assessments of the ground-dove's status are hindered by its inaccessible habitat, low density, secretive nature and soft and infrequently voiced call. In surveys conducted by the Trust Territory Conservation Office from 1977–79, the dove was found to be uncommon but widespread within its range in the limestone islands. Island populations that were depressed in 1945 have recovered. A minimum of 15 birds was estimated to remain on Peleliu in 1945 (Baker 1951), but the recent survey shows a population of over 150 on that one island. The total population is estimated at a minimum of 500 birds, which is thought to be near the level before the arrival of man on these islands.

Though the dove is uncommon to rare, its low density is apparently natural and probably due to the living requirements of the species. There appear to be no imminent threats to the population. The many limestone islands that constitute the primary range are a *de facto* refuge. The ground-dove's small size, inaccessible habitat, secretive nature and low, scattered numbers all make the dove unsought as a game species.

Palau Owl or Chesuch

The Palau Owl (*Pyrroglaux* (=*Otus*) *podargina*), described by Hartlaub and Finsch in 1872, resides in all forest types, including mangroves, and is abundant on all the major islands from Babeldaob to Peleliu. The owl is a vocal species, and can be readily located by its loud and persistent calls that are voiced during the night. It has always been reported as common, though immediately after World War II the owl was rare on islands of southern Palau affected by the war (Marshall 1949, Baker 1951). It was thought that the owl continued to decrease after World War II, possibly as a result of its feeding on the introduced coconut rhinoceros beetle (*Oryctes rhinoceros*), but since the 1960's the owl has steadily increased in numbers (Owen *in* Pratt *et al.* 1980). (A beetle control program was started in the 1950's and has been effective in reducing the total number of beetles now available to the owl. The beetle apparently is sometimes swallowed whole and may kill the owl by piercing its stomach.) Today, the owl is found in high densities. On Peleliu only 4 pairs could be located in 1945; the population in 1978 was estimated at over 300 on this island, and over 10,000 throughout the archipelago. The population appears to be secure and stable.

None of these species is sought as a game species, and none are especially sought after by humans. In the past, all three species have been protected by Trust Territory laws. These laws are slated to be adopted by the new government of Palau upon termination of the Trust. The new constitution of Palau bans personal possession of firearms, making it illegal to hunt with firearms. The forest habitat for these species is relatively secure. The high islands should remain in a natural state; these generally have poor access, are precipitous, and have a rocky substrate that is unsuitable for agriculture or other types of development. On the main island of Babeldaob, a more extensive road system is planned, but a major portion of the island should remain in a forested condition. Populations of all three species do not appear to be threatened by disease, predation, or other natural or manmade factors.

The Palau fantail flycatcher, Palau ground-dove, and Palau owl were classified as endangered June 2, 1970 (35 FR 8495). No critical habitat has been designated. Based on recent status information, a rule was proposed to delist these three species on September 19, 1984 (49 FR 36665).

Summary of Comments and Recommendations

In the proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute in the development of a final rule. Appropriate Republic of Palau agencies, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Pacific Daily News* on November 6, 1984, which invited general public comment. Two comments were received and are discussed below.

The former Chief Conservationist for the Trust Territory Conservation Office, Robert P. Owen, submitted comments supporting delisting the three Palau species. He stated that the original listing was based on surveys of southern Palau completed by military ornithologists a short time after U.S. forces had invaded Angaur and Peleliu. These invasions caused serious destruction of the vegetation and wildlife. No surveys were made of central or northern Palau at that time because those islands were still being held by the Japanese forces. Owen first went to Peleliu and Angaur in 1949, 5 years after the invasion and 4 years after the military survey. Native bird life was still scarce compared with the rest of Palau and the destroyed vegetation was just beginning to recover. He frequently visited these islands in following years, and believes that the vegetation and bird life have returned to normal.

