

**Finding of No Significant Impact  
Designation of Critical Habitat for the  
Topeka Shiner (*Notropis topeka*)**

The U.S. Fish and Wildlife Service (Service) is designating critical habitat for the Topeka shiner (*Notropis topeka*) pursuant to section 4 of the Endangered Species Act of 1973, as amended (Act). The designation encompasses 83 stream reaches, representing approximately 1,356 kilometers (836 miles) of streams in Iowa, Minnesota, and Nebraska. The designated critical habitat includes Federal, State, and private lands. The Final Rule excludes all areas proposed for designation in the States of Kansas, Missouri, and South Dakota under the authority of section 4(b)(2) of the Act, and excludes designation of Topeka shiner critical habitat on the Fort Riley Military Installation, Kansas, under the authority of section 4(a)(3) of the Act.

We have analyzed five alternatives to the agency action, including—No Action; Designation as Identified in the Final Rule; Designation as Identified in the Proposed Rule; Designation of all Proposed Critical Habitat with Exclusion of Proposed Missouri Habitat and Habitat on Ft. Riley, Kansas; and Designation of all Proposed Critical Habitat with Exclusion of Habitat on Ft. Riley, Kansas. The Service has developed an Environmental Assessment for the designation of critical habitat for the Topeka shiner which analyzes each of these alternatives. Additionally, the potential economic impacts of critical habitat designation were evaluated in the draft and final economic analyses.

Section 7 of the Act requires Federal agencies to ensure, through consultation with the Service, that actions they fund, authorize, or carry out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.”

Our Environmental Assessment recognizes the difficulty in differentiating between section 7 consultations that result from the listing of the species (i.e., jeopardy) and consultations that result from the presence of critical habitat (i.e., adverse modification). By quantifying the potential impacts associated with all future section 7 impacts in or near critical habitat, the analysis ensures that any critical habitat impacts that may occur co-extensively with the listing of the species are not overlooked. As a result, the analysis likely overstates the regulatory activity under section 7 attributable to designation of critical habitat.

Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. Because consultation under section 7 of the Act does not apply to

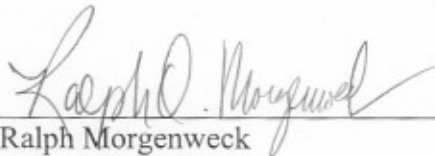
activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not result in any regulatory requirement for these actions.

The Proposed Action has been determined to have some impacts to certain elements of the human environment. The Service was able to identify some quantifiable economic impacts to certain components of the human environment. However, as discussed above, these estimates are the total section 7 consultation costs, which include costs attributable to both listing and critical habitat designation. Therefore, the economic costs provided in our analysis likely overstate the cost of critical habitat designation. As identified in our analysis, the potential costs of section 7 associated with both the listing and designation of critical habitat for the Topeka shiner are estimated to range from \$8.8 million to \$13.6 million over the next ten years.

Additionally, it should be noted that CEQ NEPA regulations (40 C.F.R.1508.14) indicate that "economic and social effects are not intended by themselves to require preparation of an environmental impact statement."

This designation has been coordinated with all interested and/or affected parties. Parties contacted include—Federal agencies, State government, local government, and private interest groups. A draft Environmental Assessment was made available to interested and/or affected parties on March 17, 2004, for a 30-day public comment period. All comments received were analyzed and, where appropriate, were incorporated into the final Environmental Assessment, final Economic Analysis, and/or the Final Rule.

Based on a review and evaluation of the information contained in the Environmental Assessment, it is my determination that the designation of critical habitat for the Topeka shiner does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). As such, an Environmental Impact Statement is not required.



Ralph Morgenweck  
Regional Director, Region 6

8/13/04  
Date