



Frequently Asked Questions About Critical Habitat for Fish Slough milk-vetch

Q. What is Fish Slough milk-vetch?

Fish Slough milk-vetch (*Astragalus lentiginosus* var. *piscinensis*) is a rare plant listed as threatened under the Federal Endangered Species Act (ESA). A member of the pea family, it is a perennial with lavender flowers. It is found exclusively in a desert oasis in Inyo and Mono counties in southeastern California named Fish Slough. The slough, a Bureau of Land Management “Area of Critical Environmental Concern,” combines geographic isolation, geology, climate, and hydrology to create a home for one of the most diverse floras in the Great Basin. Fish Slough encompasses wetlands, alkali meadows and uplands. Fish Slough also provides habitat for several rare plants and animals, including the Owens pupfish and a plant species called King’s ivesia.

Q. What does the critical habitat encompass?

The Fish and Wildlife Service (Service) has designated 8,007 acres of critical habitat for Fish Slough milk-vetch. A 483-acre parcel in Inyo County was proposed but is not being designated as critical habitat because surveys demonstrated that neither the milk-vetch nor its habitat occur in the parcel. Federal land managed by the Bureau of Land Management accounts for 5,401 acres of critical habitat, while the city of Los Angeles owns 2,440 acres. The remaining 166 acres are located on lands managed by the California Department of Fish and Game.

Q. Why was Fish Slough milk-vetch listed as a threatened species?

The plant is threatened by a variety of factors including habitat destruction from uncontrolled off-road vehicle use; cattle grazing and grazing by native animals; competition with non-native plant species; changes in its preferred habitats; ground water pumping and water diversions that alter the Fish Slough hydrology.

Q. What is critical habitat?

A. Critical habitat is a term in the ESA that identifies specific geographic areas with the physical and biological features essential to the conservation of a threatened or endangered species and may require special management considerations or protection. Areas not occupied by the species may be designated if these areas are essential to the conservation of the species. Critical habitat is determined using the best scientific and commercial information about the physical and biological needs of the species.

These needs include: 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.

Q. Are economic impacts considered in the critical habitat designation?

Critical habitat is designated after taking into consideration possible economic impacts as well as any other relevant impacts and benefits. The Secretary of the Department of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species. Consequently, we may exclude an area based on economic impacts, or other relevant impacts such as preservation of conservation partnerships or national security. An economic analysis has been finalized for the Fish Slough milk-vetch. Approximately 75 percent of the post designation costs will be borne by the Bureau of Land Management.

Q. What protection does the Fish Slough milk-vetch currently receive as a listed species?

The Act forbids the import, export, or interstate or foreign sale of protected animals and plants without a special permit. The Act does not prohibit “take” of listed plants on private lands, but landowners must comply with State laws protecting imperiled plants. Section 7 of the Act requires Federal agencies to consult with the Service on actions they authorize, fund, or carry out that may affect a listed species. Through this consultation process, the Service analyzes actions of Federal agencies to determine if they may jeopardize the existence of a listed species. The requirement to consult with the Service applies to all lands that have been identified as critical habitat where Federal agencies, permits, or funds are involved.

Q. Will there be any restrictions on my private property due to a critical habitat designation?

No. This designation does not affect any private lands. The designation of critical habitat on privately owned land does not mean the government wants to acquire or control the land. Activities on private lands that do not require Federal permits, licenses, or funding are not affected by a critical habitat designation. Critical habitat does not require landowners to carry out any special management actions or restrict the use of their land. Designation of critical habitat in areas occupied by the milk-vetch is not likely to result in a regulatory burden above that already in place.

If a landowner needs a Federal permit or receives Federal funding for a specific activity within the critical habitat boundary that may affect critical habitat, the agency responsible for issuing the permit or providing the funds consults with the Service to determine how the action may affect listed species.

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, preserve or other special 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.

Q. What is the process for designating critical habitat for listed species?

The Act requires the Service to identify critical habitat at the time a species is listed. However, in some cases, such a designation may be considered “not prudent” if it would cause harm to the species, by, for example, increasing the possibility of collection or vandalism. Or the Service may find that such a designation is “not determinable” if there isn’t enough information when a species is listed to define areas as critical habitat.

At the time of the listing, the Service determined that designating critical habitat was not prudent for the Fish Slough milk-vetch because the potential benefits of the action did not outweigh its potential negative impact. In November 2001, the Center for Biological Diversity and the California Native Plant Society filed suit against the Service for failure to designate critical habitat for the milk-vetch. In July 2002, the U.S. District Court for the Southern District of California ordered the Service to propose critical habitat. It subsequently granted the Service an extension to propose critical habitat by June 1, 2004, and publish a final rule involving critical habitat by June 1, 2005.

Q. What types of activities might impact critical habitat for Fish Slough milk-vetch?

Activities that adversely affect critical habitat include those that alter the critical habitat’s ability to promote the survival and recovery of the milk-vetch. For example, the introduction of nonnative plant species to the critical habitat may impact its ability to promote the recovery of the Fish Slough milk-vetch because nonnative species compete with the milk-vetch for space, nutrients, and water.

Q. How will the designation of critical habitat affect Federal agencies that undertake, permit, or fund projects?

Section 7 of the Act requires Federal agencies to consult with the Service on actions they authorize, fund or carry out that may affect critical habitat. Through this consultation process, the Service can ensure that permitted actions don’t change critical habitat to the degree that it no longer meets the physical and biological needs of the species. The Service also analyzes actions to determine if they may adversely affect or jeopardize a listed species. The requirement to consult with the Service applies to all lands that have been identified as critical habitat where Federal agencies, permits, or funds are involved.

More questions?

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