

commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our process for making this 90-day finding under section 4(b)(3)(A) of the Act is limited to a determination of whether the information in the petition presents “substantial scientific and commercial information,” which is interpreted in our regulations as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). We reviewed the petition, supporting information provided by the petitioner, and information in our files, and we evaluated that information to determine whether the sources cited support the claims made in the petition. The petition and supporting information identified numerous factors affecting the Tehachapi slender salamander including: road construction, residential and commercial development, mining, grazing, and flood control projects (Factor A); lack of regulatory mechanisms protecting the species and its habitat (Factor D); and climate change and environmental, genetic, and demographic stochastic events (Factor E). Of the factors listed above, we conclude that substantial information was provided that road construction, residential and commercial development, livestock grazing, and mining (Factor A) may threaten Tehachapi slender salamanders. We also found that the species may be threatened by the inadequacy of existing regulatory mechanisms (Factor D) and stochastic events (Factor E).

On the basis of information provided in the petition and other information readily available to us, we have determined that the petition presents substantial scientific or commercial information that listing the Tehachapi slender salamander may be warranted. Therefore, we are initiating a status review to determine if listing the species is warranted. During the status review, we will consider threats to the Tehachapi slender salamander under all of the listing factors above. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding this species.

The petitioner also requested that critical habitat be designated for the Tehachapi slender salamander. We always consider the need for critical habitat designation when listing species. If we determine in our 12-month finding following the status review of the species that listing the Tehachapi slender salamander is warranted, we will address the designation of critical habitat at the time of the proposed rulemaking.

Significant Portion of the Species' Range

The petitioner seeks to list the entire Tehachapi slender salamander species. During our status review we will evaluate whether the best available scientific and commercial information supports listing the species throughout its entire range, or whether there may be a significant portion of the range that may be threatened or endangered. As a result, we will defer our analysis and determination of issues of significant portion of range to our status review and the 12-month finding.

A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination as to whether a petitioned action is warranted is not made until we have completed a thorough status review of the species, which is conducted following a positive 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, a positive 90-day finding does not mean that the 12-month finding also will be positive.

References Cited

A complete list of all references cited is available, upon request, from our Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

Author

The primary author of this notice is the staff of the Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

Authority

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

Dated: April 15, 2009.

Rowan W. Gould,

Director, U.S. Fish and Wildlife Service.

[FR Doc. E9-9220 Filed 4-21-09; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R3-ES-2009-0017; 92210-1117-0000-FY09-B4]

RIN 1018-AW47

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Hine's Emerald Dragonfly

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised proposed rule; reopening of public comment period, proposal to designate additional critical habitat unit.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our July 26, 2006, proposed rule on the designation of critical habitat for the Hine's emerald dragonfly (*Somatochlora hineana*) under the Endangered Species Act of 1973, as amended (Act). At this time the Service is reconsidering designating critical habitat on the Hiawatha National Forest in Michigan and the Mark Twain National Forest in Missouri as identified in the July 26, 2006, proposal. During the process of reconsidering the exclusion of these Federal lands, critical habitat designated by the September 5, 2007, final rule remains in place, while the Federal lands as described in the July 2006 proposed rule are considered as proposed critical habitat. Through this notice, the Service is also taking the opportunity pursuant to section 4(a)(3)(B) of the Act to propose a new unit on the Mark Twain National Forest that was not known to be occupied by the Hine's emerald dragonfly at the time of the September 5, 2007, final rule but has since been discovered. The reopened comment period will provide all interested parties with an additional opportunity to submit written comments on the proposed rule, specifically regarding the new proposed unit and the exclusion of U.S. Forest Service lands from the 2007 final designation. Comments previously submitted on the proposed critical habitat designation need not be resubmitted; they have already been incorporated into the public record and will be fully considered in the final decision.

DATES: We will consider comments received on or before June 22, 2009.

