

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Shortnose Sucker and Lost River Sucker

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*), fishes restricted to the Klamath Basin of south-central Oregon and north-central California. Dams, draining of marshes, diversion of rivers and dredging of lakes have reduced the range and numbers of both species by more than 95 percent. Remaining populations are composed of older individuals with little or no successful recruitment for many years. Both species are jeopardized by continued loss of habitat, hybridization with more common closely related species, competition and predation by exotic species, and insularization of remaining habitats. This rule implements the protection provided by the Endangered Species Act of 1973, as amended, for the shortnose sucker and Lost River sucker.

EFFECTIVE DATE: August 17, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:**Background**

Cope (1879) originally described the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*) from Upper Klamath Lake, Oregon. Later, Gilbert (1898) and Evermann and Meek (1898) described two other species of *Chasmistes* from the same lake. A careful review of all available specimens, however, documented that *brevirostris* is the only valid species of *Chasmistes* from Upper Klamath Lake and that the other two "species" were merely sex or condition

variants of *brevirostris* (Miller and Smith 1961).

The Lost River sucker was originally placed in the genus *Chasmistes* by Cope (1879). *Deltistes*, a monotypic genus, was erected for the Lost River sucker in 1896 based on the delta-shaped gill rakers (Seale 1896). In addition to the deltoid, short gill rakers, the Lost River sucker is characterized by subterminal mouth, small hump on the snout (at least in preserved specimens), and large size of adults (ca. 10 lbs.). The primary morphological characters that distinguish the shortnose sucker from other species of *Chasmistes* include the presence of a terminal, oblique mouth with weak or no papillae on the lips. Scales are small, with 65 to 79 in the lateral line and 21 to 25 around the caudal peduncle (Miller and Smith 1981).

Upper Klamath Lake and its tributaries are now the primary refuge for both the Lost River and shortnose suckers. A substantial population of shortnose suckers occurs in Copco Reservoir on the Klamath River, but the Lost River sucker population has practically been eliminated there (Beak Consultants 1987). Remnant or highly hybridized populations of these two species occur in the Lost River system and other nearby areas.

In addition to Upper Klamath Lake, Copco Reservoir, and their tributary streams, shortnose suckers and Lost River suckers have been collected from Iron Gate Reservoir, California (California Dept. of Fish and Game 1980), J.C. Boyle Reservoir, Oregon (Jeff S. Ziller, pers. comm.) and Clear Lake Reservoir, California (Coots 1965, Loch et al. 1975). Additionally, shortnose suckers have been collected from Lake of the Woods, Oregon (Andreasen 1975a). The Lost River sucker also was known from Sheepy Lake, Lower Klamath Lake and Tule Lake in California (Coots 1965).

The populations of shortnose and Lost River suckers in Copco and Iron Gate Reservoirs may have resulted from drift of individuals downstream in the Klamath River from Upper Klamath Lake. Specimens of shortnose suckers collected from Copco Reservoir in 1962, 1978 and 1979 were introgressed with the Klamath smallscale sucker (*Catostomus rimiculus*) (Miller and Smith 1981). Nonetheless, Miller and Smith (1981) regarded the Copco Reservoir population as consisting of a "relatively intact gene pool of *Chasmistes brevirostris*." A few shortnose suckers have recently been collected from J.C. Boyle Reservoir, located along the Klamath River between Upper Klamath Lake and Copco Reservoir. The status of this

population, which appears quite small, is uncertain. Other reaches of the Klamath River between Copco Reservoir and Upper Klamath Lake also may harbor small remnant populations of both species. The remaining populations of shortnose suckers have not fared as well. The Lake of the Woods population was lost in 1952 during a fish eradication program aimed at removing carp and perch from the lake (Andreasen 1975a). The Clear Lake Reservoir population of shortnose suckers shows evidence of extensive hybridization with the Klamath largescale sucker (*Catostomus snyderi*) (Williams et al. 1985), but further work is needed to precisely determine the genetic constitution of suckers in this system.

A few Lost River suckers have been collected from J.C. Boyle Reservoir in the Klamath River between Upper Klamath Lake and Copco Reservoir (Jeff S. Ziller, pers. comm.). Only one Lost River sucker was collected from Copco Reservoir in 1987 despite intensive collection efforts (Beak Consultants 1987). Populations of Lost River suckers in Sheepy Lake, Lower Klamath Lake and Tule Lake were lost after 1924, when the lakes were drained for farming (Moyle 1976). Prior to 1924, large numbers of Lost River suckers were taken from Sheepy Creek, the spawning stream tributary to Sheepy Lake, for human consumption and livestock feed (Coots 1965). The Clear Lake Reservoir population of Lost River suckers is the last known remnant of the species in the Lost River system. The population in Clear Lake Reservoir is small and suffers from large numbers of exotic species and lack of sufficient spawning area (Koch et al. 1975).

