

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Carolina is amended by removing DTV Channel 59 and adding DTV Channel 50 at Charleston.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01-31560 Filed 12-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 01-2847; MM Docket No. 01-223; RM-10157]

Radio Broadcasting Services; Crystal Beach and Stowell, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, withdrawal.

SUMMARY: This document dismisses a petition for rule making filed by Tichenor License Corporation requesting the substitution of Channel 287C3 for Channel 287A at Crystal Beach, Texas and reallocation of Channel 287C3 to Stowell, Texas. See 66 FR 48108, September 18, 2001. Tichenor License Corporation withdrew its interest in the allotment of Channel 287C3 at Stowell, Texas.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01-223, adopted November 28, 2001, and released December 7, 2001. The full text of this Commission decision is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room

CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-31561 Filed 12-21-01; 8:45 am]

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants, Notice of Reinstatement of the 1993 Proposed Listing of the Flat-tailed Horned Lizard as a Threatened Species and the Reopening of The Comment Period on The Proposed Rule**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reinstatement of proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announces the reinstatement of the 1993 proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species, and the reopening of the public comment period on this proposed listing. On November 29, 1993, we published a rule proposing threatened status for the flat-tailed horned lizard, pursuant to the Endangered Species Act of 1973, as amended (Act). On July 15, 1997, we withdrew the proposed rule to list the flat-tailed horned lizard as threatened based on information available at that time. On July 31, 2001, the Ninth Circuit Court of Appeals vacated an earlier ruling from the District Court for the Southern District of California that upheld the withdrawal of the proposed listing of the lizard as threatened. Moreover, the Ninth Circuit directed the District Court to remand the withdrawal decision to the Service for consideration in accord with the legal standards outlined in its opinion. On October 24, 2001, the District Court remanded the matter to the Service and, with the parties consent, ordered the Service to reinstate the 1993 proposed listing for the flat-tailed horned lizard within 60 calendar days, and complete the final listing decision within 12 months from the date of reinstatement.

Consequently, we are hereby providing notice that the 1993 proposed rule for the flat-tailed horned lizard is reinstated, and that we will complete a final listing decision for the flat-tailed horned lizard by December 26, 2002.

In addition, we are reopening the public comment period for 120 days on the 1993 proposed listing rule to obtain information concerning the current status, ecology, distribution, threats to, and management/conservation efforts in place for the flat-tailed horned lizard to make a new final listing determination based on the best scientific and commercial data currently available.

DATES: We will consider comments on this proposal received by the close of business on April 25, 2002. Any comments that are received after the closing date may not be considered in the final decision on this action.

Requests for a public hearing must be received by February 11, 2002.

ADDRESSES: Comments: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status of the species, you may submit your comments and materials by any one of several methods: You may submit written comments and information to Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You may send comments by electronic mail (e-mail) to fthl@r1.fws.gov.

For further information or a copy of the proposed rule contact: Ms. Sandy Vissman or Mr. Christopher Otahal, Carlsbad Fish and Wildlife Office, at the above address (telephone 760-431-9440; facsimile 760-431-9624).

SUPPLEMENTARY INFORMATION: The flat-tailed horned lizard is a small, cryptically colored, lizard that reaches a maximum adult body length (excluding the tail) of approximately 81 millimeters (3.2 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The upper surface of the flat-tailed horned lizard is pale gray to light rusty brown. The underside is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California and

Arizona and in northern Mexico. The species inhabits desert areas of southern Riverside, eastern San Diego, and Imperial counties in California; southwestern Arizona; and adjacent regions of northwestern Sonora and northeastern Baja California Norte, Mexico. Within the United States, populations of the flat-tailed horned lizard are concentrated in portions of the Coachella Valley, Ocotillo Wells, Anza Borrego Desert, West Mesa, East Mesa, and the Yuma Desert in California; and the area between Yuma and the Gila Mountains in Arizona. The flat-tailed horned lizard occurs at elevations up to 520 meters (m) (1700 feet (ft)) above sea level, but most populations are below 250 m (820 ft) elevation.

