

Service to Consider Listing Midvalley Fairy Shrimp

For immediate release: April 30, 2003

On Tuesday, April 29, 2003, the U. S. Fish and Wildlife Service (Service) issued a 90-day finding to consider the listing of the midvalley fairy shrimp as a special status species under the federal Endangered Species Act. The finding is the result of a petition filed by the Center for Biological Diversity and VernalPools.org that was made a stipulation in Butte Environmental Council's (BEC) December 5, 2002 consent decree (see below). A 60-day comment period is now open to gather additional data for the next formal deadline, the 12-month finding.

The Service explains in their press release that "the midvalley fairy shrimp was formally described as a species in 2000. It is a small freshwater shrimp living in vernal pools in Sacramento, Solano, Contra Costa, San Joaquin, Merced, Madera and Fresno counties in California's Central Valley. It is related to four other vernal-pool shrimp species that the Service listed in 1994, but has a smaller range and tends to live in smaller pools."

BEC has previously contributed to the protection of the other four vernal pool crustaceans since their listing in 1994: the endangered conservancy fairy shrimp, longhorn fairy shrimp, and vernal pool tadpole shrimp and the threatened vernal pool fairy shrimp. BEC intervened to support the crustaceans' listing when the Service was sued by the California Building Industry Association in 1995. The case was taken all the way to the U.S. Supreme Court, and at each level of judicial review, the Service's listing decisions were upheld. The opinion by the Judge Friedman of the DC District court on July 25, 1997 ruling strongly supported the federal listing of the species. His comments quote the U.S. Supreme Court's broad interpretation of the ESA in 1978, clearly articulating the importance of the ESA (signed into law by Richard M. Nixon in 1973): "The legislative proceedings in 1973 are ...replete with expressions of concern over the risk that might lie in the loss of any endangered species. Typifying these sentiments is the Report of the House Committee on Merchant Marine Fisheries [stating] 'The value of this genetic heritage is, quite literally, incalculable...From the most narrow possible point of view, it is in the best interests of mankind to minimize the losses of genetic variations.'"

From the CONSENT DECREE Case No. CIV.S-00-797 WBS

8. Mid-valley Fairy Shrimp Petition Findings: On or before April 21, 2003, Defendants shall submit for publication in the Federal Register an initial 90-day finding, in accordance with 16 U.S.C. § 1533(b)(3)(A), on the petition to list the Mid-valley fairy shrimp.

9. If the initial 90-day petition finding referenced in the preceding paragraph is that the petition presents substantial information indicating that listing the Mid-Valley fairy shrimp may be warranted, on or before January 20, 2004, Defendants shall make the 12-month finding and shall submit for publication such finding to the Federal Register.

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