The primary factors in the widespread decline of the shortnose sucker and Lost River sucker have included damming of rivers, instream flow diversion, draining of marshes, dredging of Upper Klamath Lake and other forms of water manipulation. Dams have been particularly destructive in that they have blocked spawning runs of the fish and facilitated hybridization with other types of suckers in the dam's tailwaters. Although the construction of large reservoirs may provide suitable feeding and resting habitat for these lacustrine species, the reservoirs often lack long stretches of large inflowing rivers that are necessary for successful spawning. Such is the case in Clear Lake Reservoir, where small intermittent creeks are the only habitat that remains for spawning attempts.

Survey work performed in 1984-1986 by the Oregon Department of Fish and

Wildlife, The Klamath Tribe, and the Service have shown drastic declines in the largest remaining populations of both species in Upper Klamath Lake (Bienz and Ziller, ms.). During the 1984 survey, the population of shortnose suckers moving out of Upper Klamath Lake in the spawning run was estimated at 2,650 individuals. The 1985 and 1986 surveys found too few shortnose suckers to accurately estimate the population size. The catch per unit effort of shortnose suckers declined 34 percent between the 1984 and 1985 spawning runs. In 1986, catch per effort statistics yielded 74 percent decrease in the spawning run when compared to 1985. Although the population levels of the Lost River sucker have remained substantially above those critically low levels observed for the shortnose, the overall decline has been equally precipitous. In 1984, a population of 23,123 Lost River suckers was estimated in the Upper Klamath Lake spawning run. By the 1985 spawning run, the population had declined to 11,861 (Bienz and Ziller, ms.). Although the shortnose sucker and Lost River sucker are long-lived (up to at least 43 years in the latter species), the drastic decline can be explained by lack of successful spawning. No significant recruitment of young into the populations has occurred for approximately 18 years (Scoppettone 1986).

The Service included both the Lost River and shortnose suckers in category 2 of its December 30, 1982, comprehensive notice of review (47 FR 58954) of vertebrate species under consideration for listing as endangered or threatened. Category 2 includes those species for which information indicates that proposing to list as endangered or threatened is possibly appropriate but for which additional data are needed. These two suckers were maintained in the September 18, 1985, update (50 FR 37958) of the 1982 notice. Surveys conducted since 1984 provided the additional information on which to base a proposed rule. The shortnose sucker and Lost River sucker were proposed as endangered species on August 26, 1987 (52 FR 32145-32149) in accordance with section 4(b) of the Endangered Species Act of 1973, as amended.

Summary of Comments and Recommendations

In the August 26, 1987, proposed rule (52 FR 32145-32149) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, city governments, Federal agencies,

scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comments were published in the *Ashland Tidings* (September 22, 1987), *Medford Mail Tribune* (September 22, 1987), *Redding Record-Searchlight* (September 22, 1987), *Klamath Falls Herald & News* (September 20, 1987), *The Oregonian* (September 20, 1987), and *Siskiyou News* (September 20, 1987).

A total of 13 written comments were received during the 60-day comment period following publication of the proposed rule. Comments were submitted by two Federal agencies, two State agencies, one Indian tribe, one City government, five conservation organizations, and two private parties. Twelve responses supported listing and one response expressed no opinion regarding the listing. No comments in opposition to the listing were received. The City of Klamath Falls took no position regarding the listing, but offered results of studies on the potential impact of the proposed Salt Caves Hydroelectric Project on both species. It is the opinion of the City that the project would not impact either species, however, data to support this position are lacking. Government agencies writing to express their support for the listing included the U.S. Forest Service, Bureau of Land Management, California Department of Fish and Game, and Oregon Department of Fish and Wildlife.

In addition to voicing support for the listing, The Klamath Tribe, Desert Fishes Council, Rogue Chapter of the Sierra Club, and Save our Klamath River also stated their belief that critical habitat should be officially designated for both species. The critical habitat designation is discussed below.

