

### How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

### Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

### How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

(2) On that page, click on "search."

(3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the "pdf" versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue

to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

**Joseph Carra,**

*Associate Administrator for the National Center for Statistics and Analysis.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018-AU33

### Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Spikedace and Loach Minnow

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposal to designate critical habitat for the spikedace (*Meda fulgida*) and loach minnow (*Tiaroga cobitis*) designation under the Endangered Species Act of 1973, as amended (Act). This action will allow all interested parties an opportunity to comment on the proposed critical habitat, the draft economic analysis, draft environmental assessment, Tribal management plans and resolutions, and a management plan and economic analysis submitted by Phelps Dodge Corporation, as further discussed below.

Comments previously submitted on the December 20, 2005 (70 FR 75546), proposed rule and on the June 6, 2006 (71 FR 32496), reopening of the comment period need not be resubmitted as they have been incorporated into the public record and will be fully considered in preparation of the final rule.

**DATES:** We will consider all comments received from interested parties by October 16, 2006. Any comments received after the closing date may not be considered in the final determination on the proposal.

**ADDRESSES:**

#### Comments

If you wish to comment on the proposed rule, draft economic analysis, draft environmental assessment, Tribal

management plans and resolutions, or a management plan and economic analysis submitted by Phelps Dodge Corporation, you may submit your comments and materials, identified by RIN 1018-AU33, by any of the following methods:

(1) E-mail: [SD\\_LMComments@fws.gov](mailto:SD_LMComments@fws.gov). Include RIN 1018-AU33 in the subject line. Please include your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Arizona Ecological Services Field Office at (602) 242-0210.

(2) Fax: (602) 242-2513.

(3) Mail, hand delivery, or courier: Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, AZ 85021.

(4) Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

You may obtain copies of the proposed rule, draft economic analysis, draft environmental assessment, Tribal management plans and resolutions, and the Phelps Dodge Corporation's management plan and economic analysis, by mail by contracting the person listed under **FOR FURTHER INFORMATION CONTACT** or by visiting our Web site at <http://www.fws.gov/arizonaes/>. You may also review comments and materials received and review supporting documentation used in preparation of the proposed rule by appointment, during normal business hours, at the Arizona Ecological Services Field Office (see **ADDRESSES**).

**FOR FURTHER INFORMATION CONTACT:** Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (telephone, 602-242-0210; facsimile, 602-242-2513).

#### SUPPLEMENTARY INFORMATION:

#### Background

On December 20, 2005, we proposed to designate as critical habitat for spikedace and loach minnow approximately 633 stream miles (mi) (1018.7 stream kilometers (km)), which includes various stream segments and their associated riparian areas, including the stream at bankfull width and a 300-foot (91.4 meters) buffer on either side of the stream (70 FR 75546). The proposed designation includes Federal, State, tribal, and private lands in Arizona and New Mexico.

Critical habitat identifies specific areas containing features essential to the conservation of a listed species and that may require special management

considerations or protections. If the proposed critical habitat designation is finalized, section 7(a)(2) of the Act (16 U.S.C. 1531 *et seq.*) would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of critical habitat.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. During our second comment period (71 FR 32496, June 6, 2006) on the proposed designation of critical habitat for spikedace and loach minnow, Phelps Dodge Corporation submitted documents that include management plans for Eagle Creek in Arizona and the upper Gila River in New Mexico, and an independent economic analysis summarizing their economic concerns for their mining operations in New Mexico and Arizona. We are reopening the comment period to inform the public of our consideration of this information in terms of a potential exclusion of portions of Eagle Creek and the upper Gila River in the final critical habitat designation pursuant to section 4(b)(2) of the Act. Additionally, as noted in our previous reopening of the public comment period (71 FR 32496), we are considering excluding all or portions of the Verde River Unit based on disproportionate economic costs from the final designation per our discretion under section 4(b)(2) of the Act.

As discussed in our proposed rule (70 FR 75546, December 20, 2005), we determined that the following tribes

have lands containing features essential to the conservation of the spikedace and loach minnow: Yavapai Apache, San Carlos Apache, and White Mountain Apache. We also proposed to exclude lands of the San Carlos Apache Tribe and lands of the White Mountain Apache Tribe based upon our relationship with the Tribes and their management plans developed for the conservation of the spikedace and loach minnow. During the initial comment period, we received a resolution from the Yavapai-Apache Nation, that we believe provides a conservation benefit to the spikedace and loach minnow on their lands. Thus, based on this new information and our relationship with the Nation we anticipate excluding their lands from the final designation pursuant to section 4(b)(2) of the Act. We are reopening the comment period to allow the public access to relevant documents and an opportunity to comment on these proposed exclusions.

In addition to the specific areas mentioned above, we may consider exclusion of additional areas from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. We will base our final determination upon information received or made available for public review during this or the previous public comment periods.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their names and/or home addresses, etc. but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received, including the information submitted by the Tribes and by Phelps Dodge Corporation, will be available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Field Office (see **ADDRESSES**).

#### **Authority**

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 25, 2006.

#### **David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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