

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 26, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 48901-48902) advising that sufficient evidence was on file to support a determination that the greenback cutthroat trout was a Threatened species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, et seq. That proposal summarized the factors thought to be contributing to the likelihood that this fish could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination was made, and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Lamm of the State of Colorado on September 29, 1977, notifying him of the proposed rulemaking for the greenback cutthroat trout. On September 29, 1977, letters were sent to other Federal agencies notifying them of the proposal and soliciting their comments and suggestions.

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Greenback Cutthroat Trout as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the greenback cutthroat trout (*Salmo clarki stomias*) to be a Threatened species. This action will reclassify the greenback cutthroat trout from Endangered to Threatened. Conservation efforts by State and Federal agencies on behalf of this species have restored it to the point where it is no longer Endangered. Threats from hybridization and habitat alteration exist but are not serious enough to require an Endangered status; they do indicate, however, that the trout is Threatened. The greenback cutthroat trout occurs only in Colorado, and this rule would permit the species to be taken in accordance with the laws of that State.

DATE: This rule becomes effective May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

In the September 26, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 48901-48902) and associated Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period September 26, 1977, to December 31, 1977, were considered.

The Colorado Department of Natural Resources, Division of Wildlife, responded for the State. They supported the proposed reclassification of the greenback cutthroat trout as Threatened. They also expressed confidence in the recovery of the trout through the implementation of the Greenback Cutthroat Trout Recovery Plan.

The U.S. Forest Service and the National Park Service submitted comments concurring with the proposed reclassification of the greenback cutthroat trout.

One national conservation organization submitted comments and expressed concern that the proposed regulation did not expressly limit taking to areas which have reached carrying capacity nor limit such taking to non-commercial purposes. The State of Colorado will determine which populations would benefit from sport fishing and limit taking to those areas. State regulations prohibit taking of trout for commercial purposes.

CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the greenback cutthroat trout is threatened throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act. This review amplifies and substantiates the description of those factors and are described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The greenback cutthroat trout is less tolerant of adverse conditions than are other trouts such as brown trout or rainbow trout. Optimum conditions of oxygen, temperature, and water purity for the greenback cutthroat trout appear to be more stringent than for other trouts. The original distribution of the greenback cutthroat trout was the headwaters of the South Platte and Arkansas River basins. Permanent populations were restricted to the mountains and foothills because the warm, turbid conditions in the South Platte and Arkansas Rivers in the plains did not provide suitable habitat. The extirpation of the greenback cutthroat trout proceeded very rapidly due to competition and hybridization with introduced trouts and loss and degradation of habitat from mining, logging, grazing, and irrigation projects. By 1930, the greenback cutthroat trout in its pure form was commonly assumed to be extinct.

Protection of presently occupied habitat varies. Como Creek and Black Hollow Creek are on Roosevelt National Forest lands with the exception of a few hundred yards of the head of Como Creek, which is on the grounds of the Arctic and Alpine Research Institute of the University of Colorado. Bear Lake, Forest Canyon, Hidden Valley, and Caddis Lake are on lands of the Rocky Mountain National Park; Island Lake and the Boulder water-

shed lakes are on land owned by the city of Boulder. The headwaters of the Little South Platte River is on the Roosevelt National Forest and Rocky Mountain National Park. South Huerfano Creek is on a private ranch surrounded by the San Isabel National Forest and Florence Creek is on the Uintah and Ouray Indian Reservations. The habitats on public lands appear to be safe from degradation. Waters on private land either known to contain greenback cutthroat trout or in the historic range and possibly containing undiscovered populations continue to be threatened by habitat destruction due to logging, mining, grazing, or water development projects.

5. *Other natural or manmade factors affecting its continued existence.*—The greenback cutthroat trout is not likely to coexist successfully with other species of trout. The introduction of non-native trout within the range of the greenback cutthroat trout presents the most serious threat to its continued existence. Hybridization usually occurs with other subspecies of cutthroat trout and with rainbow trout. Eastern brook trout do not hybridize with greenback cutthroat trout wherever the two species occur together. Introduction of non-native trout into greenback cutthroat trout habitat by fishermen is a threat to the species, as is destruction of barrier dams.

EFFECT OF THE RULEMAKING

The effects of this determination and rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. All of these prohibitions and exceptions also apply to any Threatened species unless a special rule pertaining to the Threatened species has been published and indicates otherwise. In the case of the greenback cutthroat trout, the special regulation will allow "take" of the species in accordance with State laws.

This rule will not change the eligibility of the greenback cutthroat trout for the protection provided by Section 7 of the Act. That Section reads as follows:

INTERAGENCY COOPERATION

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of

this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

Although no Critical Habitat has yet been determined for this species, the other provisions of Section 7 are applicable.

Provisions for Interagency Cooperation were published at 50 CFR Part 402 on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the greenback cutthroat trout to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other, appropriate international agreements.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the greenback cutthroat trout. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

1. Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended by adding the greenback cutthroat trout, alphabetically under "Fishes," as follows:

§ 17.11 Endangered and threatened wildlife.

Species		Range					
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	S tatus	When listed	Special rules
Fishes Trout, greenback cutthroat.	<i>Salmo clarki stomias</i> .	N/A	U.S.A. (Colorado)	Entire.....	T	1, 38	17.44(f).....

2. Section 17.44 is amended by adding a new paragraph (f) as follows:

§ 17.44 Special rules—fishes.

* * * * *

(f) Greenback cutthroat trout (*Salmo clarki stomias*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

NOTE.—The Service has determined that this document does not contain a major re-

quiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 6, 1978.

LYNNE A. GREENWALT,
Director, Fish and
Wildlife Service.

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