

# 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

### INTERIOR DEPARTMENT RELEASES CRITICAL HABITAT RULE

Chico, CA – The Interior Department (Interior) released their second, final Vernal Pool Critical Habitat (VPCH) Rule for 15 vernal pool species found in California and southern Oregon. This rule is a result of litigation filed by Butte Environmental Council, the California Native Plant Society, and Defenders of Wildlife who filed the complaint over the elimination of more than one million acres of VPCH for the 15 endangered and threatened vernal pool plants and animals.

In this Rule, some acreage was restored to counties indiscriminately omitted in the 2003 rule. For example:

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

“We are pleased that Interior was able to include some lands in counties previously excluded in the 2003 rule, yet their analysis leaves them vulnerable to further legal challenges,” stated Barbara Vlamis, executive Director of Butte Environmental Council. For example, it was estimated in the Economic Analysis that the proposed VPCH would cost \$152 million over 20 years in Butte County. This translates into only \$13 million per year at the 7 percent discount rate used in the analysis, a microscopic 0.17% when compared with the annual economic output of the county, \$7.36 billion (IMPLAN 2001). “Excluding any of the proposed VPCH in Butte County is still not justified by the economic analysis that led to this Rule,” contends Vlamis.

While acreage was added to the five counties previously excluded, other counties have lost the valuable VPCH 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

Designating critical habitat is the precursor to recovery for federally listed species. Habitat necessary for recovery must be mapped in order to inform statewide and local conservation planning efforts. “Removing such significant acreage from Fresno, Placer, San Luis Obispo, Stanislaus, and Tehama counties may very well prevent the recovery of the 15 species,” Vlamis asserted, “And it further calls into question the validity of the Economic Analysis that failed to provide any 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.

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 Proposed Rule indicated, 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).

Butte Environmental Council

### **Contacts**

Butte Environmental Council: Barbara Vlamis, Executive Director. (530) 891-6424

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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.

**Table 1. Covered Species Status and Listing Dates**

<b>Common Name</b>	<b>Scientific Name</b>	<b>Date Listed</b>	<b>Status</b>
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>succunlenta</i>	March 26, 1997	T