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

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

• *U.S. mail or hand-delivery*: Public Comments Processing, Attn: RIN 1018-AW47, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

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

FOR FURTHER INFORMATION CONTACT: John Rogner, Field Supervisor, Chicago Illinois Ecological Services Field Office, 1250 S. Grove, Suite 103, Barrington, IL 60010, (telephone (847) 381-2253 extension 11; facsimile (847) 381-2285). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from the proposed rule will be as accurate and as effective as possible. Therefore, we request comments or suggestions on the proposed designation of critical habitat for the Hine's emerald dragonfly (*Somatochlora hineana*).

We particularly seek comments concerning:

(1) The reasons why we should or should not revise currently designated critical habitat for the Hine's emerald dragonfly by including 13,295 acres (ac) (5,380 hectares (ha)) on the Hiawatha National Forest in Michigan and the Mark Twain National Forest in Missouri in the final designation;

(2) Specific information on the amount and distribution of Hine's emerald dragonfly habitat on the Hiawatha National Forest in Michigan or the Mark Twain National Forest in Missouri;

(3) Any foreseeable economic, national security, or other potential impacts resulting from the proposed critical habitat revision, and in particular, any impacts on small entities; and

(4) Information on the degree to which species-specific management plans have been implemented on U.S. Forest Service lands, and the effectiveness of any management actions implemented in reducing threats facing the Hine's emerald dragonfly and its habitat or in improving its population status.

You may submit your comments and materials concerning the proposed

revised designation of critical habitat for the Hine's emerald dragonfly by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. If you provide personal identifying information in addition to the required items specified in the previous paragraph, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the revised proposed designation of critical habitat for the Hine's emerald dragonfly, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the Service's Chicago Illinois Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On September 5, 2007, the Service published a final rule in the **Federal Register** (72 FR 51102) designating 13,221 ac (5,350 ha) as critical habitat for the Hine's emerald dragonfly in Illinois, Michigan, Missouri, and Wisconsin. In that 2007 final rule, the Service excluded U.S. Forest Service land in Michigan and Missouri from the designation, under section 4(b)(2) of the Act. The 14 units that make up the U.S. Forest Service lands were fully described in the July 26, 2006, proposed rule to designate critical habitat for the Hine's emerald dragonfly (71 FR 42442). The U.S. Forest Service lands make up all or portions of Michigan units 1 and 2 and Missouri units 1, 2, 4, 5, 7, 8, 11, 21, and 23 through 26. In the 2006 proposed rule, we explained that we were considering those areas for exclusion from the final designation, and subsequently excluded them from the 2007 final rule. We are now reconsidering those exclusions.

On March 10, 2008, six parties (Northwoods Wilderness Recovery, The Michigan Nature Association, Door County Environmental Council, The Habitat Education Center, Natural Resources Defense Council, and The Center for Biological Diversity) filed a complaint against the Department of the Interior and the Service (*Northwoods Wilderness Recovery et al. v. Dirk Kempthorne* 1:08-CV-01407)

challenging the exclusion of U.S. Forest Service lands from the 2007 final designation of critical habitat for the dragonfly. On February 12, 2009, the U.S. District Court for the Northern District of Illinois approved a settlement agreement in which the Service agreed to a remand without vacatur of the critical habitat designation in order to reconsider the Federal exclusions from the designation of critical habitat for the Hine's emerald dragonfly. Per that settlement, we agreed to publish this notice reopening the comment period on the July 26, 2006, proposed critical habitat and that, upon publication of this notice, the July 26, 2006, proposed critical habitat designation of the U.S. Forest Service lands in Michigan and Missouri would be reinstated as proposed. Furthermore, until the effective date of the revised final critical habitat determination, the existing designation of critical habitat for the Hine's emerald dragonfly will remain in place and effective. The Service will submit a revised final critical habitat designation for the Hine's emerald dragonfly to the **Federal Register** by April 15, 2010.

