

environment within any critical habitat unit (e.g., paving over a vegetated area); and altering the entrance or opening of the cave or karst feature in a way that would disrupt movements of raccoons, opossums, cave crickets, or other animals that provide nutrient input; or otherwise negatively altering the movement of nutrients into the cave or karst feature;

(3) Discharge or dumping of chemicals, silt, pollutants, household or industrial waste, or other harmful material into or near critical habitat units that may affect surface plant and animal communities or that affects the subsurface karst ecosystem.

(4) Pesticide or fertilizer application in or near critical habitat units that drain into these karst features or that affect surface plant and animal communities that support karst ecosystems. Careful use of pesticides in the vicinity of karst features may be necessary in some instances to control nonnative fire ants. Guidelines for controlling fire ants in the vicinity of karst features are available from us (see **ADDRESSES** section);

(5) Activities within caves that lead to soil compaction, changes in atmospheric conditions, or abandonment of the cave by bats or other fauna;

(6) Activities that attract or increase access for fire ants, cockroaches, or other invasive predators, competitors, or potential vectors for diseases or parasites into caves or karst features within the critical habitat units (e.g., dumping of garbage in or around caves or karst features); and

(7) Release of certain biological control organisms within or adjacent to critical habitat areas. Biological control organisms include, but are not limited to, predaceous or parasitoid (i.e., an organism that lays its eggs in the body of another animal) vertebrates or invertebrates, fungi, bacteria, or other natural or bioengineered organisms.

Not all of the identified activities will necessarily result in the destruction or adverse modification of critical habitat. They indicate, however, the potential types of activities that will require section 7 consultation in the future and, therefore, that may be affected by the designation of critical habitat. To properly portray the effects of critical habitat designation, we must compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. All of the areas designated as critical habitat are known to contain one or more caves occupied by one or more of the listed karst invertebrates. Therefore, all of the

actions described above as potentially adversely modifying critical habitat are also likely to adversely affect the listed species. Federal agencies already are required to consult with us on activities in areas where the species may be affected to ensure that the actions of the agency are not likely to jeopardize the continued existence of the species. Therefore, we do not expect that this designation of critical habitat will result in a regulatory burden above that already in place because of the presence of the listed species.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, please contact Robert T. Pine, Supervisor, Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations on listed wildlife and plants, and inquiries about prohibitions and permits, should be directed to the U.S. Fish and Wildlife Service, Endangered Species Act Section 10 Program (see **ADDRESSES** section).

Lands Covered Under Existing Conservation Plans

The first portion of the definition of critical habitat in section 3(5)(A) of the Act states that critical habitat means: “(i) The specific areas within the geographical area occupied by the species, at the time it is listed * * * 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.” As part of our process of developing a critical habitat designation, we evaluate existing management plans to determine whether an area may require special management or protection and thus qualifies as critical habitat. The Service believes that special management or protection is not required if an area is covered by a legally operative plan that addresses the maintenance and improvement of essential habitat elements and that provides for the long-term conservation of the species.

We consider a current plan to provide adequate special management or protection if it meets three criteria: (1) The plan is complete and provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species’ population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the conservation management strategies and actions will be implemented (i.e., those responsible for implementing the plan are capable of

accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances the conservation strategies and measures will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan’s goals and objectives).

When we assess the likelihood of whether the special management and protection will be implemented, we consider whether: (1) A management plan or agreement exists that specifies the special management actions being implemented or to be implemented; (2) there is a timely schedule for implementation; (3) there is a high probability that the funding source(s) or other resources necessary to implement the special management will be available; and (4) the party(ies) have the authority and long-term commitment to the agreement or plan to implement the special management and provide the protection, as demonstrated, for example, by a legal instrument providing enduring protection and special management of the areas that contain the primary constituent elements.

When we evaluate whether an action is likely to be effective, we consider whether: (1) The plan specifically addresses the special management needs, with respect to the conservation and enhancement, where possible, of the primary constituent elements; (2) actions similar to those being proposed or used as special management and protection have been successfully used in the past; (3) there are provisions for monitoring and assessment of the effectiveness of the special management and protection; and (4) adaptive management principles have been incorporated into the plan.

If an area provides physical or biological features essential to the conservation of the species, and also is covered by a plan that meets these criteria described above, then such an area does not constitute critical habitat as defined by section 3(5)(A)(i) of the Act because the primary constituent elements found there are not in need of special management.

With the “may require special management or protection” clause, Congress determined that certain areas should not be included in a designation despite the fact that they contain features essential to the conservation of the species. However, it has been suggested that the need for any management of physical or biological features, regardless of whether that