

(ii) There are no specific habitat areas essential to the conservation of this species.

(4) Fox, Santa Rosa Island (*Urocyon littoralis santarosae*).

(i) No primary constituent elements have been identified for the Santa Rosa Island fox.

(ii) There are no specific habitat areas essential to the conservation of this species.

(b) [Reserved]

Dated: October 1, 2004.

Julie MacDonald,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AT44

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander (*Ambystoma californiense*) in Santa Barbara County

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of a draft economic analysis for the proposed designation of critical habitat for the California tiger salamander (*Ambystoma californiense*) in Santa Barbara County (here after referred to as "California tiger salamander") under the Endangered Species Act of 1973, as amended (Act). We are also reopening the public comment period for the proposal to designate critical habitat for this species to allow all interested parties to comment on the proposed rule and the associated draft economic analysis. Comments previously submitted on the proposed rule need not be resubmitted as they have been incorporated into the public record as a part of this reopening of the comment period, and will be fully considered in preparation of the final rule.

DATES: We will accept all comments received on or before November 8, 2004. Any comments that we receive after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposed rule by any one of several methods:

(1) You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003, or by facsimile 805/644-3958.

(2) You may hand-deliver written comments to our office, at the address given above.

(3) You may send comments by electronic mail (e-mail) to fw1ctsch@r1.fws.gov. Please see the Public Comments Solicited section below for file format and other information about electronic filing. In the event that our Internet connection is not functional, please submit your comments by the alternate methods mentioned above.

Comments and materials received, as well as supporting documentation used in preparation of the proposed critical habitat rule, will be available for public inspection, by appointment, during normal business hours at the above address. You may obtain copies of the draft economic analysis for the California tiger salamander in Santa Barbara County by contacting the Ventura Fish and Wildlife Office at the above address. The draft economic analysis and the proposed rule for critical habitat designation also are available on the Internet at <http://ventura.fws.gov/>. In the event that our Internet connection is not functional, please obtain copies of documents directly from the Ventura Fish and Wildlife Office.

FOR FURTHER INFORMATION CONTACT: Katie Drexhage (telephone 805/549-3811; facsimile 805/549-3233 or Michael McCrary (telephone 805/644-1766; facsimile 805/644-3958), Ventura Fish and Wildlife Office, at the address listed above.

SUPPLEMENTARY INFORMATION:

Background

The California tiger salamander is a large and stocky salamander, with a broad, rounded snout. Adult males may reach a total length of 8.2 inches (in) (20.8 centimeters (cm)) while females are slightly smaller, reaching about 6.8 in (17.3 cm) in length. The top of the salamander can have white or pale yellow spots or bars on a black background. The underside varies from almost uniform white or pale yellow to a varying pattern of white or pale yellow and black. This species is restricted to California and does not overlap with any other species of tiger salamander.

The Santa Barbara County salamanders are geographically separate from all other California tiger salamanders. Historically, the Santa Barbara County California tiger salamanders inhabited low-elevation (below 1,400 feet (427 meters)) vernal pools and ephemeral ponds, and associated coastal scrub, grassland, and oak savannah plant communities of the Santa Maria, Los Alamos, and Santa Rita valleys.

The loss of the California tiger salamander's upland habitat is the single most important factor contributing to the species' status. Additional threats to this species include threats to the aquatic habitat, predation and competition by introduced or non-native species, habitat fragmentation, contaminants, hybridization with non-native tiger salamanders, disease, and over-grazing.

On January 19, 2000, we published an emergency rule to list the Santa Barbara County DPS of the California tiger salamander as endangered (65 FR 3096), concurrently with a proposed rule (65 FR 3110) to list the species as endangered. We published a final rule listing the Santa Barbara County DPS of the California tiger salamander as endangered on September 21, 2000 (65 FR 57242). On May 23, 2003, we proposed to list the Central California population of California tiger salamander as a threatened DPS. In the same **Federal Register** notice we also proposed to downlist the Sonoma County DPS and Santa Barbara County DPS of California tiger salamander, from endangered to threatened status (68 FR 28648). The **Federal Register** notice also included a proposed special rule that would exempt existing routine ranching activities from the prohibitions of the Act. On August 4, 2004, we determined threatened status for the California tiger salamander rangewide (69 FR 47212). We also finalized the special rule for the species rangewide, which exempts existing routine ranching activities.

