



Frequently Asked Questions about the Designation of Critical Habitat for the Otay Tarplant

Q. What is the Otay tarplant?

The Otay tarplant (*Deinandra conjugens*), a member of the sunflower family, is a yellow-flowered annual that is associated with clay soils, grassland (native and non-native), open coastal sage scrub, and maritime succulent scrub habitats of San Diego County, California and northwestern Baja California, Mexico.

Ranging from 2 to 10 inches in height, the short, fuzzy-stemmed Otay tarplant produces small clusters of yellow flowers. The Otay tarplant was listed as a threatened species under the Endangered Species Act, as amended (the Act), on October 13, 1998. At the time the Otay tarplant was listed under the Act, more than 70 percent of the plant's estimated historic habitat had been lost to development and agriculture.

Currently, 22 known populations of the plant exist on Federal, state, local, and privately owned lands in southwestern San Diego County.

Q. What is critical habitat?

Critical habitat is defined as specific areas that have been found to be essential to the conservation of a federally listed species, and which may require special management considerations or protection.

Critical habitat is determined using the best available scientific and commercial information about the physical and biological needs of the species. These needs may include one or more of the following:

- ◆ space for individual and population growth, and for normal behavior;
- ◆ food, water, light, air, minerals or other nutritional or physiological needs;
- ◆ cover or shelter;
- ◆ sites for breeding, reproduction, and rearing of offspring; and
- ◆ habitat that is protected from disturbance or is representative of the historical geographic and ecological distribution of a species.

In designating critical habitat, we must first determine if an area is “essential to the conservation of the species.” We must also identify, to the extent known, habitats that contain the primary constituent elements necessary for the life cycle needs of the species.

Q. What are primary constituent elements essential to the conservation of the Otay tarplant?

The primary constituent elements for the Otay tarplant are those habitat components essential for the primary biological needs of the plant and its dormant seeds, including space for individual and population growth; food, water, air, light, minerals, or other nutritional or physiological requirements; and suitable habitat for pollen and seed dispersal agents.

Primary constituent elements can exist in undeveloped areas that support various types of sage scrub, chaparral, grassland, and similar plant communities that provide habitat for the Otay tarplant.

All lands designated as critical habitat for the Otay tarplant support known populations of the plant and/or contain one or more of the primary constituent elements that provide for the life cycle needs of the species.

Q. What areas have been designated as critical habitat?

We designated critical habitat on approximately 6,330 acres of land in San Diego County. Areas designated as critical habitat are identified in three separate units, as follows:

Unit 1: Sweetwater/Proctor Valley

This unit encompasses about 3,560 acres and supports the northeastern limit of the Otay tarplant's distribution in the United States. It includes portions of the Otay/Sweetwater Unit of the San Diego National Wildlife Refuge; lands belonging to the Sweetwater Authority; and some lands that are proposed as preserve areas under the City of Chula Vista Draft Subarea Plan.

Unit 2: Chula Vista

There are about 520 acres of land in this unit, including areas proposed as preserves under the City of Chula Vista draft subarea plan, and lands that lie within minor amendment areas of the County of San Diego Subarea Plan and City of Chula Vista Draft Subarea Plan.

Unit 3: Otay Valley/Big Murphy's

Encompassing approximately 2,250 acres of land, this unit contains populations representing the southern and eastern portions of the Otay tarplant's distribution in the United States.

This unit contains a number of large populations of the Otay tarplant enabling the species to maintain genetic connectivity within and among the populations in this unit, the Sweetwater/Proctor Valley unit, and possibly with populations in Mexico.

Q. What areas have been excluded from the designation of critical habitat?

We did not designate critical habitat on lands within approved and implemented Habitat Conservation Plans (HCP) which include the Otay tarplant as a covered species. Lands within an approved HCP that we would ordinarily define as critical habitat will normally be protected in reserves or other conservation lands under the terms of the HCP and its implementing agreement.

Lands within the City of San Diego Subarea Plan and the County of San Diego Subarea Plan developed in conjunction with the Multiple Species Conservation Program (MSCP) have been excluded from critical habitat designation. We have also excluded lands within the San Diego Gas and Electric HCP.

Q. What about lands where regional HCPs are being developed or will be developed in the future?

The designation of critical habitat for the Otay tarplant should not impede ongoing efforts to develop and implement new HCPs in southern California, including the City of Chula Vista's Draft Subarea Plan.

The City of Chula Vista's draft preserve design contains many of the largest, essential Otay tarplant populations, areas for connectivity within and among these populations, and habitat to support pollinators and other seed dispersal agents. The City of Chula Vista is expected to complete their subarea planning processes in the near future.

