

ENDANGERED SPECIES

Frog's protected habitat narrows after Supreme Court fight

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Dusky gopher frog. John Tupy/Fish and Wildlife Service

A long-running legal battle over a rare frog and a sliver of Louisiana land ended quietly in a court settlement last week.

The Fish and Wildlife Service will no longer protect 1,500 acres of private land as critical habitat for the dusky gopher frog. The land was at the center of years of litigation that reached the Supreme Court last fall. The U.S. District Court for the Eastern District of Louisiana approved a [consent decree](#) last week.

The endangered amphibian was once common in the South, but its numbers have diminished through the years, and most remaining individuals cluster around a single pond in Mississippi.

After scientists identified the plot of private land in Louisiana as containing the ideal ephemeral ponds for the frog, FWS designated it as critical habitat in 2012 even though the frog does not currently live there.

The landowners — timber giant Weyerhaeuser Co. and local individuals — sued the Obama administration over the protections, which they considered an overreach.

The Supreme Court heard the case the first day of its term in October and issued a narrow ruling less than two months later, sending the case back to lower courts for them to consider the meaning of "habitat" in the Endangered Species Act to gauge whether FWS's inclusion of the Louisiana land was appropriate ([Greenwire](#), Nov. 27, 2018).

That question will remain unanswered after the landowners, the government and environmental intervenors agreed to a consent decree that eliminates the contested land from the dusky gopher frog's habitat protections. Other areas will still be protected.

The Center for Biological Diversity, which was involved in the case on the Obama administration's side, signed on to the agreement.

Louisiana landowner and attorney Edward Poitevent, represented by the Pacific Legal Foundation in the case, praised the resolution of the dispute.

"It's gratifying after more than eight years to finally close the book on this relentless crusade against private property owners across the U.S.," he said in a statement. "Once I was told that my family's land had been declared a habitat for a frog that disappeared from the land more than 50 years ago, I knew that justice would ultimately prevail."

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