



## Final Revised Critical Habitat for the Tidewater goby

### *Questions and Answers*

Prepared by the Ventura Fish and Wildlife Office  
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**Background:** The tidewater goby is a small, grey-brown fish rarely exceeding two inches in length. Tidewater gobies are nearly transparent with a mottled brownish upper surface. The fish lives approximately 1 year and occurs in lagoons, estuaries, marshes, and coastal streams. They are occasionally found in freshwater streams that are up-gradient and tributary to brackish

habitats. The spawning activities of tidewater goby have been observed in every month of the year. Reproduction tends to peak in late April or May to July, and can continue into November or December depending on seasonal temperature and rainfall.

On February 4, 1994, the tidewater goby was listed as endangered throughout its entire range. We did not designate critical habitat at the time we listed this species because we concluded that critical habitat for the tidewater goby was not then determinable. In November 2000, the Service designated critical habitat for the tidewater goby in Orange and San Diego Counties. The Service did not designate critical habitat through the rest of the species' range because the Service had proposed to delist the tidewater goby in 1999 in areas where it occurred north of Orange County. In November 2002, the Service withdrew the proposal to delist the species.

On August 31, 2001, Cabrillo Power L.L.C. (Cabrillo) filed a lawsuit in the U.S. District Court for the Southern District of California challenging a portion of the November 20, 2000, final rule that designated the critical habitat units in Orange and San Diego Counties. In February 2003, the court approved a settlement in which the Service agreed to propose critical habitat for the entire geographic range of the tidewater goby by November 2006 and complete a final critical habitat rule by November 2007.

On November 28, 2006, the Service published the proposed revised critical habitat designation for the tidewater goby in the Federal Register. An extension of the due date for the final revised critical habitat rule was approved by the court on November 19, 2007, and the Service was required to submit the final rule to the Federal Register by January 18, 2008. On January 31, 2008, we published the final revised critical habitat designation for the tidewater goby in the Federal Register.

On April 15, 2009, NRDC filed a lawsuit in the U.S. District Court for the Northern District of California challenging a portion of the January 31, 2008, final rule that designated 44 critical habitat units in Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Mateo, Santa Cruz,

Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San Diego Counties, California. In a consent decree dated December 11, 2009, the U.S. District Court: (1) Stated the 44 critical habitat units should remain in effect; (2) stated the final rule designating critical habitat was remanded in its entirety for reconsideration; and (3) directed the Service to promulgate a revised critical habitat rule that considers the entire geographic range of the tidewater goby and any currently unoccupied tidewater goby habitat. The consent decree requires that the Service submit proposed and revised rules to the Federal Register no later than October 7, 2011, and November 27, 2012, respectively.

On October 15, 2011, the Service published the proposed revised critical habitat designation for the tidewater goby in the Federal Register. Today's action, published in the Federal Register, designates final revised critical habitat for the tidewater goby.

### **Q. What habitats does the tidewater goby need?**

A. The tidewater goby occurs in lagoons, estuaries, marshes and freshwater tributaries along the west coast of California. Tidewater goby are occasionally found in freshwater streams that are up-gradient and tributary to brackish habitats; the available documentation shows that in some areas, they can occur 1.6 to 7.3 mi upstream from the ocean environment. Tidewater goby have only been captured in the marine environment on rare occasions, and they appear to enter the ocean only when flushed out of lagoons, estuaries, and river mouths by storm events.

The species historically occurred from 3 miles south of the California-Oregon border to 44 miles north of the United States-Mexico border. The northern-most geographic and historical range of the tidewater goby has not changed over time. The species' southern-most location is currently San Luis Rey River in San Diego County. Overall, the tidewater goby probably occupies less than 5 percent of the California coastline.

Field survey reports and earlier documentation show that tidewater goby occupy, or have been documented at, 135 sites within the historical geographic range of the species. Of these 135 locations, 21 (16 percent) are presumed no longer be occupied by the tidewater goby. The 12,156 acres of final critical habitat contain habitats that provide for reproduction, foraging, and shelter. The primary element needed for tidewater goby essential biological-needs includes:

(1) Persistent, shallow (in the range of approximately 0.3 to 6.6 ft), still-to-slow-moving lagoons, estuaries, and coastal streams ranging in salinity from 0.5 ppt to about 12 ppt, which provide adequate space for normal behavior and individual and population growth that contain one or more of the following:

(a) Substrates (e.g., sand, silt, mud) suitable for the construction of burrows for reproduction;

(b) Submerged and emergent aquatic vegetation, such as *Potamogeton pectinatus*, *Ruppia maritima*, *Typha latifolia*, and *Scirpus* spp., that provides protection from predators and high flow events; or

(c) Presence of a sandbar(s) across the mouth of a lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary, thereby providing relatively stable water levels and salinity.

**Q. What are the threats to the species?**

- Coastal development projects that result in the loss or alteration of coastal wetland habitat. The species has lost a significant portion of its habitat during the past 150 years to coastal development.
- Water diversions and alterations of water flows upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities.
- Groundwater overdrafting.
- Channelization of the rivers where the species occurs.
- Discharge of agricultural and sewage effluents.
- Cattle grazing and feral pig activity that results in increased sedimentation of coastal lagoons and riparian habitats, removes vegetative cover, increases ambient water temperatures, and eliminates plunge pools and collapsed undercut banks used by tidewater goby.
- Introduced species that prey on the tidewater goby (e.g., bass and crayfish).
- Drought conditions that result in the deterioration of coastal and riparian habitats.
- Competition with introduced species such as the yellowfin goby and chameleon goby.

**Q. What is critical habitat?**

A. Critical habitat is a term in the Endangered Species Act (ESA). It identifies geographic areas that contain features essential for the conservation of a threatened or endangered species and may require special management considerations or protection.

**Q. Does critical habitat create preserves or provide species with more protection?**

A. No. A critical habitat designation does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. 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. However, listed species, including the tidewater goby, and their habitats are protected by the ESA regardless of whether they are in an area designated as critical habitat or not.

**Q. What protection does the tidewater goby currently receive as a listed species?**

A. The ESA forbids the import, export, or interstate or foreign sale of protected animals and plants without a special permit. It also prohibits the "take" of listed species. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Federal agencies must consult with the Service to insure that projects they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of designated critical habitat. Permits may be issued by the Service for activities that are otherwise prohibited under the ESA, if these activities are for scientific purposes or to enhance the

propagation or survival of the affected species, or for "take" that is incidental to otherwise lawful activities.

**Q. Who owns the property proposed as critical habitat for the tidewater goby?**

A. Approximately 53 percent of the final revised critical habitat is on state lands. Of the remaining lands designated as critical habitat, 24 percent are privately held, 10 percent are federally managed, and 12 percent are administered by local agencies.

**Q. What is being done to save the tidewater goby?**

A. A recovery plan for the species was finalized in 2005. The recovery plan is available at the Service's Ventura Fish and Wildlife Office web site. A recovery plan is an advisory document, so cooperation from private property owners and other stakeholders is voluntary. But that cooperation is critical to achieving success. Recommended actions necessary for recovery of the tidewater goby include:

- Protecting and enhancing the gobies' current habitat;
- Preventing further losses of tidewater goby habitat and reducing or stabilizing exotic fish species that either feed on or compete with the tidewater goby;
- Conducting research to integrate land use practices - such as those that affect a stream's channel or increase sedimentation - with tidewater goby recovery; and,
- Evaluating the possibility of relocating tidewater gobies to establish new populations.