



For Immediate Release, February 13, 2017

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## **Federal Appeals Court Maintains Habitat Protections for Endangered Frog in Mississippi, Louisiana**

NEW ORLEANS— A federal appeals court today [ruled](#) that it will not reconsider the panel decision that maintained protections for 6,477 acres of critical habitat in Mississippi and Louisiana for endangered [dusky gopher frogs](#). Today’s decision denies the landowners’ petition for “en banc” review, in which all judges of the 5th Circuit Court of Appeals would have reconsidered the three-judge panel decision issued last June.

“The dusky gopher frog is on the brink of extinction and desperately needed today’s good news,” said Collette Adkins, a Center for Biological Diversity attorney who works to conserve amphibians and reptiles. “I hope today’s ruling finally convinces the landowners to stop challenging the frog’s protections and instead cooperate with habitat restoration and frog reintroduction.”

Because eight judges voted against rehearing while only six judges voted in favor, the panel’s decision issued last summer remains in force. The [June appellate decision](#) affirmed the [2014 district court decision](#) that upheld the 2012 rule establishing the habitat protections, including 1,600 privately owned acres of unoccupied frog habitat in Louisiana. The panel held that the U.S. Fish and Wildlife Service reasonably concluded that the St. Tammany Parish land is essential for recovery of the frogs, which are now confined to just three sites in southern Mississippi — with only one site regularly showing frog reproduction.

Although the frogs no longer live on the St. Tammany Parish lands, the panel agreed with the Service that those lands are essential because they contain five ephemeral ponds, each within hopping distance of the next. Dusky gopher frogs lay their eggs only in such temporary ponds — which are free of fish that would devour their eggs — and the St. Tammany Parish land was the frogs’ last known Louisiana breeding ground. The court also rejected the landowners’ argument that federal government regulation of the private lands was an unconstitutional abuse of power.

“We’re glad the 5th Circuit upheld the U.S. Fish and Wildlife Service’s designation of habitat for this frog,” said Cynthia Sarthou, executive director of the Gulf Restoration Network. “Habitat destruction is pushing the dusky gopher frog to the brink of extinction. Without sufficient habitat, these frogs could be lost forever.”

If the landowners want further review of the court decision, they would need to file a petition for a writ of certiorari with the U.S. Supreme Court. The Center for Biological Diversity and Gulf Restoration Network participated as

parties in the litigation that led to today's ruling.

## **Background**

The dusky gopher frog (*Rana sevosa*) is a warty, dark-colored frog with ridges on the sides of its back. When picked up, these frogs cover their eyes with their forefeet, possibly to protect their faces until predators taste their bitter skin secretions and release them. Gopher frogs spend most of their lives underground in burrows created by gopher tortoises — hence their name.

Once prevalent throughout Louisiana, Mississippi and Alabama, dusky gopher frogs are nearly extinct. More than 98 percent of longleaf pine forests — upon which the frog and many other rare animals depend — have been destroyed. Fire suppression, drought, pesticides, urban sprawl, highway construction and the decline of gopher tortoises have made this frog so rare it now lives in only a few small Mississippi ponds, with only one pond showing consistent frog reproduction.

In response to a Center lawsuit, the Fish and Wildlife Service listed the gopher frog as a federally endangered species in 2001. The lawsuit and advocacy by the Center also prompted the [2012 critical habitat designation](#) at issue in today's ruling. Additionally, in response to legal advocacy by the Center and Gulf Restoration Network, the agency [released](#) a final recovery plan for the frogs in 2015.

More than 170 acres of critical habitat for the endangered dusky gopher frog were protected from development under a land purchase [announced](#) in 2015 by the Center for Biological Diversity, Mississippi Chapter of the Sierra Club, Gulf Restoration Network, the Land Trust for the Mississippi Coastal Plain and Columbus Communities, the developer of a planned community called "Tradition" in Harrison County, Mississippi. The land, now owned by the Land Trust, has been shielded from development to help ensure the survival of this rare frog and its longleaf pine habitat.



Photo courtesy USFWS. This image is [available](#) for media use.

*The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.2 million members and online activists dedicated to the protection of endangered species and wild places.*

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