

32215 (telephone 904/791-2580, FTS 946-2580). The petitions, findings, and supporting data are available for public inspection, by appointment, during normal business hours at the addresses listed above.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Hartfield at the Jackson, Mississippi, Field Office listed above, or Mr. Dave Martin at the Jacksonville, Florida, Field Office listed above.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or ~~reclassify~~ a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register.

The Service has received and made a 90-day finding on the following petition for Dr. Byron J. Freeman. It was dated February 23, 1990, and was received by the Service on February 28, 1990. It requested the Service to place the crayfish *Cambarus englishi* on the list of Endangered and Threatened Wildlife.

The petition stated that *Cambarus englishi* is endemic to the Tallapoosa River system in Georgia and Alabama, has a restricted range, and faces a significant threat to its continued existence in the upper portion of its range. The known range was indicated to be Haralson County, Georgia, and Clay, Cleburne, and Tallapoosa Counties, Alabama. The petition stated that the primary threat to the Georgia portion of the range is the proposed Haralson County reservoir. The proposed reservoir would purportedly inundate approximately 18 river miles and affect downstream habitat through altered water releases from the reservoir. The petition also indicated the habitat was lost in Alabama in the 1980's due to the construction of Harris Reservoir, which impounded portions of both the Tallapoosa and Little Tallapoosa Rivers. Other information supplied with the petition suggested *Cambarus englishi* to be restricted to main stem riffle areas of the Tallapoosa River proper.

In assessing this petition, the Service supplemented information supplied by the petitioner with other information available from various experts, from collection records and with actual field work conducted by personnel of the

Jackson, Mississippi, Field Office. The following summarizes the available information.

Historically, collection effort for *C. englishi* has been very limited. Published papers by H.H. Hobbs, Jr. (1972, 1981, 1989) and R.W. Bouchard (1978) confirm basic range information supplied by the petitioner. Recent contacts with Bouchard and Hobbs, and with Jan Clark at the U.S. National Museum revealed that the specific localities referenced in Bouchard's and Hobbs' publications include two main stem Tallapoosa River collections of the species in Georgia, one main stem river collection in Cleburne County, Alabama, one in Enitachopco Creek, Clay County, Alabama, and one in Hilabee Creek, Tallapoosa County, Alabama. The tributary collections greatly extend the potential range of the species in the Tallapoosa system.

The Jackson Field Office contacted ten museums or other institutions that might have crayfish holdings in an attempt to better determine the abundance and distribution of the species. Only the U.S. National Museum had collections where *C. englishi* was identified. Conversations with various personnel at these institutions indicated almost unanimous agreement that the Tallapoosa drainage is severely undercollected for crayfish.

In an effort to determine the extent and location of potential habitat for *C. englishi*, biologists from the Jackson Field Office spent two days during April 1990 checking streams in the Tallapoosa drainage. A total of 51 river and tributary road crossings were visited in Haralson County, Georgia, and Cleburne, Randolph, Clay, Tallapoosa, Elmore and Macon Counties, Alabama. Potential *C. englishi* habitat (rocky riffles with strong currents) was observed in tributaries and unimpounded reaches of the Tallapoosa River below Georgia Route 100 in Haralson County, Georgia and at most sites visited in Cleburne, Clay, Randolph and Tallapoosa Counties, Alabama.

Although bad weather and high water were not conducive to sampling, nine limited collections of crayfish were made. Six of the collections were identified by Field Office biologists Paul Hartfield as containing *C. englishi* and were confirmed by Dr. J.F. Fitzpatrick, University of South Alabama, Mobile, Alabama. One collection was from the type locality in Georgia, and another was from a previously recorded site on Enitachopco Creek, Clay County, Alabama. The other four were new collection records for the species: Tallapoosa River at Alabama Route 66,

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Notice of Finding on Petitions to List a Tallapoosa River Crayfish and *Cladonia perforata* (Perforate Reindeer Lichen)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of finding on petitions.

**SUMMARY:** The Service announces 90-day and 12-month findings for two petitions to amend the Lists of Endangered and Threatened Wildlife and Plants. (A 90-day finding has been made for the crayfish *Cambarus englishi* that substantial information has not been presented to indicate that listing the species may be warranted. In the case of *Cladonia perforata*, the perforate reindeer lichen, the Service has made a 12-month finding that the requested action is warranted but precluded by other actions to amend the lists.

**DATES:** The findings announced in this notice were made in June 1990. Comments and information may be submitted until further notice.

**ADDRESSES:** Information, comments or questions regarding the crayfish petition may be submitted to the U.S. Fish and Wildlife Service, Jackson Mall Office Center, 300 Woodrow Wilson Avenue, Suite 316, Jackson, Mississippi 39213 (telephone 601/965-4900, FTS 490-4900). Information, comments or questions regarding the lichen petition should be submitted to the U.S. Fish and Wildlife Service, 3100 University Boulevard, South, Suite 120, Jacksonville, Florida

standard which apply to the existing AM band; and (8) require only 50% nighttime city coverage (using the RSS method without exclusion) when we attempt to match applicants and allotments in the expanded band.