Dr. H. Douglas Pratt, Research associate at Louisiana State University, also supported delisting the three Palau species. He has made intensive studies of the birds of these and other western Pacific islands. He believes that these birds are very likely at the carrying capacity of their habitats and that these habitats are under no presently foreseeable threat. He knows of no management measures that could

conceivably increase the populations of these three species over present levels.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Palau fantail flycatcher, the Palau ground-dove, and the Palau owl should be removed from the protection of the Endangered Species Act of 1973, as amended. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). The data used to support a removal must be the best scientific and commercial data available to substantiate that the species is neither endangered nor threatened. Factors leading to delisting include extinction, recovery of the species, or the original data for classification were in error. The factors in section 4(a)(1) and their application to the Palau fantail flycatcher (*Rhipidura lepida*), the Palau ground-dove (*Gallicolumba canifrons*), and the Palau owl (*Pyrroglaux*) (=*Otus*) *podargina*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The three Palau birds are all forest species. About 75 percent of Palau is forested, and much of this forest should remain intact in future years, particularly on the many small, inaccessible islands between Koror and Peleliu. Despite relatively rapid development at present, much of the growth is concentrated around the capital of Koror and on the upper savannas of Babeldaob, where there has always been little forest habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None of the three Palau birds are utilized for these purposes. Occasionally, the Palau owl is taken for a pet, and the Palau ground-dove is taken incidental to hunting for the Micronesian pigeon (*Ducula oceanica*). These losses are few and are not considered a threat to the population.

C. *Disease or predation.* Populations of all three species appear to be stable, and neither disease nor predation is thought to pose a threat at present.

D. *The inadequacy of existing regulatory mechanisms.* All three species are protected by local regulations. Recently a ban on personal possession of firearms was enacted in Palau, which may further reduce any illegal taking of these and other bird species.

E. *Other natural or manmade factors affecting its continued existence.* There are no other known factors that are affecting the continued existence of the three Palau species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. All three species appear to have recovered on islands damaged during World War II. The original status information was meager and more recent and complete information is now available. These three Palau species are presently distributed throughout their former habitat and have stable populations that survive at or near their respective carrying capacities. Thus, they no longer meet the definitions of threatened or endangered species. Based on this evaluation, the Service delists the Palau fantail flycatcher, Palau ground-dove, and Palau owl.

Effects of Rule

The rule merely acknowledges that the Palau fantail flycatcher, Palau ground-dove, and Palau owl are not threatened with becoming endangered or in danger of extinction and that further protection under the Act is not required. Those prohibitions and conservation measures under the Act, sections 7 and 9 in particular, are no longer applicable to these species. As there were no specific preservation or conservation measures for these species in effect, there will be no impact on any agency or individuals.

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 Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Baker, R.H. 1951. The avifauna of Micronesia, its origin, evolution, and distribution. Univ. Kansas Publ. Mus. Nat. Hist. 3(1):1–359.

Finsch, O. 1875. On the ornithology of the South Sea islands, Vol. 1. The birds of the Palau Islands. Journal of the Godeffroy Museum: 8:1–51. (in German)

Hartlaub, G., and O. Finsch. 1868. On a collection of birds from the Pelew Islands. Proc. Zool. Soc. London: 4–9.

Hartlaub, G., and O. Finsch. 1872. On a fourth collection of birds from the Pelew and Mackenzie Islands. Proc. Zool. Soc. London: 87–114.

Marshall, J.T., Jr. 1949. The endemic avifauna of Saipan, Tinian, Guam, and Palau. Condor 51:200–221.

Pratt, H.D., J. Engbring, P.L. Bruner, and D.G. Berret. 1980. Notes on the taxonomy, natural history, and status of the resident birds of Palau. Condor 82:117–131.

Author

The primary author of this final rule is John Engbring, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine Mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing the following, found in alphabetical order under BIRDS, from the List of Endangered and Threatened Wildlife: Dove, Palau ground; Flycatcher, Palau fantail; and Owl, Palau.

Dated: August 27, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–21764 Filed 9–11–85; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status and Designation of Critical Habitat for the White River Spinedace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a fish, the White River spinedace (*Lepidomeda albivallis*), to be an endangered species and designates its critical habitat under the authority

