

FINDING OF NO SIGNIFICANT IMPACT

Listing Live Diploid and Triploid Black Carp (*Mylopharyngodon piceus*) as Injurious Wildlife under the Lacey Act

Background

The purpose of the action to list all forms of live black carp (*Mylopharyngodon piceus*), gametes and viable eggs as an injurious species under the Lacey Act is to prevent the importation and interstate movement of black carp, thereby preventing spread beyond their current locations and their further introduction into natural waters of the United States. This action was considered in order to protect native freshwater mollusks, native fishes and other animals that rely on mollusks for food from the potential negative impacts of black carp. The need for the action to add all forms of live black carp to the list of injurious wildlife under the Lacey Act developed as a result of the increased use of black carp to control exotic trematodes in fish culture and potential impacts of black carp on native mollusks. Both triploid and diploid black carp have been found in the natural waters of the United States. The increased reproduction, use and interstate transportation of triploid and diploid black carp is likely to result in additional releases into the wild and therefore poses increased risks to native mollusks and fishes. The environmental assessment (EA) addressed two action alternatives along with evaluating the consequences of the no-action alternative.

Decision

Based upon my review of all alternatives, I have decided to implement Alternative 2 which would list both diploid and triploid live black carp as injurious wildlife under the Lacey Act, and prohibit importation, and interstate transport of live black carp, gametes or eggs.

When compared to the other alternatives, this alternative will greatly reduce the risk of introduction of black carp into natural waters through importation or interstate transport, thereby minimizing the likelihood of spread beyond their current locations and their further introduction into natural waters of the United States. Black carp feed primarily on mollusks and snails, which are two of the most highly endangered species in the United States.

Other Alternatives Considered

In addition to the selected alternative, I considered two other alternatives: Alternative 1, No action, which refers to continuing the existing course of action or, more specifically, taking no action to list live black carp as an injurious species under the Lacey Act, which would allow the continued importation and interstate transport of both triploid and diploid black carp, gametes and eggs; and Alternative 3, list as injurious only diploid live black carp, gametes and eggs. This action would entail listing only diploid live black carp as injurious wildlife under the Lacey Act, which would prohibit importation and interstate transport of live diploid black carp, gametes or eggs. This alternative would allow continued importation of triploid black carp into the United States and transported across state lines for use. A comparison of these alternatives can be found in the EA starting on page 5.

Public Involvement

Based upon comments received from the public during the four rulemaking comment periods as well as comments from other agencies, several issues regarding the effects of the alternatives were identified. The main issues of concern included differences in risk level of diploid versus triploid use, increased risk of diploid black carp use and escape, if both diploids and triploids are listed, feasibility of testing each fish for ploidy, and alternatives to using black carp to control snails (see EA, attachment 1).

Finding of No Significant Impact

For the reasons presented and based upon an evaluation of the information contained in the final environmental assessment and supporting references, it is my determination that the proposal to list live diploid and triploid black carp as injurious wildlife does not constitute a major Federal action significantly affecting the quality of the human environment, considering the context and intensity of impacts, under the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Thus, an environmental impact statement will not be prepared. The environmental assessment supporting this determination is available at <http://www.fws.gov/contaminants/Issues/InvasiveSpecies.cfm>.

This determination is based on consideration of the following factors, which are addressed in the EA:

1. There will be no significant ecological impacts. No negative direct or indirect impacts to habitats will result from listing diploid and triploid black carp as injurious wildlife.
2. There will be no significant adverse impacts to native species. Only positive impacts to native species will result from listing diploid and triploid black carp as injurious wildlife as this is a preventative action to reduce the risk from the introduction of black carp into natural waters of the United States through importation or interstate transport. Any impacts to native species from the potential increased use of diploid black carp in States, where they already are found, cannot be controlled by the Service, as States regulate the species that can be utilized within State boundaries.
3. There will be no significant effects on public health and safety.
4. The cumulative impacts of listing diploid and triploid black carp in order to protect native species are not significant.
5. The action will not adversely affect any endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species act of 1973.
6. The action will not violate Federal, State, and local laws or requirements for the protection of the environment.