The Service will continue to work closely with the City of Chula Vista on the design of their preserve to address the conservation needs of the Otay tarplant.

Q. Does the designation of critical habitat create preserves?

No. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve or preserve. It does not allow government or public access to private lands and will not result in closure of the area to all access or use.

Q. What happens if my private property is designated critical habitat for the Otay tarplant?

The designation will not affect you unless you are undertaking an activity that requires Federal funds, permits or authorization. If a project does require Federal funding, permitting, or authorization, and the agency determines that the project may affect a federally listed species or its designated critical habitat the agency would be required to consult with the Service pursuant to section 7 of the Act.

Q. How will any final designation of critical habitat affect activities for which a party has already consulted with the Service under section 7 of the Act?

Federal regulations require agencies to reinitiate consultation with the Service on previously reviewed actions if critical habitat is designated after the initial consultation, only if the agency has retained some type of involvement or control over the action, or such discretionary involvement is authorized by law.

Federal agencies may request to reinitiate consultation with us if a proposed action may affect designated critical habitat.

Q. What happens if a project is reviewed as part of a reinitiation of consultation and the Service determines it will adversely modify critical habitat?

It is highly unlikely that an activity that was reviewed and permitted by the Service under section 7 of the Act prior to the designation of critical habitat will be changed because critical habitat is now designated for the area. When reviewing projects under section 7, we must determine if the proposed action will “jeopardize the continued existence” of a species by asking the question “*will the project appreciably reduce the likelihood of the species’ survival and recovery?*”

A project that will “destroy or adversely modify” critical habitat is one that will appreciably reduce the value of critical habitat for the survival and recovery of the species. Regardless of whether critical habitat has been designated, we must still consider the effect a project may have on the continued existence and recovery of a listed species.

Q. Did the Service prepare an economic analysis of the designation of critical habitat?

Yes. The Service must take into account the economic and any other relevant impact of identifying any particular area as critical habitat. A draft economic analysis of the proposed designation of 6,630 acres of land as critical habitat for the Otay taplant was completed and released for public review and comment on July 13, 2002.

Unless the designation of an area as critical habitat would result in the extinction of the species, we may exclude an area from critical habitat if we determine that the benefits (economic and otherwise) of exclusion from critical habitat designation outweigh the benefits of inclusion. This determination is based on the best scientific, economic, and commercial information available.

Q. What framework was used to develop the economic analysis?

The draft economic analysis evaluated potential future effects associated with both the listing of the

Otay tarplant under the Act and the proposed designation of critical habitat. The draft analysis further estimated costs solely attributable to the designation of critical habitat for the Otay tarplant.

Potential costs considered in the analysis included those associated with consultations required under section 7 of the Act, modifications to projects, activities or land uses resulting from section 7 consultations, effects resulting from public perception or uncertainty about designating lands as critical habitat, and potential offsetting benefits associated with designation of critical habitat for the Otay tarplant.

Q. What were the results of the draft economic analysis?

The draft economic analysis estimated that impacts associated with future consultations (including modifications to projects) related to the listing of the Otay tarplant under the Act and the proposed designation of critical habitat could range from \$2.8 to \$2.9 million over the next 10 years. The draft economic analysis determined that economic impacts solely attributable to the proposed designation of critical habitat could range from \$3,500 to \$13,900 over a 10-year period.

Following public comments and information received during the 60-day comment period on the draft economic analysis, a final addendum to the economic analysis was prepared.

Q. What are the results of the final addendum to the draft economic analysis?

Based on further review of the draft economic analysis, and public comments and information received on the draft analysis, the addendum includes revised estimates of the costs associated with the listing of the Otay tarplant and the proposed designation of critical habitat.

Total costs of consultations that may be required due to the listing of the species and the proposed designation of critical habitat are estimated to range from \$3.2 to \$4.0 million over the next 10 years. Based on all information and comments received on the draft economic analysis, the final addendum concludes that impacts attributable solely to designation of critical habitat for the Otay tarplant could range from \$210,000 to \$241,000 over the next 10 years.

We believe these values may be an overestimation of the potential economic effects associated with the designation of critical habitat for the Otay tarplant.

Q. Why does the Service believe the economic impacts could be overestimated?

The draft economic analysis and the addendum were based on the proposed designation of critical habitat on approximately 6,630 acres of land in San Diego County. The final designation of critical habitat covers about 6,330 acres, a reduction of 300 acres.

Areas that were proposed as critical habitat, but were excluded from the final designation are within the Eastlake Woods, Bella Lago, and Rolling Hills Ranch development areas; the Sweetwater County Park Summit site; and some lands managed by the Sweetwater Authority.

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