Spectaclecase Mussel/Endangered Species Act: U.S. Fish and Wildlife Service Designates Critical Habitat (Including the Ouachita River)



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The United States Fish and Wildlife Service ("Service") issued a final rule designating critical habitat for the following four mussels that have been listed as endangered or threatened:

- Rayed bean
- Sheepnose
- Snuffbox
- Spectaclecase

See 91 Fed. Reg. 22590.

The critical habitat designation for the spectaclecase mussel includes a portion of the Ouachita River in Arkansas.

Under Section 4(a)(3) of the ESA, once the Service determines that a species is endangered or threatened it must, to the maximum extent prudent and determinable, designate critical habitat. Section 3(5)(A) of the ESA defines "critical habitat" as:

1. the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

2. specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Such designations must be based on the best scientific data available and after taking into account consideration the economic impact, impact on national security, and any relevant impacts of specifying any particular area as critical habitat.

The Service states that it is designating critical habitat for the spectaclecase for the following waterbodies:

- St. Croix River
- Mississippi River
- Meramec River

- Big River
- Gasconade River
- Big Piney River
- Ouachita River
- Tennessee River
- Clinch River
- Nolichucky River
- Green River
- Kanawha River

The Service states that all of these rivers and streams were known to be occupied at the time of the species' listing. It further states that when determining critical habitat boundaries, the Service made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the species. It also notes that critical habitat for these species includes only stream channels up to bankfull height, where the stream base flow is contained within the channel.

The critical habitat designation is found in the Federal Register preamble and rule as defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Regulation Promulgation. More detailed information on the boundaries of the critical habitat designation in the preamble. Further, coordinates or plot points or both on which each map is based are available to the public on https:// www.regulations.gov at Docket No. FWS–R3–ES–2024–0144.

A copy of the Federal Register notice can be found here.