

Press Release:

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Butte Environmental Council • 116 W. Second St., Suite 3 • Chico, CA 95928 • 530/891-6424 • fax 530/891-6426 **Contact:** Barbara Vlamis

Broad Coalition of Conservation Organizations Challenges Inadequate Habitat Protections for Wetland Species and Habitats

Chico, CA – Butte Environmental Council, the California Native Plant Society, Defenders of Wildlife, San Joaquin Raptor/Wildlife Rescue Center, Vernalpools.Org, and Sierra Foothills Audubon Society have filed a complaint against the U.S. Department of the Interior over its second, Final Vernal Pool Critical Habitat Rule for 15 endangered and threatened vernal pool plants and animals found in California and Oregon. On August 11, 2005 Interior designated 858,846 acres of critical habitat in the Final Rule, eliminating almost 900,000 acres that were proposed in the original 2002 Draft Rule. The 2005 rule is a result of litigation also filed by some of the current plaintiffs over the elimination of more than one million acres of VPCH for the 15 species and five entire counties.

In the 2005 final critical habitat designation, Interior unlawfully relied upon an flawed analysis of economic impacts that overestimated potential costs of critical habitat designation, as well as underestimated and disregarded potential benefits of designation. Additionally, Interior unlawfully excluded many areas, including National Monuments, National Wildlife Refuges, and lands overlapping with habitat conservation plans, based on inadequate existing protections.

“While Interior added some VPCH to the five excluded counties, others like Placer and Stanislaus were decimated based on a political agenda, not economics, which leaves them open to this legal challenge,” stated Barbara Vlamis, Executive Director of Butte Environmental Council (see charts below). “Not only did Interior’s Economic Analysis overstate economic costs, it also ignored the economic benefits associated with the protection of vernal pool grasslands, such as providing educational and recreational opportunities, infrastructure support services, ranching, tourism, and economy of scale by covering 15 species in one rule,” declared Vlamis.

To illustrate the overstated conclusions in the Economic Analysis, Butte County’s projected costs were \$152 million over 20 years. Even if one accepts the economic methods used, which the plaintiffs do not, this translates into a microscopic 0.17% per year when compared with the annual economic output of the county, \$7.36 billion (IMPLAN 2001). “Excluding any of the proposed VPCH is not justified by the economic analysis that led to this Rule,” stated Carol Witham, President of the California Native Plant Society.

Designating critical habitat for federally listed species is important for the recovery of listed species because it clearly identifies the areas essential for their recovery. These critical habitat maps are essential to providing information for statewide and local conservation planning efforts. “The decision to eliminate nearly 1 million acres of vernal pool critical habitat, including lands in Fresno, Placer, San Luis Obispo, Stanislaus, and Tehama counties, may very well prevent the recovery of these 15 imperiled species,” stated Kim Delfino, California Program Director, Defenders of Wildlife. “At a minimum, it means its open season again for developers for those excluded vernal pool grasslands,” continued Delfino.

If recovery is to occur, the remaining range of the 15 vernal pool species must not only be protected, it must expand. Vernal pools are unique depressional wetlands that fill and dry every year. The eight endangered and seven threatened species are currently listed due to the severity of vernal pool destruction

in California and Oregon. As the 2002 Proposed Rule indicated, noted vernal pool expert Robert Holland estimates that close to 75% of the Central Valley's vernal pool habitat was lost by 1997; the central coast has lost at a minimum 90%; southern California's losses exceed 95%; and Oregon has had 60% destroyed with 18% of the extant habitat considered intact (2002). More recent estimates place the habitat losses at over 90% throughout the historic range of vernal pools (Wright 2002).

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Background

A January 14, 2002 decision by the U.S. Supreme Court upheld the ruling by the District of Columbia Court of Appeals affirming the protection of four federally listed fresh water crustaceans under the Endangered Species Act. The species were listed under the Endangered Species Act by the Interior Department's U.S. Fish and Wildlife Service (Service) in September 1994. The California Building Industry Association sued to try to reverse the species' protection in 1995. Two California organizations, the Butte Environmental Council (BEC) and the Environmental Defense Center of Santa Barbara, supported the listings as interveners all the way to the Supreme Court.

