

Critical Habitat for Threatened Red-Legged Frogs May Be Expanded

By Julia Scott

Land designated as critical habitat for the survival of the threatened red-legged frog in San Mateo County would increase tenfold under a new proposal by the U.S. Fish and Wildlife Service and could affect property owners.

Biologists have designated 131,091 acres of land in the county, mostly on existing protected open space, as critical habitat for the frog's survival -- a dramatic increase from the 13,000 acres deemed critical by the same biologists in 2006.

The Fish and Wildlife Service issued a new proposal with revised numbers on Tuesday based on a court-mandated agreement with the Center for Biological Diversity.

The nonprofit filed a lawsuit alleging that political interference in the Endangered Species Act by former Deputy Assistant Secretary of Interior Julie MacDonald caused the Fish and Wildlife Service to reduce critical habitat acreage for California red-legged frogs from a proposed 4,138,064 acres to just 450,288 acres in 2006 -- a 90 percent reduction.

Fish and Game officials have since acknowledged the "inappropriate influence" of certain officials and based their new assessment on "improved criteria" that singles out known red-legged frog habitat while attempting to exclude urbanized areas.

The latest proposal encompasses 1,804,865 acres of critical habitat in 28 California counties, including Alameda, Santa Clara and Santa Cruz.

Half Moon Bay officials will be relieved to know their city isn't on the boundary map of proposed critical habitat areas, which covers every inch of already-protected open space and most of the farms and ranches between Interstate 280 and the ocean, from Montara Mountain above Devil's Slide all the way south below Pescadero.

Certain areas best-known for containing red-legged frogs, such as Half Moon Bay's Beachwood property and a series of stormwater canals near San Francisco International Airport that host a frog colony, were left off the list. But other housing enclaves near the coast such as Skyllonda, La Honda and Pescadero are included. So are all the homes along Pilarcitos Creek between Half Moon Bay and Crystal Springs Reservoir.

The significance is that in those inhabited areas, homeowners and would-be developers may have to obtain special permits from the Department of Fish and Wildlife in consultation with other federal agencies, such as the Army Corps of Engineers. It depends on whether the home is next to an actual red-legged frog pond or is very close to a known frog colony. Otherwise it may not "count" as a special habitat area, even though it lies within the critical habitat boundary area.

"If you've got a house, a shopping center or a parking lot, a lot of those areas are not considered critical habitat areas, even if they lie within the designated area," said Al Donner, a spokesman for the Fish and Wildlife Service in Sacramento.

Sounds confusing, but state biologists based their habitat maps on Geographic Information System models and the location of known red-legged frog breeding ponds, then looked at their range of movement (as much as a mile) and at other potential habitats they could occupy in the immediate area. They assumed no healthy colony of frogs could exist in the back of a subdivision, so they focused on rural areas instead. Many of these, like Crystal Springs Reservoir, are already protected from development.

Jeff Miller, a conservation advocate with the Center for Biological Diversity, called the proposal a "partial victory."

"Not even close to everything within those areas will be protected as critical habitat," he said, referring to sites across the entire state. "They're including a lot of areas that we know have good frog habitat but it doesn't include all the areas that were historically occupied by red-legged frogs."

The Fish and Wildlife Service has always maintained that the critical habitat designation afforded species no significant additional protection under the Endangered Species Act.

“The primary protection for a species that’s listed under the Endangered Species Act is the fact that it’s listed. It’s a requirement that you not harm a species -- and that’s true whether it’s within designated critical habitat or whether it isn’t,” said Donner, adding that red-legged frogs that live near the ocean are also defended by the Coastal Act.

Miller disagreed.

“It’s a whole different level of protection. This protects the coastal habitat rather than the individual animal,” he said.

A 60-day public comment period is ongoing and ends Nov. 17. To read the proposal online, go to <http://edocket.access.gpo.gov/2008/pdf/E8-20473.pdf>. To make a comment or request a public hearing, visit www.regulations.gov and follow directions there.