

commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned." Here, we have determined that exclusion of the Pueblo lands of Santo Domingo, Santa Ana, Sandia, and Isleta from the critical habitat designation will not result in the extinction of the silvery minnow. First, activities on these areas that may affect the silvery minnow will still require consultation under section 7 of the Act. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species. Therefore, even without critical habitat designation on these lands, activities that occur on these lands cannot jeopardize the continued existence of the silvery minnow. Second, each of the Pueblos have committed to protecting and managing according to their special management plans and natural resource management objectives. In short, the Pueblos have committed to greater conservation measures on these areas than would be available through the designation of critical habitat. With these natural resource measures, we have concluded that this exclusion from critical habitat will not result in the extinction of the silvery minnow. Accordingly, we have determined that the Pueblo lands of Santa Domingo, Santa Ana, Sandia, and Isleta should be excluded under subsection 4(b)(2) of the Act because the benefits of exclusion outweigh the benefits of inclusion and will not cause the extinction of the species. For this reason, we are excluding from this critical habitat designation the Pueblo lands of Santa Domingo, Santa Ana, Sandia, and Isleta.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation," as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Section 4(b)(2) of the Act requires that we base critical habitat designation on the best scientific and commercial data available, taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation if we determine that the benefits of exclusion outweigh the benefits of including the areas as critical habitat, provided the exclusion will not result in the extinction of the species.

Designation of critical habitat helps focus conservation activities by identifying areas that are essential to the conservation of the species and alerting the public and land management agencies to the importance of an area to conservation. Within areas currently occupied by the species, critical habitat also identifies areas that may require special management or protection. Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Where no such Federal agency action is involved, critical habitat designation has no bearing on private landowners, State, or Tribal activities. Aside from the added protection provided under section 7, critical habitat does not provide other forms of protection to designated lands.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create a management plan, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery, conservation, and management plans, and through section 7 consultations and section 10 permits. Critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), the regulatory protections afforded by the section 7(a)(2) jeopardy standard, and the section 9 take prohibition. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation

will not control the direction and substance of future recovery plans, habitat conservation plans under section 10 of the Act, or conservation planning efforts for other species if new information available to these planning efforts calls for a different outcome.

Methods

In determining areas that are essential to conserve the silvery minnow, we used the best scientific and commercial data available. This included data from research and survey observations published in peer-reviewed articles, recovery criteria outlined in the Recovery Plan (Service 1999), data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits, and comments received on the previous proposed and final rule, draft economic analysis, and environmental assessment. We have emphasized areas known to be occupied by the silvery minnow and described other river reaches that were identified in the Recovery Plan which we believe are important for possible reintroduction and recovery (Service 1999).

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat designations on the best scientific and commercial data available and to consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and, within areas currently occupied by the species, may require special management considerations or protection. Those physical and biological features may include, but are not limited to, space for individual and population growth, and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The various life-history stages of the silvery minnow require diverse habitats. The following discussion summarizes the biological requirements of the silvery minnow relevant to identifying the primary constituent elements of its critical habitat.

The silvery minnow historically inhabited portions of the wide, shallow rivers and larger streams of the Rio Grande basin, predominantly the Rio Grande and the Pecos River (Bestgen