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Fight brewing over vernal pool cost estimates

Celia Lamb Staff Writer

Preserving critical habitat for endangered vernal pool species could cost Greater Sacramento landowners about \$25 million over the next 20 years, primarily in lost land values, according to a report prepared for the U.S. Fish and Wildlife Service.

But homebuilders and landowners say Fish and Wildlife has grossly underestimated the costs of its critical-habitat proposal, which they say could cost them a half-billion dollars or more.

The economic analysis is a key step in Fish and Wildlife's plans to designate 1.7 million acres in California, including nearly 154,000 acres in the four-county Sacramento region, as critical habitat for 15 species of plants and animals that live in seasonal wetlands known as vernal pools. The designation would affect residential developments planned in the Sunrise-Douglas area of Sacramento County and other parts of southern Sacramento and western Placer counties.

"It probably understates the economic impact 20- to 30-fold or more," said land-use attorney George Kammerer, of Hefner, Stark & Marois in Sacramento. "The actual economic impact, primarily reductions in property values, will probably be in the hundreds of millions of dollars."

Some landowners believe another study, now in progress at the Center for Sustainable Resource Development at the University of California Berkeley, will show that the costs are much higher than Fish and Wildlife estimated.

If so, they might try to use those results to make a case for excluding their acreage from the critical-habitat designation.

What the law says: The Endangered Species Act requires federal agencies to ensure that any land use for which a federal permit is issued will not jeopardize the continued existence of any threatened or endangered species or impair the species' critical habitat.

Fish and Wildlife can't consider economic consequences when deciding to list a species as threatened or

endangered, but it can exclude areas from critical-habitat designation for economic reasons as long as the exclusion won't make the species extinct.

That means that, even without the critical-habitat designation, owners of land with vernal pools generally must consult Fish and Wildlife and set aside preserves or pay mitigation fees before developing their land. Fish and Wildlife representatives say the consultation-and-mitigation process won't change much for landowners after the agency selects critical habitat for the vernal-pool species.

Landowners and their attorneys aren't so sure.

"What we have been told in some informal meetings is that this designation, even for fully permitted projects, will require some additional approval or review," said John Hodgson, president of the real estate and land-use entitlement firm The Hodgson Co.

"We have to assume there's going to be some additional rules and regulations," he said. "Why else would they have this (critical-habitat) listing now?"

Here's why: Fish and Wildlife agreed to designate critical habitat for the vernal pool species under a July 2001 settlement of a lawsuit brought by the Butte Environmental Council. The agency was supposed to have finished the critical-habitat designation by Aug. 15, but the process is taking longer than expected.

Vernal pools support unique ecosystems of plants adapted to living in and along pools that fill with water from winter and spring rainfall and dry completely in the summer. Hard clay soil keeps the water from draining, so it slowly evaporates instead.

Shrimp living in the pools lay eggs that remain dormant in the soil over the summer so they can hatch when the pools fill again. Orcutt grasses can produce two different kinds of leaves on the same plant, one set for the part of the plant that's under water and another set for the part that sticks out.

The designation is intended to protect the habitat needed to prevent the extinction of four species of freshwater shrimp, including the vernal pool fairy shrimp and tadpole shrimp, and 11 plants, including seven kinds of Orcutt grasses.

Economic & Planning Systems Inc., which has offices in Berkeley and Sacramento, prepared the economic analysis report for Fish and Wildlife. The consultant forecast economic effects by estimating potential changes in land use, environmental quality, property values and the amount of time and effort that landowners would spend on consultations.

The firm estimated that private landowners statewide would spend \$1.8 million to \$4 million for consultations with public agencies and lose \$116.4 million from project modifications and declining land values over 20 years. If Fish and Wildlife approves its proposed critical-habitat designation, the costs would rise by \$22.2 million.

But, the report adds, preserving critical habitat for endangered species also produces benefits that are impossible to quantify. Threatened and endangered species might someday have medical or commercial value that hasn't been discovered yet.

Butte County Meadowfoam, a flowering perennial, for example, is being investigated as a new source of oil to replace animal-based oils in industrial applications, the report said.

Maintaining the health of vernal pool ecosystems might also contribute to the healthy functioning of neighboring ecosystems and migratory birds. Preserving land with vernal pools also might create more open space for recreation and education, and could lead to higher property values in other areas deemed more suitable for development.

Or maybe not: The research under way at UC Berkeley is funded by the nonprofit California Resource Management Institute. Cliff Moriyama, the institute's director, said it's expected to be finished by the end of the month or the first week in January. The finished product should be a model that can be used to forecast the economic effects of designating critical habitat for any species, he said.

Moriyama wears another hat as a project coordinator for the California Natural Resources Group, which is supported by business and local government advocacy organizations.

That group thinks the economic analysis prepared for Fish and Wildlife should have examined more factors, such as the possibility that a critical-habitat designation might trigger the need for state review under the California Environmental Quality Act and the costs to landowners of hiring biologists to define which portions of their land do not provide critical habitat for endangered species.

Brian White, a legislative advocate for the California Building Industry Association, criticized the Economic & Planning Systems analysis for not factoring in "cumulative effects," such as potential changes in property taxes and costs for infrastructure such as roads and schools that would come with development.

Hodgson, who represents owners of land in the Sunrise Douglas Community Plan area, said he thinks such factors could add up to \$1 billion to \$1.5 billion in that area alone.

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