According to Hodges (1997), approximately 51.2 percent of the historic range of the flat-tailed horned lizard habitat within the United States remains. This remaining habitat includes an estimated 503,500 hectares (ha) (1,244,00 acres (ac)) of habitat in the United States, of which approximately 56,800 ha (140,300 ac) occur in Arizona and 446,670 ha (1,103,800 ac) occur in California. Within this range, the lizard typically occupies sparsely vegetated, sandy desert flatlands with low plant species diversity, but it is also found in areas with small pebbles or desert pavement, mud hills, dunes, alkali flats, and low, rocky mountains.

Based on information obtained since the withdrawal of the proposed listing rule and the information documented in the proposed rule itself, threats to the flat-tailed horned lizard may include one or more of the following: Commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, military activities, introduction of nonnative plants, pesticide use, and border patrol activities along the United States-Mexican border.

In 1982, we first identified the flat-tailed horned lizard as a category 2 candidate for listing under the Act (47 FR 58454). Service regulations defined category 2 candidate species as "taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules. In 1989, we elevated the species to category 1 status (54 FR 554). Category 1 included species "for which the Service has on file sufficient

information on biological vulnerability and threat(s) to support issuance of a proposed rule." Subsequently, on November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species (58 FR 62624).

On May 16, 1997, in response to a lawsuit filed by the Defenders of Wildlife to compel us to make a final listing determination on the flat-tailed horned lizard, the District Court in Arizona ordered the Service to issue a final listing decision within 60 days. A month after the District Court's order, several State and Federal agencies signed a Conservation Agreement (CA) implementing a recently completed range-wide management strategy to protect the flat-tailed horned lizard. Pursuant to the CA, cooperating parties agreed to take voluntary steps aimed at "reducing threats to the species, stabilizing the species' populations, and maintaining its ecosystem."

On July 15, 1997, we issued a final decision to withdraw the proposed rule to list the flat-tailed horned lizard as a threatened species (62 FR 37852). The withdrawal was based on three factors: (1) Population trend data did not conclusively demonstrate significant population declines; (2) some of the threats to the flat-tailed horned lizard habitat had grown less serious since the proposed rule was issued; and (3) the belief that the recently approved "conservation agreement w[ould] ensure further reductions in threats."

Six months following our withdrawal of the proposed listing rule, the Defenders of Wildlife filed a lawsuit challenging our decision. On June 16, 1999, the District Court for the Southern District of California granted summary judgement in our favor upholding the Service's decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter back to the Service for further consideration in accord with the legal standards outlined in its opinion. On October 24, 2001, the District Court ordered the Service to reinstate the previously effective proposed listing rule within 60 calendar days and, thereafter, commence a 12-month statutory time schedule for a final listing decision.

This notice announces the reinstatement of the 1993 proposed rule to list the flat-tailed horned lizard as a threatened species, and reopens the public comment period on this reinstated rulemaking. The public comment period is being opened for 120

days to accept public comment on the reinstated proposed rule to list the flat-tailed horned lizard as a threatened species and gather updated information concerning its ecology and distribution, threats, conservation/management actions, and any additional available information to assist us in making a final listing determination based on the best scientific and commercial data available.

We are specifically seeking information that has become available concerning the flat-tailed horned lizard since the last public comment period on the proposed rule which closed on June 9, 1997. Information is particularly requested concerning: (1) Threats to the species as a whole or to local populations, (2) the size, number, and/or distribution of known populations, (3) sufficiency of current conservation/management and/or regulatory mechanisms for the flat-tailed horned lizard, and (4) the conservation value of different populations across the range of the species.

Please send written comments to the address listed above (see **ADDRESSES** section). When submitting comments via e-mail, please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760/431-9440.

Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule and subsequent withdrawal, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office.

Author: The primary author of this notice is Mr. Christopher Otahal. (see **ADDRESSES** section).

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

Dated: December 10, 2001.

Steve Thompson,

Acting Manager, California/Nevada Operations Office, Region 1.

[FR Doc. 01-31734 Filed 12-21-01; 8:45 am]

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