We are reopening the comment period to allow all interested parties to submit comments and materials on the potential inclusion of land on the Hiawatha National Forest in Michigan and the Mark Twain National Forest in Missouri in the final designation of critical habitat for the Hine's emerald dragonfly. Through this notice, we are also taking the opportunity to revise our 2006 proposed rule pursuant to section 4(a)(3)(B) of the Act by proposing an additional unit, Missouri Unit 27, on the Mark Twain National Forest in Missouri that was not known to be occupied by the Hine's emerald dragonfly at the time of the 2007 final rule, but has since been discovered through survey efforts. Previously submitted comments for this proposed rule need not be resubmitted. Those comments have been incorporated into the public record and will be fully considered in our final determination.

Critical Habitat Units on U.S. Forest Service Lands as Described in the July 26, 2006, Proposal (71 FR 42442)

The units described below are areas that were not documented to be occupied at the time of listing but are currently occupied and are considered essential to the conservation of the species due to the limited numbers and small sizes of extant Hine's emerald dragonfly populations. Recovery criteria established in the recovery plan for the species (Service 2001, pp. 31-32) call for a minimum of three populations,

each containing at least three subpopulations, in each of two recovery units. Within each subpopulation there should be at least two breeding areas, each fed by separate seeps and springs. Management and protection of all known occupied areas are necessary to meet these goals.

Michigan Unit 1—Mackinac County, Michigan

Michigan Unit 1 contains 9,452 ac (3,825 ha) in Mackinac County in the Upper Peninsula of Michigan. This area was not known to be occupied at the time of listing. All primary constituent elements (PCEs) for the Hine's emerald dragonfly are present in this unit. The unit contains at least four breeding areas for Hine's emerald dragonfly, with female oviposition or male territorial patrols observed at all breeding sites. Adults have also been observed foraging at multiple locations within this unit. The unit contains a mixture of fen, forested wetland, forested dune and swale, and upland communities that are important for Hine's emerald dragonfly breeding and foraging. The habitat is mainly spring-fed rich cedar swamp or northern fen. The breeding areas are open with little woody vegetation or are sparsely vegetated with northern white cedar (*Thuja occidentalis*). Small shallow pools and seeps are common. Crayfish burrows are found in breeding areas. Corridors between the breeding areas make it likely that adult dragonflies could travel or forage between the breeding sites. The majority of this unit is owned by the Hiawatha National Forest. Threats, including nonnative species invasion, woody encroachment, off-road vehicle use, logging, and utility and road right-of-way maintenance, have the potential to impact the habitat. Small portions of the unit are owned by the State of Michigan and private individuals. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Michigan Unit 2—Mackinac County, Michigan

Michigan Unit 2 consists of 3,511 ac (1,421 ha) in Mackinac County in the Upper Peninsula of Michigan. This area was not known to be occupied at the time of listing. All PCEs for the Hine's emerald dragonfly are present in this unit. The unit contains at least four breeding areas for Hine's emerald

dragonfly, with female oviposition or male territorial patrols observed at all breeding sites. The unit contains a mixture of fen, forested wetland, forested dune and swale, and upland communities that are important for Hine's emerald dragonfly breeding and foraging. The breeding habitat varies in the unit. Most breeding areas are northern fen communities with sparse, woody vegetation (northern white cedar) that are probably spring-fed with seeps and marl pools present. One site is a spring-fed marl fen with sedge-dominated seeps and marl pools. Crayfish burrows are found in breeding areas. Corridors between the breeding areas, including a large forested dune and swale complex, make it likely that adult dragonflies could travel or forage between the breeding sites. The majority of this unit is owned by the Hiawatha National Forest and is designated as a Wilderness Area. Threats, including nonnative species invasion, woody encroachment, and off-road vehicle use, have the potential to impact the habitat. About one percent of the unit is owned by private individuals. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 1—Crawford County, Missouri

Missouri Unit 1 consists of 90 ac (36 ha) in Crawford County, Missouri, and is under U.S. Forest Service ownership. This fen is in close proximity to the village of Billard and is associated with James Creek, west of Billard. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are present in this unit. The fen provides surface flow, and includes larval habitat and adjacent cover for resting and predator avoidance. The fen and an adjacent open pasture provide foraging habitat that is surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this locality. Threats identified for this unit include feral hogs and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 2—Dent County, Missouri