contained in the Endangered Species Act of 1973, as amended. This action is being taken because five populations of this species have been eliminated and the remaining two populations have declined due to habitat destruction through channelization and diversion of their spring habitats, and due to the introduction of exotic fishes, which compete with and prey on the White River spinedace. The White River spinedace occurs in remnant waters of the pluvial White River system in southern White Pine County and extreme northeastern Nye County, Nevada. A determination that the White River spinedace is an endangered species and designation of its critical habitat will implement the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is October 15, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The White River spinedace (*Lepidomeda albivallis*) was described by Miller and Hubbs (1960) based on material collected in 1934. It is one of six species belonging to the Plagopterini, a unique tribe of cyprinid fishes noted for their adaptations to small, swift-water desert streams. Members of the Plagopterini are restricted to the lower Colorado River system and are characterized by the possession of two spinal rays in the dorsal fin and a reduction in scalation in certain taxa (Miller and Hubbs 1960, Uyeno and Miller 1973). The White River spinedace is a relatively large species of *Lepidomeda*, and ofter attains a length of 4 to 5 inches (10–13 cm). It can be distinguished from other species of *Lepidomeda* by its possession of a pharygeal tooth formula of 5–4 in the main row, typically fewer than 90 lateral-line scales, a moderately oblique mouth, a dorsal fin of moderate height, and distinctive body coloration. The species exhibits a bright green to olive color dorsally, brassy over bright silver laterally, and silvery-white ventrally. The head is coppery-red to red on the sides with gilt reflections on the cheeks and opercles (Miller and Hubbs 1960).

The White River spinedace is the only representative of the tribe within the upper White River system of southern White Pine County and extreme northeastern Nye County, Nevada. During pluvial times, 10,000 to 40,000 years ago, the White River was tributary to the Colorado River by way of the Virgin River (Hubbs *et al.* 1974). As the pluvial waters desiccated because of the more xeric climates, the White River spinedace was restricted to permanent waters such as springs or perennial sections of the White River. Currently, the White River is dry for much of its course. In the mid 1900's, the White River spinedace was known from Preston Big, Nicholas, Arnoldson, Cold, Lund, and Flag Springs as well as from the White River near its confluence with Ellison Creek (Miller and Hubbs 1960, Williams and Wilde 1981).

Presently, viable populations of the White River spinedace are found only in Lund Spring and Flag Springs. Lund Spring is privately owned and Flag Springs is State owned and within a wildlife management area. The former locality contains established populations of exotic species. Both spring systems have been altered by human activities. The primary threats to the continued existence of the White River spinedace are the channelization and diversion of water within the spring habitats as well as the introduction of exotic fishes such as guppies (*Poecilia reticulata*), mosquitofish (*Gambusia affinis*), and goldfish (*Carassius auratus*) into spinedace habitat. The exotic fishes compete with and, in some instances, prey on the spinedace.

On December 30, 1982, the Service published a vertebrate Notice of Review (47 FR 58454) and included the White River spinedace as a category 1 species. Category 1 indicates that the Service has substantial information to support the biological appropriateness of listing the species as threatened or endangered.

On April 12, 1983, the Service received a petition from the Desert Fishes Council requesting that the White River spinedace along with 16 other fish species be added to the List of Endangered and Threatened Wildlife. The Service published in the **Federal Register** (48 FR 27273) on June 14, 1983, a finding that the petition presented substantial information and that the petitioned action may be warranted. Publication of the proposed rule on May 29, 1984 (49 FR 22359), constituted the required 12-month petition finding in accordance with section 4(b)(3)(ii) of the Act.

Summary of Comments and Recommendations

In the May 29, 1984, proposed rule (49 FR 22359) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notice were published in the *Ely Daily Times* on June 26, 1984, *The Las Vegas Sun* on June 26, 1984, and the *Las Vegas Review Journal* on June 13, 1984, which invited general public comment. Six comments were received and are discussed below. No public hearing was requested or held.

Supportive comments were received from the International Union for Conservation of Nature and Natural Resources (IUCN), American Society of Ichthyologists, Nevada Department of Conservation and Natural Resources (NDCNR), and Thomas M. Baugh, University of Nevada. In addition, a comment was received from the Nevada Department of Wildlife (NDOW) supporting the listing of the Lund Spring population and the designation of critical habitat at Lund Spring and Preston Big Spring. However, NDOW withheld support for the listing of the Flag Springs population and designation of critical habitat at Flag Springs. The Nevada Department of Wildlife felt that its management of the wildlife area afforded the White River spinedace adequate protection at this site and that because of its management policies the population was not endangered. The Flag Springs population is small and vulnerable to any habitat disturbance. In the past, the springs have been modified and adverse effects to the species' habitat have resulted. It is the position of the Service that State management of the spinedace habitat is not sufficient to allow complete recovery of the species and its habitat. Designation of this site as critical habitat will provide full protection for the species including future recovery actions. In addition, due to the importance of this small site as one of only two existing locations for the fish, the exclusion of this site from critical habitat designation is not considered prudent.

