

County site is still in existence. A third occurrence, comprising the largest occurrence known, was discovered in 1993 on a Department of Defense (DOD) communications facility in Yolo County (CNDDDB 2002).

Tuctoria mucronata has been found only in the Northern Claypan type of vernal pool (Sawyer and Keeler-Wolf 1995) within annual grassland (CNDDDB 2002). Pools where *T. mucronata* occurs tend to be milky from suspended sediments (Holland 1987). The occupied pools in Solano County are more properly described as alkaline playas or intermittent lakes due to their large surface area (Crampton 1959), whereas those at the Yolo County site are "relatively small" (Witham, *in litt.* 2000a). Soils underlying known *T. mucronata* sites are saline-alkaline clay or silty clay in the Pescadero series (Crampton 1959; CNDDDB 2002). Known occurrences are at elevations of approximately 15 to 35 ft (5 to 11 m) (CNDDDB 2002).

Further discussion of the life history and habitat characteristics of *Tuctoria mucronata* can be found in the Delta Green Ground Beetle and Solano Grass Recovery Plan (Service 1985c), and in the final rule to list the species (43 FR 44810; September 28, 1978).

Previous Federal Action

This rulemaking is being made in accordance with a consent decree reached in the U. S. District Court for the Eastern District of California, on December 5, 2002. The following outlines the previous Federal actions and litigation filed after the publication of the proposed rule. For more information regarding Federal actions prior to the publication of the proposed rule, see the Previous Federal Action section in the proposed rule (67 FR 59884).

On September 24, 2002 (67 FR 59884), we published a proposed critical habitat designation for four vernal pool crustaceans and 11 vernal pool plants. Publication of the proposed rule opened a 60-day public comment period, which closed on November 25, 2002. On October 10, 2002, we published a notice (67 FR 63067) announcing three public hearings. The public hearings were held on October 22, 2002, in San Luis Obispo, California; and October 24, 2002, in Sacramento, California, and Medford, Oregon. In addition, public workshops were held in Chico, Sacramento, and Fresno in California and Medford, Oregon. On November 21, 2002, we published a notice announcing the availability of our draft economic analysis (DEA) on the proposed critical habitat designation (67 FR 70201). The

notice opened a public comment period on the DEA, and extended the comment period on the proposed critical habitat designation. This comment period was extended for approximately 30 days, closing on December 23, 2002.

On December 5, 2002, the district court approved a settlement agreement between the parties that extended the deadline for designation of critical habitat from February 14, 2003, until July 15, 2003. On March 14, 2003, we published a notice announcing the reopening of the public comment period for approximately 14 days on the proposed designation of critical habitat for these 15 vernal pool species (68 FR 12336) and the DEA, closing on March 28, 2003.

Summary of Comments and Recommendations

In the September 24, 2002, proposed critical habitat designation (67 FR 59884) and subsequent comment periods, we requested all interested parties to submit comments on the specifics of the proposal, including information related to the critical habitat designation, unit boundaries, species occurrence information and distribution, land use designations that may affect critical habitat, potential economic effects of the proposed designation, benefits associated with critical habitat designation, potential exclusions and the associated rationale for the exclusions, and methods used to designate critical habitat.

We contacted all appropriate State and Federal agencies, county governments, elected officials, and other interested parties and invited them to comment. This was accomplished through telephone calls, letters, and news releases faxed and/or mailed to affected elected officials, media outlets, local jurisdictions, interest groups and other interested individuals. In addition, we invited public comment through the publication of legal notices in numerous newspaper and news media throughout California and Oregon. We provided notification of the DEA and proposed rule to all interested parties. At the request of the Merced County Board of Supervisors, we attempted to notify all Merced County landowners within the proposed vernal pool critical habitat and requested that they provide comments. We provided them contacts where they could direct questions regarding the proposed designation. We also posted the proposed rule and DEA and associated material on our Sacramento Fish and Wildlife Office internet site following their release on September 24, 2002, and November 21, 2002, respectively.

Additionally, we developed an internet site to provide interactive Geographic Information Systems (GIS) maps of the proposed critical habitat boundaries overlaid on 250K USGS quadrangle maps.

We received a total of 955 comment letters during the 2 comment periods. Comments were received from Federal, State, and local agencies, and private organizations and individuals. We reviewed all comments received for substantive issues and comments and new information regarding the vernal pool plants and vernal pool crustaceans. Similar comments were grouped into several general issue categories relating specifically to the proposed critical habitat determination and the DEA and are identified below.

Peer Review

We requested 6 biologists, who have knowledge of vernal pool ecosystems and the 15 species addressed in this rule, to provide scientific review of the proposed designation of critical habitat. Three of the six reviewers submitted comments on the proposed designation. Two of the reviewers strongly endorsed the approach in the proposal that protecting vernal pools in the context of surrounding upland watersheds is crucial for the conservation and long-term survival of the listed vernal pool species, and stated that the rule placed appropriate emphasis on protecting intact vernal pool complexes. The reviewers also cited the importance of conserving a wide range of vernal pool habitat types and biological diversity. The reviewers recommended that additional historical locations of the listed species be considered for critical habitat, and specifically recommended inclusion of vernal pool habitat in Santa Barbara County that once supported *Lasthenia conjugens*. The third reviewer provided specific technical comments on the proposed rule and those recommendations have been incorporated into this final rule.

State Agencies

We received comments from the following California State agencies: Department of Fish and Game (CDFG), Department of Forestry and Fire Protection (CDF), Department of Transportation (Caltrans), and the Department of Housing and Community Development (HCD). Technical data provided by the CDFG has been incorporated into or addressed in this final rule, while other issues raised by State agencies are addressed below.

State Comment 1: The CDFG has considerable knowledge of wildlife resources within California, and we