

Our Response: Only those activities which are federally funded or authorized that may affect critical habitat would be subject to the regulations pertaining to critical habitat. We recognize and acknowledge that certain levels of livestock grazing likely have no impact on vernal pool ecosystems, and may be beneficial for maintaining them. Since the vast majority of vernal pool habitat within the designation is occupied by the listed vernal pool species and occurs on privately owned lands, the designation of critical habitat is not likely to result in a significant increase in regulatory requirements above those already in place due to the presence of the listed species.

Vernal pools and the species within this rule evolved with the presence of large ungulate grazing. Grazing deters the encroachment of grass and other upland species into the vernal pools, and reduces the vegetative cover of upland areas potentially allowing space for soil dwelling pollinator species to exist. However, the amount and timing of grazing can greatly influence species abundance and composition within each vernal pool.

Comment 18: California Army National Guard-Camp Roberts and Fort Hunter Liggett provide analyses that describe anticipated economic impacts that would arise on the military bases and in surrounding communities if critical habitat is designated for vernal pool fairy shrimp on their property. Camp Roberts estimates the impacts from critical habitat to be approximately \$95.4 million (ARNG 2002b). The majority of these costs would accrue because the military believes a critical habitat designation would create a need to relocate training activities to other military bases where critical habitat is not designated. They also believe 31 projects may need to be canceled or substantially modified during the next 20 years. The letter from Camp Roberts also states that local communities around the base would also be affected by critical habitat designation, and the potential effects to these communities are estimated to be \$50.5 million.

Staff at Fort Hunter Liggett believe the cost of designating critical habitat on their base would be approximately \$7.35 million over a 10-year period (FHL 2002b). The Army believes a \$5 million cost would be incurred because of changes to a prescribed fire program. Additional costs may be incurred because Fort Hunter Liggett staff estimate they will need to complete 36 informal and 16 formal consultations during the next 20 years as a result of the critical habitat designation. The

letter also states that the Army believes our cost estimates associated with the critical habitat designation, as described in the economic analysis, are too low.

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Comment 19: A planner from the City of El Paso Robles asks that we describe what effect critical habitat designation has on new development projects. The letter suggests critical habitat designation results in the need to set aside vernal pools as ecological preserves. A facsimile transmittal from a small farming company also asks that we describe how critical habitat designation could affect their farming operations.

Our Response: The designation of critical habitat requires that Federal agencies consult with us on actions they carry out, fund, or authorize that might destroy or adversely modify the critical habitat. A critical habitat designation has no effect on actions where a Federal agency is not involved (Federal nexus). For example, a landowner undertaking a lawful project on private land that involves no Federal funding or Federal

permits would not be affected by the critical habitat designation. If a Federal nexus did develop on private land that was included in a critical habitat unit, e.g., a private landowner needed a permit from the U.S. Army Corps of Engineers (Corps) for fill to be placed in a wetland, the project would need to undergo a review process with the Service.

Under the Act, a critical habitat designation establishes a geographic area that is essential for the conservation of threatened or endangered species and may require special management considerations or protections. However, a designation does not affect the land ownership or establish a refuge, wilderness, reserve, preserve, or other special conservation area. It does not allow government or public access to private land, and will not result in the closure of the area to all access or use. Rather, it triggers the requirement that Federal agencies must consult with us on activities they fund or carry out that might affect critical habitat. Please refer to the Effects of Critical Habitat section below for further explanation of effects of critical habitat designation and its effects on development and farming operations.

Issue 3—Notification and Public Comment

Comment 20: A number of commenters stated that landowners were either not notified, or not notified in a timely manner, and given an adequate opportunity to comment on the proposed designation. The commenters also stated that the number of public hearings was inadequate to obtain full public input on the proposal and that additional public hearings should be held. Several commenters stated that the 30-day comment period for the DEA violated 50 CFR 424.16(c)(2) and requested that we extend the comment period on the proposed designation and draft economic analysis to allow for additional outreach to interested parties as well as hold more public hearings.

Our Response: We are obligated to hold at least one public hearing on a listing proposal if requested to do so prior to 15 days before the end of a comment period (16 U.S.C. 1533(b)(5)(E)). We held a total of 6 public hearing on our proposal to designate critical habitat for the 15 vernal pool species: two public hearings on October 22, 2002, in San Luis Obispo, California; two in Medford, Oregon, on October 24, 2002; and two on October 24, 2002, in Sacramento, California. We also organized three public workshops to notify the public of