

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH91

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Rio Grande Silvery Minnow**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule; notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Rio Grande silvery minnow (*Hybognathus amarus*) (silvery minnow), an endangered species under the Endangered Species Act of 1973, as amended (Act). On June 6, 2002, we proposed that 212 miles (mi) (339 kilometers (km)) be designated as critical habitat for the silvery minnow. The silvery minnow critical habitat designation in the Rio Grande extends from Cochiti Dam, Sandoval County, New Mexico (NM) downstream to the utility line crossing the Rio Grande, a permanent identified landmark in Socorro County, NM, a total of approximately 157 mi (252 km), referred to as the "middle Rio Grande." The designation also includes the tributary Jemez River from Jemez Canyon Dam in NM to the upstream boundary of Santa Ana Pueblo, which is not included. The critical habitat designation defines the lateral extent (width) as those areas bounded by existing levees or, in areas without levees, 300 feet (ft) (91.4 meters (m)) of riparian zone adjacent to each side of the bankfull stage of the middle Rio Grande. The Pueblo lands of Santo Domingo, Santa Ana, Sandia, and Isleta within this area are not included in the final critical habitat designation. Except for these areas, the final remaining portion of the silvery minnow's occupied range in the middle Rio Grande in NM is being designated as critical habitat. This publication also provides notice of the availability of the final economic analysis and the final Environmental Impact Statement (EIS) for this final rule.

This final rule and EIS are being issued pursuant to a court order. On November 21, 2000, the United States District Court for the District of New Mexico, in *Middle Rio Grande Conservancy District v. Babbitt*, 206 F. Supp. 2d 1156 (D.N.M. 2000), set aside the July 6, 1999, critical habitat designation for the minnow and ordered us to issue both an EIS pursuant to the

National Environmental Policy Act (NEPA) and a new proposed rule designating critical habitat for the silvery minnow.

DATES: This final rule is effective March 21, 2003.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection, by appointment, during normal business hours at the New Mexico Ecological Services Field Office, 2105 Osuna Road NE, Albuquerque, NM 87113.

You may obtain copies of the final rule, the economic analysis, or the final EIS from the field office address above or by calling 505-346-2525. All documents are also available from our Web site at <http://ifw2es.fws.gov/Library/>.

If you would like copies of the regulations on listed wildlife or have questions about prohibitions and permits, contact the U.S. Fish and Wildlife Service, Division of Endangered Species, P.O. Box 1306, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT:

Field Supervisor, New Mexico Ecological Services Field Office (see **ADDRESSES** section above); telephone: 505-346-2525. Division of Endangered Species (see **ADDRESSES** section above); telephone 505-248-6920; facsimile 505-248-6788.

SUPPLEMENTARY INFORMATION:**Background**

The Rio Grande silvery minnow is one of seven species in the genus *Hybognathus* found in the United States (Pflieger 1980). The species was first described by Girard (1856) from specimens taken from the Rio Grande near Fort Brown, Cameron County, TX. It is a stout silvery minnow with moderately small eyes and a small, slightly oblique mouth. Adults may reach 3.5 inches (in) (90 millimeters (mm)) in total length (Sublette *et al.* 1990). Its dorsal fin is distinctly pointed with the front of it located slightly closer to the tip of the snout than to the base of the tail. The fish is silver with emerald reflections. Its belly is silvery white, its fins are plain, and barbels are absent (Sublette *et al.* 1990).

This species was historically one of the most abundant and widespread fishes in the Rio Grande Basin, occurring from Española, NM, to the Gulf of Mexico (Bestgen and Platania 1991). It was also found in the Pecos River, a major tributary of the Rio Grande, from Santa Rosa, NM, downstream to its confluence with the

Rio Grande (Pflieger 1980). The silvery minnow is extirpated from the Pecos River and also from the Rio Grande downstream of Elephant Butte Reservoir and upstream of Cochiti Reservoir (Bestgen and Platania 1991). The current distribution of the silvery minnow is limited to the Rio Grande between Cochiti Dam and Elephant Butte Reservoir. Throughout much of its historic range, the decline of the silvery minnow has been attributed to modification of the flow regime (hydrological pattern of flows that vary seasonally in magnitude and duration, depending on annual precipitation patterns such as runoff from snowmelt) and channel drying resulting from impoundments, water diversion for agriculture, stream channelization, and perhaps both interactions with non-native fish and decreasing water quality (Cook *et al.* 1992; Bestgen and Platania 1991; Service 1999; Buhl 2001).

Much of the species' life history information detailed below comes from studies conducted within the middle Rio Grande, the current range of the silvery minnow. Nevertheless, we believe that our determinations for other areas outside of the middle Rio Grande, but within the historic range of the silvery minnow, are consistent with the data collected to date on the species' ecological requirements (*e.g.*, Service 1999).

The role of the plains minnow (*Hybognathus placitus*) in the decline and extirpation of the silvery minnow from the Pecos River is uncertain; however, the establishment of the plains minnow coincided with the disappearance of the silvery minnow from the Pecos River (Bestgen and Platania 1991; Cook *et al.* 1992). Cook *et al.* (1992) believed that the non-native plains minnow was introduced into the Pecos drainage prior to 1964, and was probably the result of the release of "bait minnows" collected from the Arkansas River drainage. It is unclear, however, if populations of the native silvery minnow were depleted prior to the introduction of the plains minnow, or if the reduction and extirpation of the silvery minnow was a consequence of the interactions between the two species (C. Hoagstrom, U.S. Fish and Wildlife Service, pers. comm. 2001). One theory is that the plains minnow may be more tolerant of modified habitats and, therefore, was able to replace the silvery minnow in the degraded reaches of the Pecos River. Nevertheless, the plains minnow has experienced population declines within its native range from highly variable water levels, unstable streambeds, and fluctuating water temperatures (Cross *et al.* 1985, cited in