

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Dododo	U.S.A. (CO, FL, ID, NM, UT, WY).	XN	487, 621	NA	17.84(h)
*	*	*	*	*	*	*	*

2. Section 17.95(b) is amended by deleting the map showing whooping crane critical habitat throughout the United States and Canada, and by deleting the maps and descriptions of critical habitat for the whooping crane in the States of Colorado, Idaho, and New Mexico.

Dated: August 14, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97-22087 Filed 8-15-97; 3:33 p.m.]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB97

Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the Southwestern Willow Flycatcher; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: On July 22, 1997, the U.S. Fish and Wildlife Service (Service) designated critical habitat for the southwestern willow flycatcher (*Empidonax traillii extimus*), a species federally listed as endangered under the authority of the Endangered Species Act of 1973, as amended (62 FR 39129). When proposed (58 FR 39495), the lateral extent of critical habitat for the southwestern willow flycatcher was defined as “* * * within 100 meters of the edge of areas with surface water during the May to September breeding season and within 100 meters of areas where such surface water no longer exists owing to habitat degradation but may be recovered with habitat rehabilitation.” In the final rule (62 FR 39129), the Fish and Wildlife Service mistakenly identified the lateral extent of each river mile designated to include areas within the 100-year floodplain. The Service herein revises the lateral extent of designated critical habitat to be within 100 meters of the edge of areas with surface water during the May to September breeding season and within

100 meters of areas where such surface water no longer exists owing to habitat degradation but may be recovered with habitat rehabilitation. This includes areas with thickets of riparian trees and shrubs and areas where such riparian vegetation does not currently exist but may become established with natural regeneration or habitat rehabilitation.

The Service, given the time constraints of complying with a court order, decided to designate critical habitat as it was proposed in 1993. This decision was made, in part, because any changes that would result in significant additions to the proposed critical habitat might require a new proposal and comment period, and the Service had neither sufficient time nor resources available. The only changes from the proposed rule that the Service intended to make in the final rule were the deletion of some minor areas that were found to have been proposed in error. See 62 FR 39136. The change in the lateral extent of critical habitat between the proposed and final rules was inadvertent and inconsistent with the intent of the Service. Because of its efforts to comply with the court-imposed deadline, the Service did not become aware of this error prior to the publication of the final rule.

The Service finds that notice and public procedure on this correction are impracticable, unnecessary, and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). The public has already had the opportunity to comment on the substance of this correction, as it is the language of the original proposal. The final rule’s deviation from the proposal in this regard was unintended by the Service. Because the rule which this rule corrects becomes effective on August 21, 1997, this correction must also become effective at that time in order to avoid unnecessary confusion.

EFFECTIVE DATE: August 21, 1997.

ADDRESSES: The complete administrative record for this rule is on file at the U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021. The complete file for this rule will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Sam F. Spiller, Field Supervisor, Arizona Ecological Services Office, U.S. Fish and Wildlife Service, at the above address (Telephone 602/640-2720).

§ 17.95 [Corrected]

Accordingly, under the authority of 16 U.S.C. 1361-1407, 1531-1544, 4201-4245, Pub. L. 99-625, 100 Stat. 3500, throughout the preamble and the final rule for the southwestern willow flycatcher (*Empidonax traillii extimus*) published on July 22, 1997, the phrase “within the 100 year floodplain” is revised to read “within 100 meters of the edge of areas with surface water during the May to September breeding season and within 100 meters of areas where such surface water no longer exists owing to habitat degradation but may be recovered with habitat rehabilitation.” In addition, on page 39137, column 1, paragraph 4, the last sentence should be deleted and replaced with the following: “However, the proposed rule established the lateral boundaries of critical habitat as within 100 meters of the edge of areas with surface water during the breeding season, and changing the lateral boundaries of critical habitat would result in significant additions to the areas proposed in 1993. Because there has been no proposed rulemaking for these additions, the Service determines that the lateral boundaries of critical habitat will remain, as proposed, within 100 meters of the edge of areas with surface water during the breeding season. The Service believes that these criteria provide reasonable critical habitat for the flycatcher, but recognizes that criteria that incorporate the dynamic nature of riparian habitat, such as the 100-year floodplain, may be appropriate and will take this into consideration should critical habitat for this species be revised.”

Dated: August 14, 1997.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

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