On February 25, 2003, the Environmental Defense Center and Center for Biological Diversity filed a complaint challenging our failure to designate critical habitat for the Santa Barbara County DPS of the California tiger salamander (*Environmental Defense Center et al. v. U. S. Fish and Wildlife Service et al.*, EVCD 03-00195 (C.D.Cal)). By order dated August 7, 2003, the district court ordered us to publish a proposed rule to designate critical habitat for the California tiger salamander. On January 22, 2004, we proposed to designate critical habitat for the Santa Barbara DPS of California tiger salamander (69 FR 3064). Approximately 13,920 acres (5,633

hectares) fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Santa Barbara County, California, as described in the proposed rule. The comment period on the proposed rule closed March 22, 2004. However, on April 13, 2004, we reopened the comment period (69 FR 19394) and announced a public hearing that was held on May 11, 2004.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions pursuant to section 7(a)(2) of the Act.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We have prepared a draft economic analysis for the proposal to designate certain areas as critical habitat for the California tiger salamander. This analysis considers the potential economic effects of our proposed designation. It also considers the economic effects of protective measures taken as a result of listing the species under the Act, and other Federal, State, and local laws that aid habitat conservation in areas proposed for designation.

The majority of these areas occur on privately owned land. We know of no Federal, State, tribal, or military lands within proposed critical habitat. A small portion of land within one unit is owned by local jurisdictions, including the county of Santa Barbara and the Laguna County Sanitation District. The economic analysis addresses the impacts of California tiger salamander conservation efforts on activities occurring on lands proposed for designation. The analysis measures lost economic efficiency associated with real estate development, grazing activities, agriculture, vineyards, road construction projects, utility and other infrastructure projects, as well as the California Environmental Quality Act (CEQA) requirements, uncertainty, and project delay.

There is a great deal of uncertainty in estimating the impact of California tiger salamander-related conservation activities in the future. For example, the

economic analysis projects significant future cost to private developers as a result of California tiger salamander conservation activities even though these costs have been relatively minimal in the past. For some activities the analysis estimates an upper-bound cost estimate, for others a conservative approach is taken to reach a best estimate. The implicit lower-bound cost estimate predicts no impact.

Total efficiency costs (*e.g.*, lost economic opportunities associated with restrictions on land use) for the upper bound scenario are estimated to be \$411 million between 2005 and 2030. The efficiency costs for the lower bound scenario are estimated to be \$105 million between 2005 and 2030. In both cases, the real estate industry, in particular the owners of developable land, is estimated to experience the highest cost overall, followed by agriculture and road construction projects.

Public Comments Solicited

We intend any final action resulting from this proposal to be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the economic analysis or the proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of excluding outweigh benefits of including any area as critical habitat;

(2) Specific information on the amount and distribution of California tiger salamander habitat, and what habitat is essential to the conservation of this species and why;

(3) Land use designations and current or planned activities in the subject area and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities;

(5) Whether the economic analysis identifies all State and local costs. If not, what costs are overlooked;

(6) Whether the economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(7) Whether the economic analysis correctly assesses the effect on regional

costs associated with land use controls that derive from the designation;

(8) Whether the designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation;

(9) Whether the economic analysis appropriately identifies all costs that could result from the designation;

(10) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments;

(11) What the likely benefits of designating critical habitat are and whether the economic analysis appropriately captures those economic benefits that are susceptible to quantification;

(12) Any suggestions to improve our economic analysis particularly with regard to its consideration of the foreseeable economic benefits of critical habitat designation; and

(13) Any suggestions to improve our ability to identify the noneconomic benefits of designating a particular area as critical habitat to enable a more comprehensive and informed analysis of the economic and other relevant impacts of designation.

All comments and information submitted during the previous comment periods on the proposed rule need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning this rule by any one of several methods (*see ADDRESSES* section). Please submit Internet comments to fw1ctsch@r1.fws.gov and include "Attn: California Tiger Salamander in SB County Critical Habitat" in your e-mail subject header, and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Ventura Fish and Wildlife Office (*see FOR FURTHER INFORMATION CONTACT* section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this

prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Author

The primary author of this notice is the Ventura Fish and Wildlife Office staff (*see* **ADDRESSES** section).

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: September 29, 2004.

Julie MacDonald,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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