

consistent with the present conservation management scheme agreed to by the cooperating agencies. Designation of critical habitat on the SRPER could be interpreted by CDFG as an unfair burden. Although designation of critical habitat would not have any effect of the present management of the vernal pool complex on the SRPER, the CDFG would likely view such designation as unnecessary.

Excluding critical habitat designation from the SRPER will preserve the cooperative spirit already established among the managing agencies, including the CDFG. Such exclusion will not jeopardize the existence of the vernal pool fairy shrimp on SRPER, nor will such exclusion provide increase the likelihood that activities would be proposed which would appreciably diminish the value of the habitat for the conservation of the species.

#### **Relationship of Critical Habitat to National Wildlife Refuge and National Fish Hatchery Lands**

We have determined that proposed critical habitat units on the Sacramento, San Francisco Bay, San Luis, and Kern National Wildlife Refuge Complexes, and the Coleman National Fish Hatchery Complex, warrant exclusion pursuant to section 4(b)(2) of the Act because the benefits of excluding these lands from final critical habitat outweigh the benefits of their inclusion.

##### *(1) Benefits of Inclusion*

There is minimal benefit from designating critical habitat for the vernal pool species within National Wildlife Refuge and National Fish Hatchery lands because these lands are already managed for the conservation of wildlife. One possible benefit of including these lands as critical habitat would be to educate the public regarding the conservation value of these areas and the vernal pool complex they support. However, critical habitat designation provides little gain in the way of increased recognition for special habitat values on lands that are expressly managed to protect and enhance those values. Additionally, the designation of critical habitat will not have any appreciable effect on the development or implementation of public education programs on these areas.

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and management of all trust resources, including federally listed species and sensitive natural habitats. These plans, and many of the management actions undertaken to implement them, will have to undergo consultation under section 7 of the Act and be evaluated for their consistency with the conservation needs of listed species.

##### *(2) Benefits of Exclusion*

While the consultation requirement associated with critical habitat on the National Wildlife Refuge and Fish Hatchery lands add little benefit, it would require the use of resources to ensure regulatory compliance that could otherwise be used for on-the ground management of the targeted listed or sensitive species. Therefore, the benefits of exclusion include relieving additional regulatory burden that might be imposed by the critical habitat, which could divert resources from substantive resource protection to procedural regulatory efforts.

##### *(3) The Benefits of Exclusion Outweigh the Benefits of Inclusion*

We believe that the potential disincentives to actively manage trust resources that is provided by designation of critical habitat are appreciably greater than the benefits to be derived from such designation. This is a result of the fact that these lands already are publically-owned and managed to protect and enhance unique and important natural resource values. We therefore conclude that the benefits of excluding National Wildlife Refuge and National Fish Hatchery lands from the final critical habitat designation outweigh the benefits of including them. Exclusion of these lands will not increase the likelihood that management activities would be proposed which would appreciably diminish the value of the habitat for conservation of the species. Further, such exclusion will not result in the extinction of the vernal pool species. We therefore conclude that the benefits of excluding refuge and Fish Hatchery lands from the final critical habitat designation outweigh the benefits of including them.

In accordance with section 4(b)(2) of the Act, we have excluded lands within the Sacramento, San Francisco Bay, San Luis, and Kern National Wildlife Refuge Complexes, and the Coleman National Fish Hatchery Complex from final critical habitat. The total amount of refuge and fishery land excluded from the final designation is approximately 33,097 ac (13,238 ha).

#### **Relationship of Critical Habitat to State Managed Ecological Reserves and Wildlife Areas**

The State of California establishes ecological reserves "to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools" (Fish and Game Code section 1580). They are to "be preserved in a natural condition, or which are to be provided some level of protection as determined by the commission, for the benefit of the general public to observe native flora and fauna and for scientific study or research." (Fish and Game Code section 1584). Wildlife areas are for the purposes of propagating, feeding and protecting birds, mammals, and fish (Fish and Game Code section 1525); However, they too provide habitat for and are also managed for the benefit of listed and sensitive species (CDFG in litt. 2003).

Take of species except as authorized by State Fish and Game Code is prohibited on both State ecological reserves and wildlife areas (section 1530 and section 1583). While public uses are permitted on most wildlife areas and ecological reserves, such uses are only allowed at times and in areas where listed and sensitive species are not adversely affected (CDFG in litt. 2003). The management objectives for these State lands include: "to specifically manage for targeted listed and sensitive species to provide protection that is equivalent to that provided by designation of critical habitat; to provide a net benefit to the species through protection and management of the land; to ensure adequate information, resources, and funds are available to properly manage the habitat; and to establish conservation objectives, adaptive management, monitoring and reporting processes to assure an effective management program, monitoring and reporting processes to assure an effective management program" (CDFG in litt. 2003).

We proposed as critical habitat, but have now considered for exclusion from the final designation, the CDFG 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.