One opposing comment was received from the Regional Planning Commission, White River County. The main concern was the effect the rulemaking might have on the private landowners in this agricultural area. In response to the

above concern, the only activities that may be affected by the listing of the White River spinedace and the designation of critical habitat are Federal activities that might adversely affect the species or its critical habitat and the "taking" of the fish itself, a prohibition already enforced under the State of Nevada's regulations regarding protected species. Private or county activities, unless undertaken with assistance from Federal sources, will not be affected by this rule, and there are no known or anticipated activities involving Federal funds or permits for these lands.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the White River spinedace (*Lepidomeda albivallis*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the White River spinedace (*Lepidomeda albivallis*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* When the White River spinedace was described by Miller and Hubbs in 1960, the species was present in large numbers throughout its range. By 1979, the spinedace was considered rare in all localities surveyed (Hardy 1980). Physical and biological habitat alteration have precipitated this decline. During the latter half of this century, agricultural and residential use increased within the White River spinedace range because of the abundant water supply found there. The available suitable habitat for the spinedace has been reduced by channelization of spring flows and the development of diversion structures around outflow creeks, activities that made water available for residential and agricultural uses. Continued channelization and diversion of the water supply threatens the remaining habitat of the White River spinedace.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No such threats are known.

C. *Disease or predation.* Introduction of exotic fish, such as guppies (*Poecilia reticulata*), mosquitofish (*Gambusia affinis*), and goldfish (*Carassius auratus*), into the aquatic habitats of the White River spinedace has occurred. The establishment of guppies and mosquitofish in habitats occupied by the White River spinedace has been particularly harmful. It is thought that some of these exotic fish prey upon the spinedace and have led to population declines. In general, the introduction of exotic fishes is usually detrimental to native fishes because of competition, predation, or the introduction of exotic parasites and diseases (Deacon *et al.* 1964, Hubbs and Deacon 1964).

D. *The inadequacy of existing regulatory mechanisms.* The State of Nevada has placed the White River spinedace on its Protected Species List. However, this action does not provide protection to the species' habitat. Through Federal listing, protection for the species and its habitat will be implemented as provided by the Endangered Species Act.

E. *Other natural or manmade factors affecting its continued existence.* The use of copper sulfate for control of algae may have been partly responsible for the elimination of the species from Preston Big Spring and may threaten the remaining populations (Courtenay *et al.* ms).

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 make this rule final. Based on this evaluation, the preferred action is to list the White River spinedace as endangered. The elimination of five populations, and the reduction of the remaining two by channelization and diversion activities in their spring habitats, as well as competition and predation from exotic species, indicate that the species is imminently threatened with extinction. Therefore, endangered status is warranted. The reasons for designation of critical habitat are discussed below.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act means: (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.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for the White River spinedace (*Lepidomeda albivallis*) to include three areas in Nevada. Preston Big Spring (approximately 4.0 acres) and Lund Spring (approximately 1.3 acres) are critical habitat areas in White Pine County and Flag Springs (3.0 acres) is located in northeastern Nye County. Preston Big Spring is included in the critical habitat designation as an area outside the present geographical range occupied by the species but essential for the species' conservation and within the historic range of the species. The White River spinedace is thought to have been extirpated from this spring shortly before 1980 (Courtney *et al.* ms). Efforts to reestablish the spinedace at this recent historical site are planned and are considered necessary to increase the species' numbers, the population numbers, and the genetic viability of this species. Constituent elements at all sites include consistently high quality cool (55°–70°F) springs and outflows with a sufficient quantity of water, and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds. A precise description of the critical habitat can be found in the "Regulations Promulgation" section.

The areas proposed as critical habitat for the White River spinedace satisfy all known criteria for its ecological, behavioral, and physiological requirements. The most critical element to the survival of the spinedace is a consistent quality and quantity of springflow. The critical habitat being designated includes the springs and associated outflows as well as the immediately surrounding riparian areas. These narrow riparian land areas are essential for vegetative cover that contributes to the uniform water conditions preferred by the spinedace and provides habitat for insects and other invertebrates that constitute a substantial portion of the spinedace diet.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Activities that may adversely affect the critical habitat of the White River spinedace include pollution of the

springwater (such as through the use of chemicals to control algae), introduction of exotic species, excessive pumping of water from nearby aquifers, and further physical modification of the spring areas (such as through channelization and diversion of springflows or clearing of the surrounding vegetation).

