

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AH96

**Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on Proposed Designation of Critical Habitat for the Northern Great Plains Breeding Population of the Piping Plover****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), provide notice of the reopening of the public comment period for the proposal to designate critical habitat for the northern Great Plains population of the piping plover (*Charadrius melodus*), and the associated draft environmental assessment and economic analysis, to allow all interested parties to comment. Comments previously submitted via regular or express postal mail need not be resubmitted as they have already been incorporated into the public record and will be fully considered in the final rule. Please resubmit comments via regular or express mail that were sent to us by electronic mail since December 2001. We have not received your comments because the Service's internet electronic mail has not been available due to a court order in an unrelated case.

**DATES:** The comment period is opened and will close on May 20, 2002. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

**ADDRESSES:** You may submit written comments and information to Piping Plover Comments, South Dakota Ecological Services Field Office, U.S. Fish and Wildlife Service, 420 South Garfield Avenue, Suite 400, Pierre, SD 57501, or by facsimile to 605-224-9974.

You may hand-deliver written comments to our South Dakota Field Office at the address given above.

Copies of the draft economic analysis, draft environmental assessment, and proposed rule for designation of critical habitat for the northern Great Plains breeding population of the piping plover are available from the above address or on the Internet at <http://mountain-prairie.fws.gov/pipingplover>. Please note that at the time this notice was prepared the Service's web pages and electronic mail were not available

because of a court order in an unrelated case. If you are unable to access the above website please contact the South Dakota Field Office by telephone or regular mail at the above address.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Nell McPhillips, Fish and Wildlife Biologist, at the above address or at 605-224-8693, extension 32.

**SUPPLEMENTARY INFORMATION:****Background**

We published a proposed rule to designate critical habitat for the northern Great Plains breeding population of the piping plover in the **Federal Register** on June 12, 2001 (66 FR 31760). Section 4(b)(2) of the Endangered Species Act (Act) requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impacts, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area 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.

The proposed designation includes 11 areas of prairie alkali wetlands, inland and reservoir lakes in 5 counties in Montana, 18 counties in North Dakota, and 1 county at Lake-of-the-Woods, Minnesota, totaling approximately 196,576.5 acres (79,553.1 hectares). It also includes five areas of portions of four rivers in the States of Montana, North Dakota, South Dakota, and Nebraska, totaling approximately 1,338 miles (2,152.9 kilometers) of river. If this proposal is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency.

We reopened the comment period on the proposed critical habitat and provided a notice of availability for the economic analysis in the **Federal Register** on December 28, 2001 (66 FR 67165). However, prior to that reopening the Service's web sites and electronic mail were disconnected in response to a court order in an unrelated lawsuit. Persons who have submitted electronic comments to the Service on this proposal since December 28, 2001, should resubmit those comments

directly to the office listed in the **ADDRESSES** section above via regular or express mail or facsimile.

**Public Comments Solicited**

We solicit public comment on the proposal to designate critical habitat for the northern Great Plains breeding population of the piping plover, as well as the associated draft environmental assessment and draft economic analysis. We will accept written comments and information during this comment period. Previous written comments and information submitted during the comment period need not be resubmitted; however, comments submitted by electronic mail since December 28, 2001, should be resubmitted by regular or express mail or facsimile (see **ADDRESSES** section).

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the South Dakota Field Office (see **ADDRESSES** section). Our practice is to make all comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the rulemaking record; we will honor these requests to the extent allowed by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, allowed by law. If you wish us to withhold your name or address, you must state this prominently at the beginning of your comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**Author**

The primary authors of this notice are the South Dakota Field Office staff (see **ADDRESSES** section).

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

Dated: March 13, 2002.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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