



FAQ's on the Buena Vista Lake Shrew (*Sorex ornatus relictus*) Proposed Revised Critical Habitat

Prepared by the Sacramento Fish and Wildlife Office, July 2012



Service reopens the public Comment Period on a Revised Proposal to Designate Critical Habitat for the Buena Vista Lake Shrew (BVLS) in Kings and Kern Counties.

Description

The BVLS is one of eight subspecies of ornate shrews found in California. These tiny mouse-size mammals, which have long snouts, tiny beadlike eyes and ears concealed or nearly concealed by soft fur, weigh approximately the same as a quarter (about 1/7th of an ounce) and can be up to 5 inches in length. The shrew's coat is predominantly black with brown specks on the back and smoke-colored gray underneath.

Active day and night, shrews spend their waking hours searching for insects, their favorite food. Shrews can eat more than their own weight daily. Water is a vital component of the BVLS's environment. Moisture and appropriate vegetative structure and cover are required to support the varied insects that maintain the shrew's high metabolism. Shrews benefit surrounding plant communities by consuming large quantities of insects, thereby helping to control pests.

Threats

Biologists believe the BVLS historically occupied a wide range within the once abundant marshlands of the Tulare Basin in the southern San Joaquin Valley of California. By the time biologists first discovered the shrew in 1932, most of these marshes had been drained or dried up as a result of water diversions. Today, the subspecies has lost more than 95 percent of its historic habitat.

These remaining populations are threatened primarily by conversion of land to use for agricultural activities, modifications of local hydrology, uncertain water supply, potentially toxic effects from selenium poisoning, and naturally occurring catastrophic events such as floods or drought, which could reduce the remaining populations.

Status

The BVLS is listed as endangered.

Frequently Asked Questions

Q. What is this action?



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A. The Service is proposing to designate 5,182 acres of critical habitat for the BVLS in Kings and Kern Counties. In 2005, one 84-acre parcel, known as the Kern Lake Preserve, was designated as critical habitat for the BVLS after a total of 4,649 total acres were proposed. In 2009, the Service re-proposed the original 4,649 acres. This proposal includes all of the original proposal plus an additional 533 acres.

Q. Why add 525 acres?

A. The Service uses the best, and most updated, scientific and commercial data available to determine areas that contain the physical and biological features that are essential for the conservation of the BVLS.

In May 2010, the Service initiated a 5-year status review of the BVLS. During the 5-year review process, contact with a geneticist working on BVLS led to information that several known occurrences that were not previously identified as BVLS are currently being recognized as BVLS by species researchers, based on genetics work and on previous morphological studies. Based on this new information, three additional localities have been identified as containing BVLS occurrences: (1) Semitropic site (aka Main Drain Canal/Chicca & Sons Twin Farms South Field Ranch) (Kern County); (2) Lemoore site (Kings County); and (3) Atwell Island (Tulare County).

Currently the SFWO is recommending inclusion of two of the localities (Lemoore and Semitropic (Main Drain)) that meet the criteria set forth in the 2004 proposed rule ((a) location within the known geographical area occupied by the species; (b) presence of all primary constituent elements; and (c) presence of the BVLS in the unit). We are also extending the boundary of the Coles Levee Unit northward along the canal to encompass an additional are of contiguous habitat where additional shrews have been newly discovered.

Q. What is critical habitat?

A. Critical habitat is a term in the Endangered Species Act (ESA) of 1973, as amended. It identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and may require special management considerations. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. It does not allow government control or public access to private lands.

In almost all cases, recovery of listed species will come through voluntary cooperative partnerships rather than regulatory measures such as critical habitat. Habitat is also protected through cooperative measures under the ESA including Habitat Conservation Plans, Safe Harbor Agreements, Candidate Conservation Agreements and state programs. Voluntary partnership programs



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such as the Service's Private Stewardship Grants and Partners for Fish and Wildlife program also restore habitat. Habitat for endangered species is provided on many national wildlife refuges, managed by the U.S. Fish and Wildlife Service, and state wildlife management areas.

Q. Why is the Service proposing critical habitat at this time?

A. This is a revised proposal of critical habitat for the endangered BVLS under the ESA. Under the Act, any species that is determined to be threatened or endangered requires a designated critical habitat.

The Service designated 84 acres of critical habitat for this species in 2005, but that rule was challenged by the Center for Biological Diversity. As part of a settlement agreement, we agreed to reconsider the designation, and published a revised proposed designation for the BVLS in the Federal Register on October 21, 2009 (74 FR 53999). Based on new information, we are submitting a revised proposed designation of critical habitat for the BVLS to the Federal Register on or before the June 29, 2012 settlement date.

In total, approximately 5,182 acres (2,098 hectares) of critical habitat for the BVLS in Kings and Kern Counties, California, fall within the boundaries of the revised proposed critical habitat designation.

Q. Where are the critical habitat units?

A. Seven units are proposed at this time that spans Federal, State, and local and private lands.

- **Unit 1: Kern National Wildlife Refuge** (387 acres – Federal land). Wetland communities situated on the approximately 10,618 acre refuge.
- **Unit 2: Goose Lake** (1,279 – private land). This area is managed by the Semitropic Water Storage District as a ground-water recharge basin. It is part of an historical lake bed about 10 miles south of Kern NWR and is owned by Goose Lake Holding Co.
- **Unit 3: Kern Fan Water Recharge** (2,687 acres – local land). This area is owned by the City of Bakersfield. It is located along the banks of the Kern River and is adjacent to the Kern Water Bank. Portions of the recharge area are flooded sporadically, forming pockets of wetland communities.
- **Unit 4: Coles Levee** (270 acres – 46 state and 223 private lands) The private land section is owned by Aera Energy and the state lands are located within the Tule Elk Reserve. The area contains highly degraded upland saltbush and mesquite scrub, but is interlaced with slough channels of the historical Kern River fan where it entered Buena Vista Lake from the northeast. This unit was expanded from the 2009 proposal of 214 acres because two BVLSs were found north of the previous northerly boundary of the unit during a construction project in 2011.