Missouri Unit 2 is comprised of 34 ac (14 ha) in Dent County, Missouri, and is under U.S. Forest Service and private ownership. The U.S. Forest Service portion of this unit comprises 15 ac (6 ha), and is the only portion of the unit we are reconsidering for inclusion. It is located north of the village of Howes Mill and in proximity to County Road (CR) 438. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are present in this unit—the U.S. Forest Service portion of the unit provides foraging areas for the species. The fen provides surface flow, and includes larval habitat and adjacent cover for resting and predator avoidance. The fen and an adjacent open old field provide foraging habitat and are surrounded by contiguous, closed-canopy forest. Adults have been documented from the U.S. Forest Service portion of this locality. Threats identified for this unit include all-terrain vehicles, feral hogs, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. Only the exclusion of the Forest Service portion of this unit from the 2007 final designation is being reconsidered.

Missouri Unit 4—Dent County, Missouri

Missouri Unit 4 is owned and managed by the U.S. Forest Service, and consists of 14 ac (6 ha) in Dent County, Missouri. This fen is associated with a tributary of Watery Fork Creek in Fortune Hollow and is located east of the juncture of Highway 72 and Route MM. This area was not known to be occupied at the time of listing. The fen provides surface flow, and includes larval habitat and adjacent cover for resting and predator avoidance. All PCEs for Hine's emerald dragonfly are provided in this unit. The fen and adjacent old fields provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this locality. Threats identified for this unit include feral hogs and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 5—Iron County, Missouri

Missouri Unit 5 is comprised of 50 ac (20 ha) in Iron County, Missouri, and is under U.S. Forest Service ownership. This fen is adjacent to Neals Creek and Neals Creek Road, southeast of Bixby. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided in this unit. The fen consists of surface flow and is fed, in part, by a wooded slope north of Neals Creek Road. This small but high-quality fen provides larval habitat and adjacent cover for resting and predator avoidance. The fen, adjacent fields, and open road provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. Both adults and larvae have been documented from this unit. Threats identified for this unit include all-terrain vehicles, feral hogs, road construction and maintenance, beaver dams, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 7—Phelps County, Missouri

Missouri Unit 7 consists of 33 ac (13 ha) in Phelps County, Missouri, and is owned and managed by the U.S. Forest Service. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided in this unit. This fen is associated with Kaintuck Hollow and a tributary of Mill Creek, and is located south-southwest of the town of Newburg. This high-quality fen provides larval habitat and adjacent cover for resting and predator avoidance. The fen, adjacent fields, and open road provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. Despite repeated sampling for adults and larvae, only one exuviae (shed larval exterior) has been documented from this unit. Threats identified for this unit include all-terrain vehicles, feral hogs, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 8—Reynolds County, Missouri

Missouri Unit 8 is part of the Bee Fork complex. Bee Fork West, the U.S. Forest Service portion of the complex, consists of 4 ac (2 ha) in Reynolds County, Missouri. This locality is part of a series of three fens adjacent to Bee Fork Creek, extending from east-southeast of Bunker east to near the bridge on Route TT over Bee Fork Creek. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided within the unit. The fen provides surface flow and is fed, in part, by a small spring that originates from a wooded ravine just north of the county road bordering the northernmost fen in the complex. The unit, in conjunction with the rest of the complex, is one of the highest quality representative examples of an Ozark fen in the State. The fen provides larval habitat and adjacent cover for resting and predator avoidance. The fen, adjacent fields, and open road provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. Both adults and larvae have been documented from this unit. The entire complex is an extremely important focal area for conservation actions that benefit Hine's emerald dragonfly. It is likely that the species uses Bee Fork Creek as a connective corridor between adjacent components of the complex. Threats identified for this unit include feral hogs, ecological succession, utility maintenance, application of herbicides, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit (unit 8) from the 2007 final designation is being reconsidered—however the exclusion of the rest of the Bee Fork complex (units 9 and 10 from the 2006 proposal) is not being reconsidered.

