

ecosystem includes a core area buffered from the impacts associated with fragmentation, isolation, edge effects, and other factors that may threaten ecosystem stability. Depending on the size and shape of these core habitat areas or patches, in order to remain viable, they may also require connections to other habitat patches.

Previous Federal Action

On January 16, 1992, we received a petition submitted by representatives of the Helotes Creek Association, the Balcones Canyonlands Conservation Coalition, the Texas Speleological Association, the Alamo Group of the Sierra Club, and the Texas Cave Management Association to add the nine invertebrates to the List of Threatened and Endangered Wildlife. On December 1, 1993, we announced in the **Federal Register** (58 FR 63328) a 90-day finding that the petition presented substantial information that listing may be warranted.

On November 15, 1994, we added eight of the nine invertebrates to the Animal Notice of Review as category 2 candidate species in the **Federal Register** (59 FR 58982). We intended to include *Rhadine exilis* in the notice of review, but an oversight occurred and it did not appear in the published notice. Category 2 candidates, a classification since discontinued, were those taxa for which we had data indicating that listing was possibly appropriate, but for which we lacked substantial data on biological vulnerability and threats to support proposed listing rules.

On December 30, 1998, we published a proposed rule to list the nine Bexar County karst invertebrates as endangered (63 FR 71855). Incorporating comments and new information received during the public comment period on the proposed rule, we published a final rule to list the nine Bexar County karst invertebrate species as endangered in the **Federal Register** on December 26, 2000 (65 FR 81419).

In the proposed rule for listing these species, we indicated that designation of critical habitat was not prudent for the nine invertebrates because the publication of precise species locations and maps and descriptions of critical habitat in the **Federal Register** would make the nine species more vulnerable to incidents of vandalism through increased recreational visits to their cave habitat and through purposeful destruction of the caves. We also indicated that designation of critical habitat was not prudent because it would not provide any additional benefits beyond those provided through listing the species as endangered.

Based on recent court decisions (for example, *Natural Resources Defense Council v. U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii v. Babbitt*, 2 F. Supp. 2d 1280 (D. Hawaii 1998)) and the standards applied in those judicial opinions, we reexamined the question of whether critical habitat for the nine invertebrates would be prudent. After reexamining the available evidence for the nine invertebrates, we did not find specific evidence of collection or trade of these or any similarly situated species. Consequently, in our final rule listing the species, we found that "by designating critical habitat in a manner that does not identify specific cave locations, the threat of vandalism by recreational visits to the cave or purposeful destruction by unknown parties should not be increased" (65 FR 81419). Therefore, our final rule to list the species as endangered also included our determination that critical habitat designation was prudent as we did not find specific evidence of increased vandalism, and we found there may be some educational or informational benefit to designating critical habitat. Thus, we found that the benefits of designating critical habitat for the nine karst invertebrate species outweighed the benefits of not designating critical habitat.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) stated that we would undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year. As explained in detail in the Listing Priority Guidance, our listing budget was insufficient to allow us to immediately complete all of the listing actions required by the Act during FY 2000. We stated that we would propose designation of critical habitat in the future at such time when our available resources and priorities allowed.

On November 1, 2000, the Center for Biological Diversity (Center) filed a complaint against the Service alleging that the Service exceeded its 1-year deadline to publish a final rule to list and to designate critical habitat for the nine Bexar County cave invertebrates. Subsequent to the Service publishing the final rule to list these nine species as endangered on December 26, 2000, the Center agreed to dismiss its claim regarding the listing of the species. Under the terms of a settlement reached between the Center and the Service, the Service agreed to submit to the **Federal Register** for publication a proposed critical habitat determination on or by June 30, 2002, and a final determination

on or by January 25, 2003. Sixty-day extensions on the deadlines to submit both the proposed and final critical habitat determinations to the **Federal Register** for publication were approved by the court, and the new deadlines became August 31, 2002, and March 26, 2003, for the proposed and final rules, respectively.

On February 28, 2002, we mailed letters to the Texas Parks and Wildlife Department and the Texas Natural Resource Conservation Commission informing them that we were in the process of designating critical habitat for the nine Bexar County karst invertebrates. We requested any additional available information on the listed species, including biology; life history; habitat requirements; distribution, including geologic controls to species distribution; current threats; and management activities, current or in the foreseeable future. The letters contained a current list of Bexar County caves known to contain listed species, a map showing the general distribution of these species within each Karst Fauna Region, and a list of the references pertaining to these species and their distribution as we know it. We requested their review and comments on our current information and asked their assistance in providing any additional available information.

We also mailed approximately 300 pre-proposal letters to interested parties and cave biologists on March 20, 2002, informing them that we were in the process of designating critical habitat for the 9 listed karst invertebrates. The letters contained a copy of the final rule to list these Bexar County invertebrate species as endangered, a map showing the general distribution of these species, a list of literature about these species and their habitats, and a brief summary with questions and answers on critical habitat. We requested comments on: (1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of excluding areas will outweigh the benefits of including areas; (2) land use practices and current or planned activities in the subject areas and their possible impacts on possible critical habitat; (3) any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, and particularly any impacts on small entities or families; and (4) economic and other benefits associated with designating critical habitat for the Bexar County karst invertebrates.

On August 27, 2002, we proposed that 25 units encompassing a total of approximately 3,857 ha (9,516 ac) in