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- Unit 5: Kern Lake (90 acres - private land). This area is located in the extreme southern end of the San Joaquin Valley, approximately 16 miles south of Bakersfield. This Unit lies between Hwy 99 and Interstate 5, south of Herring Road near the New Rim Ditch. The owner is the Boswell Co.
- Unit 6: Semitropic Ecological Reserve (372 acres – 345 state and 27 private lands). This unit is located about seven miles south of Kern NWR and seven miles north of the Goose Lake unit. California DFG holds the 345 acres under fee title.
- Unit 7: Lemoore Wetland Unit (97 acres – private land). Located east of the Lemoore Naval Air Station and four miles west of the City of Lemoore in Kings County, this is managed by the USDA-Natural Resources Conservation Service for waterfowl enhancement.

All of these units were considered occupied at the time of listing and currently occupied by the BVLS. These areas include the physical and biological features that are essential to the conservation of the BVLS.

Q. How will the designation of critical habitat affect the owner of the critical habitat unit?

A. The designation of critical habitat on non-Federal lands does not mean the government wants to acquire or control the land. Activities on private lands that do not require Federal permits or funding aren't affected by a critical habitat designation. Critical habitat designation itself does not require landowners to carry out any special management actions or restrict the use of their land.

The ESA, however, prohibits any individual from engaging in unauthorized activities that will harm listed wildlife. That prohibition is in effect for any federally listed wildlife, with or without designated critical habitat.

If a landowner needs a Federal permit or receives Federal funding for a specific activity, the agency responsible for issuing the permit or providing the funds would consult with the Service to determine how the action may affect a listed species or its habitat.

Q. What is the history of today's actions?

A. The Service received a citizen's petition in April 1988 to list the BVLS and three other shrew subspecies as endangered. The Service determined that the petition presented substantial information that the requested action may be warranted. In June 2000, the Service published a proposal to list the BVLS as endangered and opened a 60-day comment period, which was later extended for another 60 days.



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The final rule for listing was delayed because nearly the entire Fiscal Year 2001 listing program appropriation had to be committed to listing actions required under court order or settlement agreements, which did not include the BVLS.

On October 2, 2001, the Service entered into a consent decree to settle listing litigation with the Center for Biological Diversity, Southern Appalachian Biodiversity Project, Foundation for Global Sustainability, and the California Native Plant Society. The consent decree required the Service to make final listing decisions for a number of species proposed for listing, including the BVLS. The consent decree required the Service to submit a final listing determination for this subspecies to the Federal Register by March 1, 2002. The Service listed the BVLS as an endangered species in March 2002.

On January 12, 2004, the United States District Court for the Eastern District of California issued a Memorandum Opinion and Order (Kern County Farm Bureau et al. v. Anne Badgley, Regional Director of the United States Fish and Wildlife Service, Region 1 et al., CV F 02-5376 AWIDLB). The order required the Service to publish a proposed critical habitat determination for the BVLS no later than July 12, 2004, and a final determination no later than January 12, 2005. The Court subsequently granted an extension until August 13, 2004 for the Service to submit the proposed critical habitat to the Federal Register.

In August 2004, the Service submitted to the Federal Register a proposed rule to designate 4,649 acres for the BVLS and, In January 2005, we submitted a final rule designating 84 of those acres as critical habitat for the BVLS. That rule was challenged by the Center for Biological Diversity and the Service agreed to submit a revised proposal that included the original 4,649 acres, which it did in 2009.

In 2009, the Service proposed to revise the critical habitat designation to consist of 4,649 acres (1,881 hectares) of land in five units in Kern County. That acreage has been recalculated, with use of current Geographic Information Systems technology, as 4,657 acres (1,885 hectares).

Since the 2009 proposal, the Service has received public comments on a draft economic analysis for the proposed revised critical habitat and completed a comprehensive review of the BVLS. With information collected from these efforts, the Service now proposes a total of 5,182 acres of critical habitat.

Q. Has the Service adopted a recovery plan for the BVLS?



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A. Yes. This species was a candidate for listing under the Endangered Species Act for many years, and was, therefore, among the species included in the Service's 1998 Recovery Plan for Upland Species of the San Joaquin Valley. Recovery plans provide a mechanism to identify research needs, gather species information, and develop specific recovery criteria and tasks required to recover and ultimately delist a species.

Actions designed to ensure the conservation of this subspecies include additional surveying in areas of potentially suitable habitat; habitat restoration and creation on private as well as public lands; the study of the feasibility of reintroduction of the BVLS at the State of California's Tule Elk Reserve; population genetic studies; and monitoring. The Service strives to use the best scientific information available during the recovery planning process.

Q. What happens next?

A. The Service, in accordance with our joint policy on peer review, will seek the expert opinions of at least three appropriate and independent specialists regarding this proposal in order to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. The Service will consider these opinions and all public comments submitted during the comment period in preparation of making a final determination of critical habitat for the BVLS. As such, the final decision may differ from this revised proposal.

The Service is also preparing a revised economic analysis of the impacts of the revised proposed critical habitat designation and related factors. In the last proposed designation of 4, 649 acres, the Service drafted an analysis of economic impacts and estimated that total potential incremental economic impacts to be approximately \$133,000 (\$11,700 annualized)