



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Threatened & Endangered Species: Jimmy Rogers (Environmental Scientist - FTN Associates, LTD.) Arkansas Environmental Federation Convention Presentation

10/17/2022

Jimmy Rogers undertook a presentation at the Arkansas Environmental Federation Convention in Hot Springs, Arkansas, titled:

Threatened & Endangered Species ("Presentation")

Mr. Rogers serves as an Environmental Scientist at FTN Associations, LTD.

The *Presentation* initially addressed the timing of the enactment of the Endangered Species Act ("ESA")(1973) and its express purpose which was, and continues to be:

. . . protecting species that were in danger of extinction.

The two federal agencies that oversee the ESA include:

- United States Fish and Wildlife Service
- National Oceanic and Atmospheric Administration Fisheries for Marine Wildlife

Two types of species classifications under the ESA were identified which include:

- Endangered species (species that, if not protected, are in imminent danger of permanently disappearing from Earth)
- Threatened species (species that, if not protected, are likely to become endangered in the foreseeable future)

Mr. Rogers identified 34 threatened and endangered species whose habitat includes Arkansas, listing:

- Mammals (4)
- Birds (5)
- Fish (4)
- Amphibians (1)
- Insects (1)
- Mussels (13)
- Crayfish (2)
- Plants (4)

Bats which were discussed during the *Presentation* included:

- Gray Bat
- Indiana Bat
- Ozark Big-eared Bat
- Northern Long-eared Bat

The various characteristics and beneficial aspects of certain bats were discussed.

In addition, the *Presentation* outlined aspects of two birds:

- Red-cockaded Woodpecker
- Piping Plover

Clams addressed included:

- Scaleshell Mussel
- Snuffbox Mussel
- Arkansas Fatmucket
- Louisiana Pearlshell
- Speckled Pocketbook
- Pink Mucket
- Fat Pocketbook
- Winged Mapleleaf
- Rabbitsfoot
- Spectaclecase
- Curtis Pearlmussel
- Neosho Mucket
- Ouachita Rock Pocketbook

In terms of aquatic animals, the *Presentation* addressed:

- Hell Creek Cave Crayfish
- Benton County Cave Crayfish
- Ozark Hellbender

Fish discussed included:

- Hellowcheek Darter
- Leopard Darter
- Pallid Sturgeon
- Ozark Cavefish

The habitats of the Pallid Sturgeon were identified.

Plants addressed included:

- Geocarpon minimum
- Missouri Bladderpod
- Pondberry
- Harperella

As to insects, the American Burying Beetle was addressed, including the fact it was downlisted in 2020 from endangered to threatened.

The application of Section 7 of the ESA was addressed, noting that it is triggered when an action:

... that is carried out, funded, or authorized by any federal agency, may affect a listed threatened and endangered species.

Section 9 prohibits the “Take” of listed species regardless of federal nexus and the term “Take” is broadly defined to include:

. . . to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture...” etc.

The responsibility of other federal agencies to consult with the U.S. Fish and Wildlife Service to ensure that their actions do not jeopardize the existence of any listed threatened and endangered species was discussed.

Mr. Rogers noted suggestions for dealing with Section 7 which include:

- Pre-project planning is important to avoid project delays
- Consider threatened and endangered issues early in project planning
- Contact USFWS and/or engage a consultant for assistance
- Determine level of USFWS coordination needed
- If surveys are required plan for extra project time and expense
- Information for Planning and Consultation (IpaC) – USFWS tool to determine what species may in an area; can also be used to get near-instant project clearance (on a project-by-project basis)
- In some cases, minor project alterations (such as adjusting tree clearing dates) can mitigate potential impacts and remove need for further U.S. Fish and Wildlife Service clearance

Species that may become subject to the ESA in the future were discussed, including:

- Alligator Snapping Turtle
- Tricolored Bat
- Monarch Butterfly

A copy of the *Presentation* can be downloaded [here](#).