12. Second, we intend to give broadcasters both the ability and the incentive to use their own initiative to improve AM radio service to the public. Again, we have begun this effort. In a companion Report and Order to this Notice (See the Report and Order in MM Docket 89-48, FCC 90-137, adopted April 12, 1990), we authorize licensees to undertake private negotiations to reduce interference among AM stations. To encourage broadcasters to use this tool, we now propose that the Commission issue tax certificates to broadcasters agreeing to surrender their licenses to reduce interference to co-channel or adjacent channel stations. To create an additional incentive for licensees to reduce interference, we also propose a limited relaxation of our multiple ownership rules. We proposed to permit ownership of AM stations with overlapping principal city contours if the licensee agrees to adjust operation of either station to reduce co-channel or adjacent interference to other AM broadcasters. We seek comment on several issues relating to this effort. For example: (a) Whether the use of tax certificates in this case would be consistent with our past uses of this tool; (b) what are the tax implications of voluntary license surrender agreements, *i.e.*, how could they be structured to constitute a sale of property under 26 U.S.C. 1071; (c) whether we should require a showing that interference will be reduced by some prescribed amount as a prerequisite to our issuing the certificate; and (d) when that certificate should issue. Also, should the Commission likewise issue tax certificates to licensees receiving payment from other licensees to reduce their service area, and whether and how such an agreement to reduce coverage would constitute a sale of property falling within the scope of—26 U.S.C. 1071 and how any tax certificate would apply in such a situation. Comments are further sought on what measure might be appropriate to reduce and to resolve quickly and fairly conflicts among groups of contingent applications designed to improve the AM service.

13. Finally, as a result of the 1979 International Telecommunication Union World Administrative Radio Conference (WARC) and the later, companion Regional Administrative Radio Conference (RARC), the western hemisphere has been assigned an

additional 10 channel allocation, 1605-1705 kHz. With few exceptions, the United States has been allotted 1620, 1640, 1660, 1680, and 1700 kHz for nationwide use. This allocation offers use a unique opportunity to reduce congestion and interference on existing AM channels. It is an opportunity that we intend to seize. Thus, the third step in our plan to improve AM service will be to encourage those AM stations making the most significant contribution to congestion and interference in the existing band to move their operations to one of the new channels. This Notice proposes principles to govern the allocation of stations to those new channels, as well as the eligibility criteria and preferences designed to achieve this objective. In this regard, the Notice proposes, in part, to: (1) Modify parts 2 and 90 of the Commission's Rules, to permit Travelers Information Stations to be assigned to any of the ten channels between 1605 and 1705 kHz; (2) limit the additional spectrum, at least initially, to existing station operators, thus leading to the reduction of congestion and interference in the existing AM band, with first preference given to fulltime stations; (3) consider ahead of all other daytime-only operations, the requests of stations proposing to migrate to the expanded band that would also provide a first local fulltime aural service to cities with populations of 100,000 or more; (4) assign stations at predetermined distances with generally fixed technical parameters, with flexible station separations; and (5) develop factors for ranking stations based upon the extent to which the migration of each petitioner would improve service quality in the existing band.

14. In this Notice, we have outlined our three pronged attack on the problems confronting the existing AM service. We have proposed changes to our technical standards, changes to some non-technical requirements, and our planned use of the expanded band. Such a combined approach, we believe, is necessary to improve the AM service. This proceeding covers a wide range of issues with no simple answers. We request comments on the issues and proposals addressed in this Notice and encourage full participation of station licensees, their engineering and legal representatives and receiver manufacturers. The comments should specifically address the issues summarized in this document and defined in full in the complete text of the Notice. We will, however, consider all relevant comments regarding improvement of the AM service.

#### Paperwork Reduction Act Statement

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

#### Ex Parte Consideration

15. This is a non-restricted proceeding. See §§ 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

#### Comment Information

16. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 15, 1990, and reply comments on or before November 14, 1990. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Non-binding letters of intent to migrate to the expanded AM band must be filed by October 15, 1990.

#### Initial Regulatory Flexibility Act Analysis

17. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, this proceeding should favorably affect the 5,000 AM operators as well as AM listeners and radio manufacturers, by revitalizing the AM radio industry, sharpening its competitive edge and thus enabling it to better serve the AM audience. It is intended to reduce interference and congestion currently handicapping AM radio station operators. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

18. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Inquiry, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance

carefully searched specifically for this lichen, strongly indicate that listing of this lichen may be warranted. Before a listing proposal is prepared, however, sand pine scrub vegetation in other parts of Florida (and possibly oak scrub vegetation in southeastern Georgia) should be searched. Most of the areas that should be searched have been visited by biologists seeking other plant and animal species, so an effective search can readily be organized.

On the basis of the best scientific and commercial information presently available, the Service found that the action requested by this petition is warranted, but precluded by work on other species having higher priority for listing.

Section 4(b)(3)(B)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. Expeditions progress is being made in listing endangered and threatened species and is reported annually in the *Federal Register*. The most recent progress report was published on April 25, 1990 (55 FR 17475).

#### References Cited

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Moore, B.J. 1968. The macrolichen flora of Florida. *The Bryologist* 71:161-267.

#### Author

The notice was prepared by Thomas W. Furnipseed, Division of Endangered Species, U.S. Fish and Wildlife Service,

75 Spring Street S.W., Atlanta, Georgia 30303, (404/331-3583 of FTS 481-3583.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, Transportation.

Dated: July 19, 1990.

Suzanne Mayer,

Acting Director, U.S. Fish and Wildlife Service.

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