Missouri Unit 11—Reynolds County, Missouri

Missouri Unit 11 is under private and U.S. Forest Service ownership and consists of 113 ac (46 ha) in Reynolds County, Missouri. The U.S. Forest Service portion of this unit comprises 22 ac (9 ha), and is the only portion of the unit we are reconsidering for inclusion. The unit is a series of small fen openings adjacent to a tributary of Bee Fork Creek, and is located east of the intersection of Route TT and Highway 72, extending north to the Bee Fork Church on County Road 854. This

area was not known to be occupied at the time of listing. This unit in its entirety is one of the highest quality representative examples of an Ozark fen in the State and incorporates much of the valley within Grasshopper Hollow. All PCEs for Hine's emerald dragonfly are provided in this unit—the U.S. Forest Service portion of the unit provides foraging areas for the species. The fen provides surface flow and includes larval habitat and adjacent cover for resting and predator avoidance. The fen, adjacent fields, and open path provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. Adults have been documented from the U.S. Forest Service portion of this unit. Threats identified for this unit include feral hogs, beaver dams, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. Only the exclusion of the Forest Service portion of this unit from the 2007 final designation is being reconsidered.

Missouri Unit 21—Ripley County, Missouri

Missouri Unit 21 is a very small fen and consists of 6 ac (2 ha) in Ripley County, Missouri. It is under U.S. Forest Service ownership and is located west of Doniphan. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided in this unit. The fen provides surface flow and includes larval habitat and adjacent cover for resting and predator avoidance. The fen and adjacent open, maintained county road provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this locality. Threats identified for this unit include feral hogs, all-terrain vehicles, equestrian use, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Units 23 and 24—Washington County, Missouri

Missouri Units 23 and 24 comprise the Towns Branch and Welker Fen complex and consist of 75 ac (31 ha) near the town of Palmer in Washington County, Missouri. The complex consists

of two fens that are under U.S. Forest Service ownership. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided in this unit. These fens provide surface flow and include larval habitat and adjacent cover for resting and predator avoidance. The fens and adjacent open, maintained county roads provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this complex. Threats identified for this unit include feral hogs, all-terrain vehicles, road construction and maintenance, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 25—Washington County, Missouri

Missouri Unit 25 consists of 33 ac (13 ha) and is located northwest of the town of Palmer in Washington County, Missouri. The fen is associated with Snapps Branch, a tributary of Hazel Creek, and is owned and managed by the U.S. Forest Service. This area was not known to be occupied at the time of listing. All PCEs for Hine's emerald dragonfly are provided in this unit. The fen provides surface flow, and includes larval habitat and adjacent cover for resting and predator avoidance. The fen and adjacent old logging road with open canopy provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this locality. Threats identified for this unit include feral hogs, all-terrain vehicles, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Missouri Unit 26—Wayne County, Missouri

Missouri Unit 26 is owned and managed by the U.S. Forest Service and consists of 5 ac (2 ha). This extremely small fen is located near Williamsville and is associated with Brushy Creek in Wayne County, Missouri. This area was not known to be occupied at the time of

listing. All PCEs for Hine's emerald dragonfly are provided in this unit. The fen provides surface flow and includes larval habitat and adjacent cover for resting and predator avoidance. The fen and adjacent logging road with open canopy provide habitat for foraging and are surrounded by contiguous, closed-canopy forest. To date, only larvae have been documented from this unit. Threats identified for this unit include feral hogs, all-terrain vehicles, and habitat fragmentation. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. The exclusion of this entire unit from the 2007 final designation is being reconsidered.