Judge Paul Friedman of the U.S. District Court of Columbia issued the initial ruling on July 29, 1997 that rejected the BIA request to de-list the shrimp, but his decision supported their petition requiring the Service to designate critical habitat for the shrimp species. When the Service failed to respond to the court's direction, BEC sued on April 12, 2000 for critical habitat designation for the four crustaceans. On February 9, 2001, the District Court for the eastern district of California ordered the Service to complete a final critical habitat designation for the crustaceans. The Service requested an extension of one year past the court ordered deadline and BEC concurred when the negotiations created a more comprehensive benefit for the habitat by including 11 vernal pool plant species.

On August 6, 2003 the Bush administration issued the final critical habitat rule and justified the removal of one million acres and six counties on economic grounds. Their analysis was feeble and concentrated almost exclusively on the economic costs over the economic benefits, illuminating its bias. The list of economic benefits of the critical habitat designation that were ignored by Washington is quite extensive and includes flood control, water quality, tourism, animal husbandry, hunting, recreation, education, and all the species in the food chain. The counties omitted from the 2003 critical habitat designation are: Butte, Madera, Merced, Riverside, Sacramento, & Solano.

The counties with acreage in the 2003 critical habitat designation are: □ Alameda, Amador, Calaveras, Contra Costa, Fresno, Glenn, Kings, Lake, Lassen, Mariposa, Mendocino, Modoc, Monterey, Napa, Placer, Plumas, San Benito, San Luis Obispo, Santa Barbara, San Joaquin, Shasta, Stanislaus, Tehama, Tulare, Tuolumne, Ventura, Yolo, Yuba, and Jackson County, Oregon.

In January 2004, BEC, the California Native Plant Society, and Defenders of Wildlife filed suit challenging the 2003 VPCH Final Rule over the elimination of more than one million acres of VPCH for the 15 endangered and threatened vernal pool plants and animals and five entire counties.

Table 1. Covered Species Status and Listing Dates

Common Name	Scientific Name	Date Listed	Status
Conservancy fairy shrimp	<i>Branchinecta conservatio</i>	September 19, 1994	E
longhorn fairy shrimp	<i>Branchinecta longiantenna</i>	September 19, 1994	E
vernal pool tadpole shrimp	<i>Lepidurus packardi</i>	September 19, 1994	E
vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	September 19, 1994	T
Butte County meadowfoam	<i>Limnanthes floccosa</i> ssp. <i>Californica</i>	June 8, 1992	E
Colusa grass	<i>Neostapfia colusana</i>	March 26, 1997	T
Contra Costa goldfields	<i>Lastenia conjugens</i>	June 18, 1997	E
Greene's tuctoria	<i>Tuctoria greenei</i>	March 26, 1997	E
Hairy orcutt	<i>Orcuttia pilosa</i>	March 26, 1997	E
Hoover's spurge	<i>Chamaesyce hooveri</i>	March 26, 1997	T
Sacramento orcutt	<i>Orcuttia viscida</i>	March 26, 1997	E
San Joaquin Valley orcutt	<i>Orcuttia inequalis</i>	March 26, 1997	T
Slender orcutt	<i>Orcuttia tenuis</i>	March 26, 1997	T
Solano grass	<i>Tuctoria mucronata</i>	September 28, 1978	E
Succulent (or fleshy) owl's clover	<i>Castilleja campestris</i> ssp. <i>succulenta</i>	March 26, 1997	T

Table 2. 2005 Rule acreage restored to counties indiscriminately omitted in the 2003 rule.

County	Proposed Acreage	2003 Rule Acreage	2005 Rule Acreage
Butte	58,849	0	24,247
Madera	95,802	0	48,359
Merced	194,335	0	147,638
Sacramento	68,820	0	37,098
Solano	67,961	0	13,415

Table 3. Counties that lost the valuable VPCD designation in the 2005 Rule

County	Proposed Acreage	2003 Rule Acreage	2005 Rule Acreage
Fresno	32,218	32,228	19,200
Placer	58,849	32,134	2,580
San Luis Obispo	64,171	64,378	48,134
Stanislaus	132,708	128,035	67,462
Tehama	130,752	130,691	102,837