

complete the INRMPs for the two military bases.

Also, the maintenance of positive working relationships between our agency and the military is essential to completing the INRMPs for Camp Roberts and Fort Hunter Liggett. The number of listed species and the diversity of training operations on these military bases will ultimately result in two inherently complicated documents. Crafting conservation strategies for multiple species that require different habitats, while ensuring the lands on the military bases are still available for training purposes, requires that working relationships between the different agencies are optimized. We expect that when the INRMPs are completed and adopted in the upcoming months, they will provide equal or greater protection to vernal pool fairy shrimp habitat than a critical habitat designation.

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

Based on the above considerations, and consistent with the direction provided in section 4(b)(2) of the Act, we have determined that the benefits of excluding Fort Hunter Liggett and Camp Roberts as critical habitat for vernal pool fairy shrimp (unit 29) outweigh the benefits of including it as critical habitat for vernal pool species. We base this determination on the need for maintaining mission-critical military training activities (ARNG 2002a; Fort Hunter Liggett 2002a), the need to maintain positive working relationships that are necessary to complete plans designed to conserve vernal pool fairy shrimp and its habitat, and economic considerations relating to section 7 consultation costs and other indirect effects (EPS 2002).

Further, we have determined that excluding these two bases will not result in the extinction of the vernal pool fairy shrimp. If significant additional information become available that changes our analysis of the benefits of excluding compared to the benefits of including either of these two bases in the critical habitat designation, we may revise this final designation accordingly.

Relationship of Critical Habitat to Tribal Lands

Section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and the effects thereof from all relevant sources, including Indian Pueblos and Tribes. In accordance with Secretarial Order 3206, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" (June 5, 1997); the President's memorandum

of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments," and Executive Order 13175, we recognize the need to consult with federally recognized Indian Tribes on a Government-to-Government basis. In the Secretarial Order 3206, it is stated that, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" (1997) provides that critical habitat should not be designated in an area that may impact Tribal trust resources unless it is determined to be essential to conserve a listed species.

During the public comment period, the Mechoopda Indian Tribe of Chico Rancheria, California sent us a letter requesting to have 260 ha (645 ac) of their trust lands excluded from critical habitat designation for the vernal pool tadpole shrimp (unit 4). The Mechoopda Tribe want to work on a government-to-government basis. They believe that the designation of critical habitat on their land will impede their ability to beneficially manage it, and will interfere with their sovereign governmental interests. The letter also stated that they intend to independently manage the environmental resources on their lands in a manner that protects these resources while preserving their cultural values and heritage.

Along with their letter, the Tribe sent us a copy of the Mechoopda Indian Tribe Environmental Management Plan. We reviewed the plan, and although it afforded some protection to listed species, we found that it did not meet our conservation goals. In response to the Tribe's request to be excluded from critical habitat, we solicited additional information from the Tribe and requested a meeting. During this meeting, we communicated our desired conservation goals and objectives, and provided technical advice for the modification of the management plan to enhance its benefits for the conservation of listed species. We established an effective working relationship and the technical assistance that we provided enabled them to develop voluntary measures to better conserve vernal pool species and their habitat on Tribal lands. These voluntary measures are contained within a letter and revised Mechoopda Indian Tribe Environmental Management Plan dated March 2003, which the Tribal chairman submitted during the second open comment period.

Their revised management plan demonstrates the Tribe's willingness to work cooperatively with us toward landscape-scale conservation efforts that will benefit vernal pool species. The

Tribe's revised management plan includes early consultation for activities with us to determine the potential for effects to listed species, coordination with us to follow methods and protocols to survey for listed vernal pool species, and appropriate actions to conserve listed species based on the results of the surveys. The revised management plan also specifically provides periodic updates as appropriate. We have determined that the plan provides sufficient conservation benefit to the species and assurances that the conservation management strategies will be implemented and effective. In short, their revised management plan allows the Tribe to exercise their sovereign status and provide for special management protections and conservation of the vernal pool habitat.

(1) Benefits of Inclusion

Few additional benefits are provided by including the Mechoopda Indian Tribe lands in this critical habitat designation beyond what will be achieved through the implementation of their revised management plan. Although surveys for listed vernal pool species have not been conducted on their property, occurrences of listed vernal pool species are known on adjacent lands. This increases the likelihood that listed species also occupy the Mechoopda's land because the habitat is similar, and in some parts, contiguous with the Tribal lands.

Another possible benefit to including these lands is that the designation of critical habitat can serve to educate landowners and the public regarding the potential conservation value of an area. This may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation value for certain species. Any information about the vernal pool species for which critical habitat was proposed on Mechoopda Tribeland that reaches a wide audience, including other parties engaged in conservation activities, would be considered valuable.

(2) Benefits of Exclusion

We believe that exclusion of Mechoopda Tribal lands from critical habitat would have substantial benefits including: (1) The furtherance of our Federal Trust obligations and our deference to the Mechoopda Tribe to develop and implement Tribal conservation and natural resource management plans for their land; (2) the establishment and maintenance of effective working relationships to promote the conservation of vernal pool species while streamlining the