Additional Proposed Critical Habitat Unit

Through this notice the Service is also taking the opportunity pursuant to section 4(a)(3)(B) of the Act to propose a new unit on the Mark Twain National Forest that was not known to be occupied by the Hine's emerald dragonfly at the time of the September 5, 2007, final rule, but has since been discovered to be occupied. Based on our evaluation of research results from recent fieldwork, we have determined that a newly discovered site in Washington County, Missouri, is essential to the conservation of Hine's emerald dragonfly. The collection of a final instar male larva from this site provides evidence of breeding at this locality. The additional proposed critical habitat unit, Missouri Unit 27, is described below.

Missouri Unit 27—Crawford County, Missouri

Missouri Unit 27 is owned and managed by the U.S. Forest Service and is approximately 3.25 miles (5.23 kilometers) west and southwest of Brazil, Missouri, or about 0.25 mile (0.40 kilometer) southeast of Center Post Church in Crawford County, Missouri. The unit consists of approximately 3 ac (1.21 ha). This unit was not known to be occupied at the time of listing. All PCEs for the Hine's emerald dragonfly identified in the July 26, 2006, proposed rule (71 FR 42442) are present in this unit. Adult Hine's emerald dragonflies have been observed at the site and successful breeding was confirmed (Vogt 2008, p. 10). Surface water consists primarily of seepage pools and small rivulets. Parts of the fen include an open field with scattered shrubs and eastern red cedar (*Juniperus virginiana*)

that is likely used as a foraging area by adults. This unit is essential to the conservation of the species because it provides for the redundancy and resilience of populations in this portion of the species' range, where habitat is under threat from multiple factors. Known threats to the PCEs that may require special management or protections include invasion of undesirable plant species, feral hogs, all-terrain vehicles, and equestrian use.

Required Determinations

In this notice, we are affirming the information contained in our July 26, 2006, proposed rule (71 FR 42442), concerning Executive Order (E.O.) 13132 (Federalism), and E.O. 12988 (Civil Justice Reform); the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). We also affirm the determinations made in our March 20, 2007, revised proposed rule and announcement of the availability of the draft economic analysis (72 FR 13061), regarding E.O. 12866 (Regulatory Planning and Review) and the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*); E.O. 13211 (Energy, Supply, Distribution, and Use); E.O. 12630 (Takings); and the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*). Please refer to the proposed rule and draft economic analysis of the proposed critical habitat designation for detailed discussions of required determinations and potential economic impacts. The economic analysis prepared for the original rulemaking included an analysis for Forest Service lands (the Mark Twain National Forest) in Missouri. The newly proposed additional unit also occurs on these lands. It is a relatively small unit and would be subject to the same issues previously analyzed. We will discuss the economics related to this additional unit in our final decision document on this action. If we adopt a final rule for this action, we will confirm our required determinations in that final rule to designate critical habitat for the Hine's emerald dragonfly.

References

Vogt, T. 2008. Larval Sampling, Monitoring, and Status Survey for the Hine's Emerald Dragonfly (*Somatochlora hineana*) in Missouri, 2007–2008. Report to the U.S. Forest Service and U.S. Fish and Wildlife Service. 10p.

Authors

The primary authors of this document are Laura Ragan and Kristopher Lah of the Division of Ecological Services, Midwest Region, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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. Critical habitat for the Hine’s emerald dragonfly (*Somatochlora hineana*) in § 17.95(i), which was first proposed to be added on July 26, 2006, at 71 FR 42442 and then amended on March 20, 2007, at 72 FR 13061, is proposed to be further amended as follows:

- a. By redesignating paragraphs (i)(24) through (i)(30) as paragraphs (i)(25) through (i)(31); and
- b. Adding a new paragraph (i)(24) to read as set forth below:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

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Hine’s emerald dragonfly (*Somatochlora hineana*)

