

The Marine Corps consults with us under section 7 of the Act for activities that may affect federally threatened or endangered species on Camp Pendleton. On March 30, 2000, at the request of the Marine Corps, we initiated a formal consultation regarding Marine Corps activities on upland areas of Camp Pendleton. The consultation covers approximately 60,703 ha (150,000 ac) of land within the upland areas of Camp Pendleton, including combat readiness operations, air operations, vehicle operations, facility maintenance and operations, fire management, recreation activities, and housing. The upland consultation that addresses vernal pool habitat, the San Diego fairy shrimp, and other species is not yet completed. We are currently working cooperatively with Camp Pendleton to facilitate the completion of this upland consultation.

In order to continue its critical training mission pending completion of the consultation, the Marine Corps has implemented measures the Corps believes will avoid jeopardy to the continued existence of the San Diego fairy shrimp and other listed species within the uplands area and comply with section 7(d) of the Act. In particular, the Marine Corps is implementing a set of "programmatic instructions" to avoid adverse effects to the San Diego fairy shrimp.

The primary benefit of proposing critical habitat is to identify lands essential to the conservation of the species which, if critical habitat was designated, would require consultation with us to ensure activities would not adversely modify critical habitat or jeopardize the continued existence of the species. We are already in formal consultation with the Marine Corps on their upland activities to ensure current and proposed actions will not jeopardize the species' continued existence. Therefore, we do not believe that designation of mission-essential training areas on Camp Pendleton as critical habitat will appreciably benefit the San Diego fairy shrimp beyond the protection already afforded the species under the Act. Exclusion of these lands will not result in the extinction of the species.

In contrast to the absence of an appreciable benefit resulting from designation of Camp Pendleton training areas, there are substantial benefits to excluding these areas from critical habitat. If critical habitat were to be designated within the training areas, the Marine Corps would be compelled to consult under section 7 of the Act on any activity that may affect designated critical habitat. The additional burden of consulting on activities within

mission-essential training could delay and impair the ability of the Marine Corps to conduct training activities, thus, limiting Camp Pendleton's utility as a military training installation. Similarly, including these areas in the proposed critical habitat rule would require the Marine Corps to conference with us on any activities that might adversely modify or destroy proposed critical habitat. This would result in similar delays and disruption of base's military training mission and impairment of our Nation's military readiness.

In light of our country's national security interest in ensuring Camp Pendleton's ability to maintain a high level of readiness and fighting capabilities, and the disruption to the Marine Corps' training mission, we have considered, but have not proposed critical habitat on lands identified as mission-essential training areas.

We are soliciting public review and comment on our decision to consider, but not propose critical habitat for the San Diego fairy shrimp on mission-essential training areas of Camp Pendleton, based on section 4(b)(2) of the Act. Maps delineating habitat for the San Diego fairy shrimp, overlaid with mission-essential training areas on Camp Pendleton, are available for public review and comment at the Carlsbad Fish and Wildlife Office (*see ADDRESSES* section) or on the Internet at <http://carlsbad.fws.gov>. Additionally, maps showing lands essential to the conservation of the San Diego fairy shrimp, but not included in proposed critical habitat based and the provisions of section 3(5)(A)(i)(II), are available for viewing at the Carlsbad Fish and Wildlife Office (*see Addresses* section). These maps are provided to allow the public to adequately comment on these exclusions.

#### *Methods*

In determining areas that are essential to conserve the San Diego fairy shrimp, we used the best scientific and commercial data available. This included data from research and survey observations published in peer-reviewed articles, recovery criteria outlined in the Recovery Plan for Vernal Pools of Southern California (Recovery Plan) (Service 1998), regional Geographic Information System (GIS) vegetation and species coverages (including vegetation layers for Orange and San Diego counties), data collected on Camp Pendleton and MCAS, Miramar, data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits, and comments received on the March 8,

2000, proposed rule to designate critical habitat for the San Diego fairy shrimp (65 FR 12181) and the August 21, 2000, draft economic analysis (65 FR 50672). In an effort to map areas essential to the conservation of the species, we used data on known San Diego fairy shrimp locations and those vernal pools and vernal pool complexes that we identified in the Recovery Plan as essential for the stabilization and reclassification of the species.

#### *Primary Constituent Elements*

In accordance with sections 3(5)(A)(i) and 4(b)(2) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available. We consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species, and that may require special management considerations or protection. These include, but are not limited to: Space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding and reproduction; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The primary constituent elements for the San Diego fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, cyst (egg) dormancy, dispersal, and genetic exchange. The primary constituent elements are found in those areas that support vernal pools or other ephemeral depressional wetlands. Primary constituent elements include the vernal pool basins and associated watersheds, and include, but are not limited to: small to large vernal pools with shallow to moderate depths that hold water for sufficient lengths of time necessary for San Diego fairy shrimp incubation and reproduction, but not necessarily every year; associated watershed(s) and hydrology for vernal pool basins and their related vernal pool complexes; ephemeral depressional wetlands, flat or gently sloping topography, and any soil type with a clay component and/or an impermeable surface or subsurface layer known to support vernal pool habitat. The associated watersheds are essential in maintaining the hydrology of vernal pools necessary to support San Diego fairy shrimp.

The first constituent element necessary for vernal pools to form are