

confusion between species listing and the designation of critical habitat.

Following publication of the proposed critical habitat rule for the 15 vernal pool species (67 FR 59884), we re-evaluated the proposed critical habitat for each of the species to ensure that the areas within the designation were essential to the conservation of the species (see Methods section below).

In the majority of instances, we continued to used the 328 ft (100 m) grid in determining the legal boundaries for the critical habitat. As a result, some areas not containing the PCEs may still be within the critical habitat boundary. Because these areas do not have one or more of the PCEs for the 15 species, the landowners would not be required to consult as a result of this determination. In some areas where precise boundaries were required as a result of land ownership exclusions, or for small areas surrounded by nonessential habitat, we used a 32.8 ft (10 m) grid for further refinement. However due to time limits, staffing, and funding required for completion of this rule, we were not able to use the finer detailed 32.8 ft (10 m) grid for all the critical habitat boundaries.

We excluded the U.S. Fish and Wildlife Service owned lands within the boundaries of the Kern, Sacramento, San Francisco Bay, and San Luis National Wildlife Refuges and National Wildlife Refuge Complexes and the Coleman National Fish Hatchery. The total amount of refuge and hatchery land excluded totals approximately 33,097 ac (13,238 ha). We also excluded California Department of Fish and Game owned lands within the Battle Creek, Big Sandy, Grizzly Island, Hill Slough, North Grasslands, and Oroville Wildlife Areas and State-owned lands within Allensworth, Boggs Lake, Butte Creek Canyon, Calhoun Cut, Carrizo Plains, Dales Lake, Fagan Marsh, Phoenix Field, San Joaquin River, Stone Corral, and Thomes Creek Ecological Reserves. The total amount of land excluded for State-owned lands excluded within wildlife areas or ecological reserves is approximately 20,933 ac (8,373 ha). These areas were excluded based on the benefits of inclusion verses the benefits of exclusion and from information received from the California Department of Fish and Game. We have determined that the benefits of exclusion outweigh the benefits of inclusion for these areas (see Effects of Critical Habitat Section below).

We also excluded four military installations, three areas with HCPs, and one area containing Tribal lands. Based on information received from the military installations and the Tribal

entity, we have determined that the benefits of exclusion outweigh the benefits of inclusion for these five areas (see Effects of Critical Habitat Section below). The total amount of land excluded is approximately 64,803 ac (25,921 ha). The specific land area for each exclusion is outlined below and in the tables.

The four military installations include Beale AFB (5,028 ac (2,011 ha) excluded) in Yuba County, Travis AFB (5,089 ac (2,036 ha) excluded) in Solano County, Fort Hunter Liggett (16,298 ac (6,519 ha) excluded) in Monterey County, and Camp Roberts (33,117 ac (13,247 ha) excluded) in San Luis Obispo and Monterey Counties, totaling approximately 59,532 ac (23,813 ha) excluded for all four military bases. The species affected as a result of this determination include: the vernal pool fairy shrimp, vernal pool tadpole shrimp, Conservancy fairy shrimp, *Tuctoria mucronata*, *Neostapfia colusana*, and *Lasthenia conjugens*.

In comparing the benefits of inclusion of critical habitat for the species versus benefits of exclusion of these areas, we determined that it is appropriate to exclude these military installations from this critical habitat designation under section 4(b)(2). The main benefit of this exclusion is ensuring that military training activities can continue without interruption while the INRMPs move toward full implementation. One of the management strategies for each INRMP on the four bases is to establish guidance for the conservation of vernal pool ecosystems and the species inhabiting them. We have been working closely with the various military installations to finalize the INRMPs and have made significant progress toward conservation of the resources at these facilities. In addition, after re-evaluating the habitat associated with the proposed designation and making changes to the critical habitat unit boundaries, the actual amount of habitat on several of the bases was reduced since the habitat did not contain the PCEs for the species. We expect that when the INRMPs are completed and adopted in the near future, they will provide equal or greater protection to vernal pool species habitat than a critical habitat designation.

As described in the proposed rule, the area within the proposed Unit 35 for vernal pool fairy shrimp in Riverside County may be subject to exclusion. After further evaluation, we determined that the area known as the Skunk Hollow critical habitat unit is appropriate for exclusion based on the determination that the special management considerations and protections afforded by its inclusion in

a reserve established within an approved mitigation bank in the Rancho Bella Vista Habitat Conservation Plan area.

Although the vernal pool fairy shrimp is not expressly covered by the Assessment District 161 Subregional HCP (AD161 HCP), we believe that management actions undertaken in the Skunk Hollow watershed to benefit the endangered Riverside fairy shrimp, threatened *Navarretia fossalis* (spreading navarretia), and the endangered *Orcuttia californica* (California Orcutt grass)—all of which are included as covered species under the HCP—will provide equal conservation benefits for the vernal pool fairy shrimp. The total area excluded for vernal pool fairy shrimp as a result of this exclusion is approximately 239 ac (97 ha).

We are also excluding Unit 33 (Hemet-San Jacinto Unit ABC) and Unit 34 (Santa Rosa Plateau Unit) of the vernal pool fairy shrimp critical habitat based on section 4(b)(2) of the Act. The habitat within Unit 33 is included in the Draft Western Riverside HCP which will provide protections for the species and habitat. Vernal pools within the Santa Rosa Plateau Ecological Reserve, including those in Unit 34, are conserved and managed for the benefit of the species that occur within the vernal pools and surrounding watersheds. Exclusion of units 33 and 34 from vernal pool fairy shrimp critical habitat will not result in the extinction of the species. The removal of these units from critical habitat designation reduces the total amount of critical habitat designated for the species by approximately 8,425 ac (3,370 ha).

Similarly, a small portion of the area within the proposed vernal pool fairy shrimp critical habitat (Unit 18) in San Joaquin County also has an approved and legally operative NCCP/HCP (San Joaquin Multi-Species Conservation Plan), which includes measures for the conservation of these two species. It would be appropriate to exclude these units. The total amount of area excluded for vernal pool fairy shrimp as a result of this exclusion is approximately 141 ac (56 ha).

We proposed critical habitat on Tribal lands of the Mechoopda in Butte County, although at that time we were unaware that these were Tribal lands. The Mechoopda brought this to our attention during the comment period and requested that their lands be excluded from the final designation. We evaluated the lands proposed as critical habitat and find that the benefits of excluding these areas from critical habitat designation outweigh the