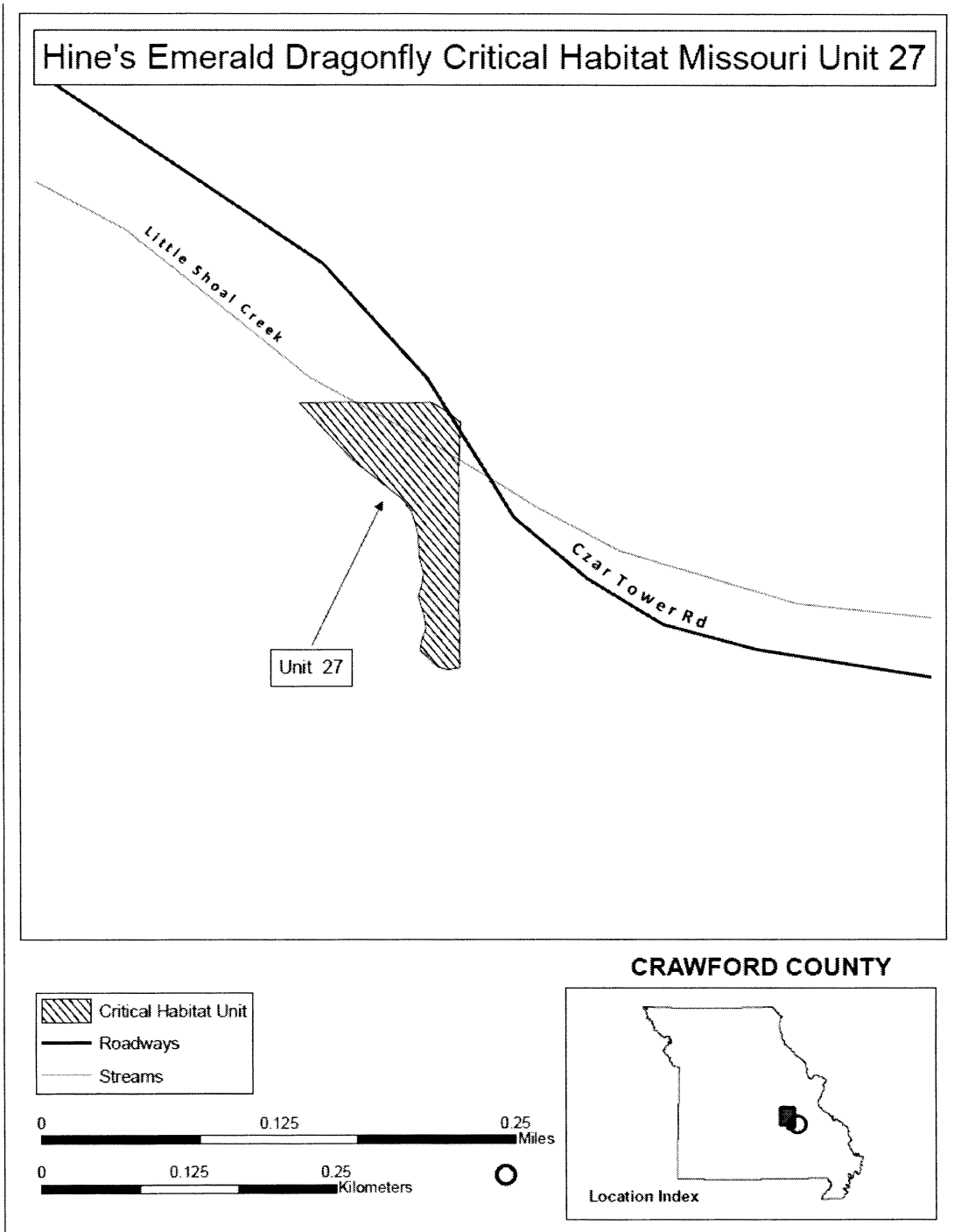
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(24) Missouri Unit 27, Washington County, Missouri.

(i) Missouri Unit 27: Washington County. Located on the Courtois quadrangle in Township 36 north, Range 2 west, section 14, northeast ¼, southwest ¼, northwest ¼.

(ii) *Note:* Map of Missouri proposed critical habitat Unit 27 follows:

BILLING CODE 4310–55–P



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Dated: April 15, 2009.
Will Shafroth,
Acting Assistant Secretary, Department of the Interior.
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