Agriculture is the primary activity on private lands near the two White Pine County springs proposed as critical habitat. The water from these two springs enters pipes after an open area near the spring head and is used for irrigating crop lands. The springs system on State lands within the proposed critical habitat is part of the Kirch Wildlife Management Area and is relatively unmodified. Two impoundments occur away from the spring heads for wildlife use. Currently, there are no known activities involving Federal funds or permits that may affect or be affected by the designation of critical habitat for this species. If a landowner seeks Federal assistance in activities such as modification of the springs or their immediate outflows the Federal agency involved must enter into consultation with the Service to ensure that such activities do not adversely affect the White River spinedace or its habitat.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. No additional information has been received as a result of the proposed rule on economic or other impacts that might result from designation of the critical habitat. The critical habitat area is approximately 8.3 acres and includes three spring systems and their outflows. One of these spring areas is owned by the State of Nevada and has been maintained in a relatively pristine condition as part of a wildlife management area. The two other springs are in private ownership. There is no known or anticipated involvement of Federal funds or permits for the private and State lands included in the critical habitat designation. Therefore, no significant economic or other impacts are expected as a result of the designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species 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 Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, 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 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). 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. 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. No such Federal involvement is known for White River spinedace.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a 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 had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. 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. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1966, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The critical habitat designation as defined in the proposed rule did not bring forth economic or other impacts to warrant consideration of revising the critical habitat. One spring included as critical habitat is located within a wildlife management area owned by the State and the two other springs designated as critical habitat are in private ownership. There is no known or planned involvement of Federal funds or permits for the State and private lands included in the critical habitat designation. Also, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects that is available at the U.S. Fish and Wildlife Service, at the address found in the "Addresses" section.

Literature Cited

Courtenay, W.R., S.E. Deacon, D.W. Sada, R.C. Allan and G.L. Vinyard. Manuscript. Comparative status of fishes along the course of the pluvial White River, Nevada.

Deacon, J.E., C. Hubbs and B.J. Zahuranec. 1964. Some effects of introduced fishes on the native fish fauna of southern Nevada. Copeia 1964:384–388.

Hardy, T. 1980. The Inter-basin area report—1979. Proc. Desert Fishes Council 11:5–21.

Hubbs, C.L. and J.E. Deacon. 1964. Additional introductions of tropical fishes into southern Nevada. Southwestern Nat. 9:249–251.

Hubbs, C.L., R.R. Miller and L.C. Hubbs. 1974. Hydrographic history and relict fishes of the north-central Great Basin. Memoirs California Acad. Sci. 7:1–259.

Miller, R.R. and C.L. Hubbs. 1960. The spiny-rayed cyprinid fishes (Plagopterini) of the Colorado River system. Misc. Publ. Mus. Zool., Univ. Michigan 115:1–39.

Uyeno, T. and R.R. Miller. 1973. Chromosomes and the evolution of the Plagopterin fishes (Cyprinidae) of the

Colorado River system. Copeia 1973:776–782.
Williams, J.E. and G.R. Wilde. 1981. Taxonomic status and morphology of isolated populations of the White River springfish, *Crenichthys baileyi* (Cyprinodontidae). Southwestern Nat. 25:485–503.

Author

The primary author of this final rule is Carol A. Wilson, Endangered Species Staff, at the address in the "**ADDRESSES**" section.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Fishes," 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						
FISHES							
Spinedace, White River	*Lepidomeda albivallis*	U.S.A. (NV)	Entire	E		17.95(e)	NA

3. Amend § 17.95(e), by adding critical habitat of the White River spinedace (*Lepidomeda albivallis*), as follows: The position of this entry under § 17.95(e) will follow the same alphabetical sequence as the species occurs in § 17.11.

§ 17.95 Critical habitat—fish and wildlife.