Additional data on the decline of the shortnose sucker and Lost River sucker were provided by The Klamath Tribe, California Department of Fish and Game, Oregon Department of Fish and Wildlife, and an independent biologist familiar with the species. As appropriate, this additional information was incorporated into this final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the shortnose sucker and Lost River sucker should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A

species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the shortnose sucker (*Chasmistes brevirostris*) and Lost River sucker (*Deltistes luxatus*) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Initial biological surveys of the Klamath Basin indicated the presence of large populations of fishes, and suckers in particular (Cope 1879, Gilbert 1896). Spawning runs of suckers from Upper Klamath Lake were large enough to provide a major food source for Indians and local settlers. The shortnose sucker and Lost River sucker were staples in the diet of the Klamath Indians for thousands of years (Charles E. Kimbol, pers. comm.). In the late 1890's, a cannery was operated for commercial harvest of the Lost River sucker on the Lost River near Oiene, Oregon (Howe 1984). Even through the 1960's and 1970's, runs of suckers moving from Upper Klamath Lake up into the Williamson and Sprague Rivers were great enough to provide a major sport fishery that annually attracted many people from throughout the West (Bienz and Ziller, ms.; John Fortune, pers. comm.). The primary species was the larger Lost River sucker, locally known as mullet, but significant numbers of shortnose suckers also occurred in the runs. During the past years, however, The Klamath Tribe and local biologists have been so alarmed by the population decline of both suckers that in 1987, the Oregon Fish and Wildlife Commission closed the fishery for both species and place them on the State's list of protected species.

Causes of the declines are varied and not fully understood. Clearly, there has been a drastic reduction in spawning success. Recent data show that neither species of sucker has successfully spawned in Oregon for approximately 18 years (Bienz and Ziller, ms.; Scoppettone 1986). Similar results have recently been obtained for populations of both species in Copco Reservoir, California (Beak Consultants 1987). Most of the spawning habitat for the shortnose sucker and Lost River sucker in the Upper Klamath Lake drainage has been lost. The primary factor may have been the construction of the Sprague River Dam at Chiloquin, Oregon. The dam is located just upstream of the junction of the Sprague and Williamson Rivers and probably eliminated more than 95 percent of the historical spawning habitat. Neither the shortnose sucker nor Lost River sucker spawn in the

Williamson River upstream of its confluence with the Sprague. Fish ladders have been constructed at various times on the Sprague River Dam but their effectiveness in facilitating movement of suckers around the structure has been minimal to non-existent because, although these suckers are strong-swimmers, their leaping ability is greatly limited. Any successfully-spawned larvae may be diverted into agricultural fields by unscreened irrigation pumps and diversions. Minor secondary spawning occurred in the larger springs that flow from along the shores of Upper Klamath Lake. However, the usefulness of these spawning areas along the east shore of the lake was lost when a railroad was constructed and riprap was used to fill in the springs. Further problems may have been caused by decreases in water quality that result from timber harvest, dredging activities, removal of riparian vegetation and livestock grazing.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Prior to 1987, Oregon State law allowed a snag fishery for the Lost River sucker. In 1987, the Oregon Fish and Game Commission removed both species from the list of fishes in the State that may be harvested. The shortnose sucker was incidentally taken each spring during its spawning runs by sport fishermen snagging the larger Lost River sucker. In the 1985 sport fishery, Lost River suckers comprised 92 percent of the catch, whereas shortnose and Klamath largescale accounted for 3 and 6 percent, respectively (Bienz and Ziller, ms.). Prior to recent population declines, some recreational take of the shortnose sucker and Lost River sucker was acceptable. No commercial take is known. It should be noted that nearly all scientific data has been obtained from fish collected in natural die-offs (see Factor E, below), or during sport fishing. High mortality of the shortnose sucker occurred during a recent study at Copco Reservoir (Beak Consultants 1987), indicating that great care should be taken in future studies of these species.

C. Disease or predation. Exotic fishes have been stocked into the Klamath Basin and have played some role in the decline of the shortnose sucker and Lost River sucker. In addition to preying on young suckers, such exotic species can serve as sources of parasites and/or diseases.

D. The inadequacy of existing regulatory mechanisms. Recent action by the State of Oregon to remove the shortnose sucker and Lost River sucker from the list of fishes that may be harvested, and place both species on the

State's list of protected species has improved the adequacy of regulations to protect these species. California State Law lists the shortnose sucker and Lost River sucker as endangered. Although the California Endangered Species Act has provisions for State agencies to consult with the California Department of Fish and Game on projects affecting State-listed species, neither State law protects habitat of the species from projects that are permitted, funded or carried-out by Federal agencies.

