

EPA, with the concurrence of MDEQ, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: May 14, 1998.

**David Ullrich,**

*Acting Regional Administrator, Region V.*

[FR Doc. 98-13853 Filed 5-26-98; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Stone Mountain Fairy Shrimp as Endangered and Designate Critical Habitat

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

**ACTION:** Notice of 12-month petition finding.

**SUMMARY:** The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the Stone Mountain fairy shrimp (*Branchinella lithaca*) under the Endangered Species Act, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted. The Service will continue to monitor the status of this species and its habitat.

**DATES:** The finding announced in this document was made on May 11, 1998.

**ADDRESSES:** Questions, comments, or information concerning this petition should be sent to the U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. John F. Milio (904/232-2580, ext. 112) (see **ADDRESSES** section).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to list, delist, or reclassify a species that contains substantial scientific and commercial information, the Service make a finding within 12 months of receipt of the petition on whether the petitioned

action is (a) not warranted; (b) warranted; or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

The processing of this petition conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475), and extended on October 23, 1997, for fiscal year 1998 (62 FR 55268). Administrative findings for listing petitions that are not assigned to tier 1 (emergency listing actions) are processed as a tier 3 priority. The processing of this petition falls under tier 3. At this time, the Southeast Region has no pending tier 1 actions and has completed its pending tier 2 actions (resolving the status of outstanding proposed listings).

On March 31, 1995, the Service received a petition from Mr. Larry Winslett, President of the "Friends of Georgia," Lithonia, Georgia. The petition, dated March 29, 1995, requested the Service to emergency list the Stone Mountain fairy shrimp, *Branchinella lithaca*, as endangered and designate critical habitat. The petitioner believed that previous and ongoing impacts to vernal (temporary) pool habitat at Stone Mountain, the shrimp's only known location, and potential physical and chemical effects from a then impending renovation project at the mountain's summit, threatened the survival of the species. The Service, in the 90-day finding, determined that the petition presented substantial information indicating that listing the species may be warranted. The finding concluded that an emergency listing action was not appropriate, and noted the Service would consider critical habitat designation if it found at 12 months that listing was warranted. A notice announcing the 90-day finding and initiation of a status review of the species was published in the **Federal Register** on July 22, 1997 (62 FR 39210).

The Service has reviewed the petition, the literature cited in the petition, other available literature and information, and consulted with species experts and other researchers familiar with vernal pool habitats. On the basis of the best scientific and commercial information available, the Service finds the petition is not warranted at this time. The status review documented habitat modifications such as disturbance of vernal pool sediments and physical debris entering pools at and near the mountain summit from recreational and construction activities, and facility operations. Solid wastes and liquid

discharges may also directly impact the fairy shrimp. These modifications did not appear to occur at all pools or to an equal extent at affected pools. Due to this variability, lack of current and historic information on specific distribution and abundance of *B. lithaca*, and lack of historic data on the habitat, the Service is not able to confirm that these modifications, as well as other manmade or natural factors, threaten the continued existence of the Stone Mountain fairy shrimp.

The status review also did not reveal any threats to the species from disease or predation, or overutilization for commercial, recreational, scientific, or educational purposes. The Service does not believe that existing regulatory mechanisms are inadequate. Because of likely habitat overlap between the Stone Mountain fairy shrimp and two federally-listed plants, the black-spored quillwort (*Isoetes melanospora*) and little amphianthus (*Amphianthus pusillus*) at Stone Mountain, the Federal and State regulations that protect and conserve those plants and their vernal pools are also benefitting *B. lithaca*. In addition, special legislation passed in 1997 by the Georgia General Assembly promotes the continuation of protection and conservation for the designated natural district at State-owned Stone Mountain Park, as outlined in its current Master Plan (Alice Richards, Stone Mountain Memorial Association, *in litt.* 1998). Since Stone Mountain and its vernal pools all occur within the park's natural district, the Service believes that this legislation provides further protection for the Stone Mountain fairy shrimp and its habitat.

Casual surveys to locate *B. lithaca* at Stone Mountain earlier this decade were unsuccessful. The last documented collection of the species was in 1951. At the 90-day finding the Service felt that a regular survey involving collection of water and sediment samples at various sites was needed to accurately determine the species' status. This survey was conducted in 1997 and also failed to find evidence of the species' continued existence at Stone Mountain, which may mean the species is extinct. Despite this latest failure (A. Richards, *in litt.* 1997, pers. comm. 1998, Denton Belk, The World Conservation Union, *in litt.* 1998), the erratic occurrence of some anostracans (Donald 1983) led Belk (*in litt.* 1998) to believe the species may still exist at Stone Mountain. There is also some potential that the species may exist at locations other than Stone Mountain (L. Winslett, Friends of Georgia, *in litt.* 1996). Within the Georgia Piedmont physiographic area there are other rock outcrops whose

invertebrate fauna has been little studied (J. Spooner, University of South Carolina, *in litt.* 1997), although quarrying and other human activities have destroyed or modified a number of these sites (L. Winslett, Friends of Georgia, *in litt.* 1996). The Service supports continued monitoring and protection of all temporary pools on Stone Mountain, and encourages systematic surveys of vernal pools at other rock outcrops, particularly those where the two federally-listed plants, black-spored quillwort and little amphianthus, are known to occur. The Stone Mountain Memorial Association (SMMA), manager of the natural district and all vernal pools within Stone Mountain Park, has fenced some habitat in response to a recovery plan recommendation for the listed plants (U.S. Fish and Wildlife Service 1993).

The Friends of Georgia, Inc., with technical assistance from the Service, has prepared a conservation agreement that it hopes to finalize this year with the SMMA. The agreement stresses continued surveying for *B. lithaca*; additional site specific protection, conservation, and recovery actions; and public education.

The Service will continue to seek new information on the biology, ecology, distribution, and habitat of the Stone Mountain fairy shrimp, as well as threats to its continued survival. If additional data become available in the future to indicate that the species is extant, the Service will reassess the need for listing, including the need to emergency list.

#### References Cited

Donald, D.B. 1983. Erratic occurrence of anostracans in a temporary pond:

colonization and extinction or adaptation to variations in annual weather? *Can. J. Zool.* 61:1492-1498.

U.S. Fish and Wildlife Service. 1993. Recovery plan for three granite outcrop plant species. Jackson, Mississippi. 41 pp.

#### Author

The primary author of this document is Mr. John F. Milio, Jacksonville Field Office (see ADDRESSES section).

#### Authority

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

Dated: May 11, 1998.

**Jamie Rappaport Clark,**

*Director, Fish and Wildlife Service.*

[FR Doc. 98-13969 Filed 5-26-98; 8:45 am]

BILLING CODE 4310-55-P