Findings Required by Other Laws and Regulations

This decision to designate live diploid and triploid black carp (*Mylopharyngodon piceus*), gametes and eggs as injurious wildlife under the Lacey Act is consistent with the intent of the Lacey Act which is to protect humans, the welfare and survival of wildlife and wildlife resources and the interests of agriculture, horticulture or forestry from actual and potential negative impacts from a species by preventing their importation and interstate movement.

The proposal has been coordinated with interested and/or affected parties. Parties contacted include, but are not limited to:

States:

Arizona Game & Fish Department
Arkansas Game and Fish Commission
Arkansas Finance Development Authority
Florida Fish and Wildlife Conservation Commission
Florida Department of Agriculture and Consumer Services
Georgia Department of Natural Resources
Illinois Department of Natural Resources
Iowa Department of Natural Resources
Louisiana Department of Wildlife and Fisheries
Kansas Department of Wildlife and Parks
Kentucky Commerce Cabinet, Department of Fish & Wildlife Resources
Kentucky State Nature Preserves Commission
Maryland Department of Nature Resources Fisheries Service
Michigan Department of Natural Resources

Minnesota Department of Natural Resources
Missouri Department of Conservation
Mississippi Department of Agriculture and Commerce
Montana Fish Wildlife & Parks
Nebraska Game & Parks Commission
New York State Department of Environmental Conservation
North Carolina Department of Agriculture and Consumer Services
North Dakota Game and Fish Department
Ohio Department of Natural Resources
Oklahoma Department of Wildlife Conservation
South Dakota Department of Game, Fish and Parks
Tennessee Wildlife Resources Agency
Texas Parks and Wildlife Department
Wisconsin Department of Natural Resources

Non-Governmental Organization's:

American Fisheries Society and various State and Local Chapters
American Malacological Society
Carnegie Museum of Natural History
Missouri River Natural Resources Committee
Logan Hollow Fish Farm
Defenders of Wildlife
Great Lakes United
Upper Mississippi River Conservation Committee
Great Lakes Fishery Commission
Trout Unlimited
Council of Lake Committees
Monroe County Fishery Advisory Board
The Nature Conservancy

American Farm Bureau Federation and various State Chapters
National Aquaculture Association
U.S. Aquaculture Society
Mississippi Interstate Cooperative Resource Association (MICRA, petitioner)
Lake Ontario Fisheries Coalition
BASS/ESPN Outdoors
Catfish Farmers of Arkansas
National Association of State Aquaculture Coordinators
WildLaw
Freshwater Mollusk Conservation Society
University of Arkansas at Pine Bluff, Aquaculture/Fisheries Center

Numerous individuals including two black carp fish farmers: Pete Kahrs, Osage Catfisheries, Inc., and Mike Freeze, Keo Fish Farm, Inc.; and two aquaculture economists: Terry Hanson and Carol Engle.

References:

Draft Environmental Assessment for Listing Black Carp (*Mylopharyngodon piceus*) as Injurious under the Lacey Act. August 2005.

Environmental Assessment for Listing Live Black Carp (*Mylopharyngodon piceus*) as Injurious under the Lacey Act. August 2006.

Comment letters from Federal Register notices:

- 1) Federal Register notice. 2000. Injurious Wildlife Species; Review of Information Concerning Black Carp (*Mylopharyngodon piceus*), Advance notice of proposed rulemaking. Vol. 66, no. 107, pages 35314-35315.

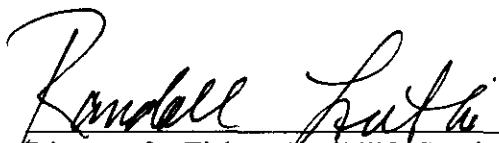
- 2) Federal Register notice. 2002. Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*), Proposed rule. Vol. 67, no. 146, pages 49280-49284.

- 3) Federal Register notice. 2003. Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*), Proposed rule, Reopening of comment period. Vol. 68, no. 107, pages 33431-33432.

- 4) Federal Register notice. 2005. Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*), Proposed rule, Reopening of comment period and availability of supplemental information. Vol. 70, no. 167, pages 51326-51327.

- 4a) Federal Register notice. 2005. Injurious Wildlife Species; Black Carp (*Mylopharyngodon piceus*), Extension of comment period. Vol. 70, no. 207, pages 61933-61934.

Approved by:



Director for Fish and Wildlife Service

5-30-07
Date