(e) * * *

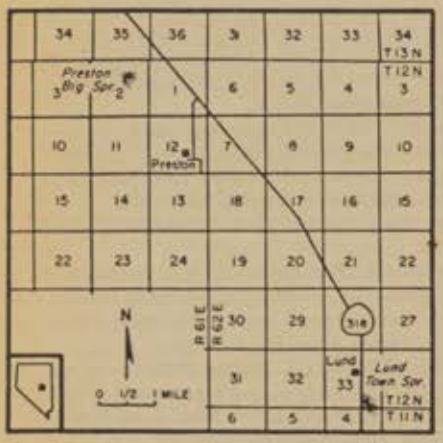
* * * * *

WHITE RIVER SPINEDACE (*Lepidomeda albivallis*)

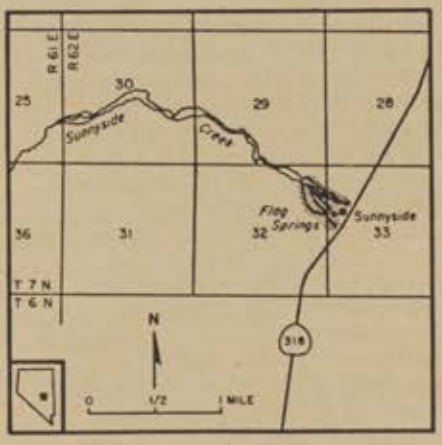
Nevada, White Pine County. Each of the following springs and outflows plus surrounding land areas for a distance of 50 feet from these springs and outflows:

Preston Big Spring and associated outflows within T12N, R61E, NE ¼ Sec. 2.

Lund Spring and associated outflows within T11N, R62E, NE ¼ of NE ¼ of Sec. 4; T12N, R62E, S ½ of SE ¼ Sec. 33.



Nevada, Nye County. Flag Springs and associated outflows plus surrounding land areas for a distance of 50 feet from the springs and outflows within the following areas: T7N, R62E, E ½ of NE ¼ Sec. 32, SW ¼ of NW ¼ Sec. 33.



Known constituent elements for all areas of critical habitat include consistently high quality and quantity of cool springs and their outflows, and surrounding land area that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

* * * * *

Dated: August 13, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–21824 Filed 9–11–85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Refuge-Specific Hunting Regulations

Correction

In FR Doc. 85–21036, beginning on page 35815, in the issue of Wednesday, September 4, 1985, make the following corrections:

1. On page 35816, first column, sixteenth line, "FR 37736" should read "FR 36736".

2. On page 35821, first column:

a. In § 32.22(d)(4)(ii), fifth line, "mussleloader" should read "muzzleloader".

b. In § 32.22(d)(4)(iii), third line, insert "five" between "last" and "days".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[Docket No. 30316-39]

Shrimp Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). Paragraph (b) is removed from § 658.22, and the terms "field order" and "order" are replaced by "Notice in the

Federal Register" and "notice," respectively, wherever they occur at § 658.25. The intent is to remove nonconforming language from the implementing regulations.

EFFECTIVE DATE: September 6, 1985.

FOR FURTHER INFORMATION CONTACT: William B. Jackson, Fisheries Management Officer, 202–634–7432.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on April 21, 1983 (48 FR 17098) to modify, temporarily, the boundary of the Tortugas Shrimp Sanctuary to reduce the area closed to trawl fishing. The termination date for the temporary geographic modification of the Sanctuary was 2400 hours August 14, 1984. Accordingly, § 658.22 is revised to remove paragraph (b) where the temporary geographic modification is discussed.

NOAA has also determined that the use of the terms "field order" and "order" are not the appropriate terms to accurately describe how inseason adjustments are made known to the public, therefore, "notice in the **Federal Register**" and "notice," respectively, are inserted in § 658.25 wherever "field order" and "order" appear.

List of Subjects in 50 CFR Part 658

Fisheries.

Dated: September 6, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 658 is amended as follows:

PART 658—[AMENDED]

1. The authority for Part 658 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 658.22 [Amended]

2. Section 658.22 is amended by removing the paragraph (a) designator and paragraph (b) in its entirety.

§ 658.25 [Amended]

3. Section 658.25 is amended by removing the term "field order" and "order" and inserting the terms "notice in the **Federal Register**" and "notice," respectively, wherever they occur.

[FR Doc. 85–21825 Filed 9–9–85; 2:43 pm]

BILLING CODE 3510-22-M