E. Other natural or manmade factors affecting its continued existence. Hybridization with the Klamath largescale and Klamath smallscale suckers has been recognized as a problem in maintaining the genetic purity of shortnose sucker populations (Miller and Smith 1981, Williams *et al.* 1985). Similarly, hybridization between the Klamath largescale sucker and Lost River sucker has been reported in Upper Klamath Lake (Andreasen 1975a). Although hybridization occurs naturally between many species of suckers (family Catostomidae), increased incidence of hybridization occurs if one of the parental species experiences a major population decline, as in the case of the shortnose sucker. Further hybridization is facilitated by dams that block spawning runs and force individuals of closely related species to spawn in mass in the dam's tailwaters. Spawning of the shortnose, Lost River and Klamath largescale sucker occurs below the Sprague River Dam at Chiloquin.

An additional source of mortality is late-summer die-offs in Upper Klamath Lake. A major die-off of Lost River and shortnose suckers was observed during 1986 that resulted from blue-green algal blooms (genus *Aphanizomenon*) (Scoppettone 1986). Sucker die-offs do not occur every year, but may occur in dry or particularly hot years. Pollution of the lake and decreased summer inflows, perhaps caused by diversion of water for agricultural purposes, aggravate this phenomenon.

The presence of exotics, such as fathead minnows (*Pimephales promelas*) and yellow perch (*Perca flavescens*), may inhibit recovery. Fathead minnows were first documented in the Klamath River system during 1974 and have now spread into Upper Klamath Lake, where they have become abundant (Andreasen 1975b; Jeff S. Ziller, pers. comm.). The minnows may compete with the native suckers for food. Perhaps in response to the increased number of fathead minnows, the yellow perch population in Upper Klamath Lake has increased

recently (Jeff S. Ziller, pers. comm.). The perch are potential predators on larval suckers and may be a major factor in preventing any young suckers from being recruited into the population. Exotic fishes in the Lost River system include bullheads (*Ictalurus* spp.), largemouth bass (*Micropterus salmoides*), crappie (*Pomoxis* sp.), green sunfish (*Lepomis cyanellus*), and Sacramento perch (*Archoplites interruptus*) (Koch *et al.* 1975; Jack E. Williams, pers. obs.).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the shortnose and Lost River suckers as endangered. Threatened status would not adequately reflect the sharp decline of either species, lack of recruitment, or the continued threat to remaining habitat fragments. Critical habitat is not being designated for this species at this time for reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent or determinable for these species at this time. As noted in Factor "A" of the above "Summary of Factors Affecting the species" much of the historic spawning grounds of the Upper Klamath Lake population is no longer accessible because a dam blocks the spawning run near the confluence of the Sprague and Williamson Rivers. Similarly, dams on the Klamath River downstream of Upper Klamath Lake have eliminated or blocked access to spawning habitat. Therefore, determining the boundaries of areas to be included as critical habitat is difficult. Further, agency personnel are well-aware of the distribution of both species through the Klamath Basin Sucker Interagency Working Group. Little additional benefits of notification of the species presence would be achieved through critical habitat designation. Because of these factors, the Service finds that the determination of critical habitat cannot be made at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered

Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions that may affect the shortnose sucker and Lost River sucker are issuances of licenses or permits for dam projects by the Federal Energy Regulatory Commission; grazing or timber harvesting practices on Forest Service land in the Upper Klamath Lake and Clear Lake Reservoir watersheds; and agreements, leases, or other arrangements between the Klamath Tribe and local irrigation interests that would result in the diversion of water from the Williamson or Sprague Rivers; and management of canals and diversion structures by the Bureau of Reclamation. Permitting activities of the Army Corps of Engineers pursuant to section 404 of the Clean Water Act or section 10 of the River and Harbor Act also may be affected.

The Act implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import, ship in interstate commerce in the course of a commercial activity, or

sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered fish or wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-358, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order, under "Fishes" to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

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(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Sucker, Lost River	<i>Deltistes luxatus</i>	U.S.A. (OR, CA)	Entire	E	313	NA	NA
Sucker, Short-nose	<i>Chasmistes brevirostris</i>	U.S.A. (OR, CA)	Entire	E	313	NA	NA

Dated: June 27, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and
Wildlife and Parks.

[FR Doc. 88-16062 Filed 7-15-88; 8:45 am]

BILLING CODE 4310-55-M