

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Dolphin, Chinese river (=whitetail)	<i>Lipotes vexillifer</i>	China	Entire	E		NA	NA

Dated: May 10, 1989.

Mary Anne Bach,

Assistant Secretary for Fish and Wildlife and Parks.

(Addition of Chinese River Dolphin to list of endangered and threatened wildlife)

[FR Doc. 89-12709 Filed 5-26-89; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 80355-8272]

Endangered and Threatened Species; Chinese River Dolphin

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

ACTION: Final rule.

SUMMARY: NOAA Fisheries has determined that the Chinese river dolphin (*Lipotes vexillifer*) should be listed as an endangered species according to the Endangered Species Act of 1973 (ESA). This determination is based on information contained in a petition to list the species submitted by the Center for Environmental Education, in a Status Review conducted by NMFS, and in comments received in response to publication of the proposed rule to list the species.

EFFECTIVE DATE: June 29, 1989.

ADDRESS: Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Office of Protected Resources, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235 (301/427-2322).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act (ESA) and 50 CFR Part 424 contain provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add or

remove a species from the List of Endangered and Threatened Wildlife.

On December 3, 1986, NMFS received a petition from the Center for Environmental Education to list the Chinese river dolphin (*Lipotes vexillifer*) as an endangered species. According to the petition, this river dolphin is found primarily in the lower and middle sections of the Chang Jiang (Yangtze) River in the eastern, central region of mainland China.

On February 14, 1987, the Assistant Administrator for fisheries determined that the petition presented substantial scientific information and solicited information and comments concerning the status of the Chinese river dolphin. On May 18, 1988, NMFS published its status review and proposed to list this species as endangered. Comments were received from the Center for Environmental Education and the Cetacean Society International. Both agencies strongly supported the listing of the Chinese river dolphin (*Lipotes vexillifer*) as endangered.

Listing Factors

Section 4(a) of the ESA provides that the Secretary of the Interior or Commerce, depending upon the species involved, shall, by regulation, determine if any species is endangered or threatened based upon any one or a combination of the following factors: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) of the ESA requires that such determinations are to be made "solely on the basis of the best scientific and commercial data available" and must take into account any efforts being made to protect the species under consideration.

The following discussion considers the history, status and biology of *L. vexillifer* and current conditions in relation to the listing factors.

(1) The present or threatened destruction, modification, or curtailment of its habitat or range: The banks of the

Yangtze River have been extensively modified to prevent floods. Most of the lakes along the river have been isolated by sluice gates to retain the water during the dry season for irrigation and fish culture. Because the lakes are important nursery areas for many fish species, this isolation may have had adverse effects on the Chinese river dolphin by changing fish biomass and species composition in the river. A hydroelectric dam was completed in 1983 below the Three Gorges and another is planned in the Three Gorges region. To date, research has not detected adverse effects of the existing dam on most fish populations. A study of the effects on the proposed new dam on the Chinese river dolphin's habitat has been carried out, but the report is not yet available in an English translation.

Some fish stocks in the river appear to be greatly reduced due to the loss of nursery areas for migratory species, overfishing, and pollution (Zhou and Li, in press). Thus reduction in prey availability may have played an important role in the decline of the Chinese river dolphin.

(2) Overutilization for commercial, recreational, scientific or educational purposes: The Chinese river dolphin is not directly exploited.

(3) Disease or predation: Nothing is known about these factors. However, based on examination of those dead dolphins recovered, neither appears to be a major problem.

(4) The inadequacy of existing regulatory mechanisms: Information is not available about this factor.

(5) Other natural or man-made factors: Human use of the Yangtze River is extensive. Over the last 35 years, increasing industrial activity, boat traffic, and exploitation of fish resources have combined to degrade the Chinese river dolphin's habitat (Zhou, 1986). The Chinese river dolphin suffers from various forms of human-induced mortality, the most serious of which seems to be accidental entanglement in bottom longlines, called "rolling hooks", set to snag bottom-feeding fish such as sturgeon. Chinese river dolphin are also taken incidentally in fish traps and

gillnets. Fishing gear may account for almost half the known Chinese river dolphin mortality (Lin, Chen, and Hua, 1985; Zhou and Li, in press).

Some dolphins are killed by boat propellers; this problem appears to be the most serious in the lower reaches of the river where boat traffic is heaviest and expected to double in the next ten years (Zhou and Li, in press).

Explosions, usually associated with construction projects but occasionally with illegal fishing, account for 15-20 percent of known Chinese river dolphin deaths (Zhou and Li, in press; Chen and Hua, in press). Six dolphins were killed in one construction blast.

Listing Decision

An endangered species is any species that is in danger of extinction throughout all or a significant portion of its range; a threatened species is any species that is likely to become an endangered species within the foreseeable future. The ESA requires that a determination to list a species as endangered or threatened be made solely on the basis of the best available scientific and commercial information concerning that species relative to the criteria reviewed above. Of these, a decision to list *Lipotes vexillifer* is best supported by evidence presented according to criteria (1)—“present or threatened destruction, modification * * * range” and (5)—“other natural or man-made factors.” Although the species is not being taken for commercial purposes, extensive modification of its habitat along the

banks of the Yangtze may have reduced the available prey. Of the various forms of human induced mortality, the most serious seems to be accidental entanglement in bottom longlines, called “rolling hooks”, set to snag bottom-feeding fish. Fishing gear may account for almost half the known Chinese river dolphin mortality.

Conclusion

We believe that the best available scientific and commercial data indicate that the population(s) of the Chinese river dolphin is endangered and should be listed on the U.S. List of Endangered and Threatened Species.

Recommended Critical Habitat

In the final rule regarding listing of species (50 CFR Part 424.12(H)), critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction.

Classification

The 1982 Amendments to the ESA (Pub. L. 97-304), in section 4(b)(1)(A), restrict the information which may be considered when assessing species for listing. Based upon this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation v. Andrus*, 657 F.2d 829 (6th cir., 1981), NOAA Fisheries has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413-23; February 6, 1984).

As noted in the Conference report on the 1982 amendments to the ESA,

economic considerations have no relevance to determinations regarding the status of a species. Therefore, the economic analysis requirements of Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened wildlife, Exports, Fish, Import, Marine mammals, Reporting and recordkeeping requirements, Transportation.

Dated: May 23, 1989.

Andrew J. Kemmerer,

Acting Assistant Administrator for Fisheries.

For the reasons described in the preamble, Part 222 of Title 50 of the Code of Federal Regulations is amended as follows:

PART 222—ENDANGERED FISH OR WILDLIFE

1. The authority citation for Part 222 continues to read as follows:

Authority: Endangered Species Act of 1973, 16 U.S.C. 1531-1543.

§ 222.23 [Amended]

2. Section 222.23(a) of Subpart C is amended by adding the phrase “Chinese river dolphin” (*Lipotes vexillifer*) immediately after the phrase “cochito” (*Phocoena sinus*) in the second sentence.

[FR Doc. 89-12708 Filed 5-28-89; 8:45 am]

BILLING CODE 3510-22-M