



## ***Frequently Asked Questions About Proposed Critical Habitat for the Lane Mountain Milk-Vetch***

***Q. What is Lane Mountain milk-vetch?*** The Lane Mountain milk-vetch (*Astragalus jaegerianus*), a perennial member of the pea family with silvery-haired leaves and clusters of purple or cream-colored flowers, is restricted to a portion of the West Mojave Desert north of Barstow in San Bernardino County. The plant is unusual in that its intertwining branches grow up inside other shrubs, which it uses for support. As with other perennial species in the Mojave Desert, the plant grows in the late fall or winter once it receives sufficient moisture, then it blooms in April and May. The plant goes dormant in the late spring or summer after soil moisture dries up.

***Q. Why was Lane Mountain milk-vetch listed as an endangered species?*** The plant is threatened by dry wash mining, off-road vehicle use, and military maneuvers. This plant's reproductive rate varies dramatically, and years of high reproduction are uncommon. This characteristic, coupled with the possibility of natural and human-caused random events, make this species vulnerable to extinction.

***Q. What is critical habitat?*** Critical habitat is defined in the Endangered Species Act (Act) as specific geographic areas that contain the physical and biological features essential to the conservation of a threatened or endangered species and that require special management considerations. 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 available 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. What areas have been proposed as critical habitat?*** We are proposing to designate 29,522 acres of critical habitat in three units, most of which is located on private and Federal lands. A small amount of acreage is on state lands. Most of the Federally-owned land is managed by the Department of Defense (DOD) at Fort Irwin and the Bureau of Land Management. The critical habitat units contain one or more of the primary constituent elements that provide for the life cycle needs of the plant.

***Q. Are economic impacts considered in the critical habitat designation?*** Critical habitat is determined after taking into consideration possible economic impacts as well as any other relevant impacts and benefits. The Secretary 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, the Service may exclude an area based on economic impacts or other relevant impacts such as preservation of conservation partnerships and national security. A draft economic analysis is underway to identify impacts associated with the proposed critical habitat designation. It will be released separately for public review and comment.

***Q. Do listed species in critical habitat areas receive more protection?*** No. An area designated as critical habitat is not a refuge or special conservation area. Listed species and their habitats fall under the protections of the Act whether or not they are in an area designated as critical habitat.

***Q. What protection does the 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 or adversely modify designated critical habitats. Through this consultation process, the Service analyzes actions of Federal agencies to determine if they may jeopardize the existence of a listed species. In addition, the Act requires that Federal agencies not only take actions to conserve listed species, but also pursue actions to recover species to the point where they no longer require protection and can be delisted. 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 the critical habitat designation?*** 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 destroy or adversely modify critical habitat, the agency responsible for issuing the permit or providing the funds consults with the Service to determine how the action may affect Lane Mountain milk-vetch. A project that will destroy or adversely modify critical habitat is one that will appreciably reduce the value of critical habitat for the survival and recovery of the species.

***Q. How does the proposed designation affect Department of Defense’s activities at Fort Irwin?*** The Service is working with DOD to determine whether proposed activities on the base will impact the milk-vetch. Fort Irwin is also amending its Integrated Natural Resources Management Plan to address conservation measures for the milk-vetch. Because these protections are not yet in place, the Service is proposing critical habitat on the base. During the public comment period, the Service will evaluate whether proposed protections for the plant are sufficient to remove certain areas from the final critical habitat designation.

***Q. How does the proposed designation of critical habitat affect the Bureau of Land Management’s draft West Mojave Coordinated Management Plan?*** Critical habitat is being proposed in areas covered by the West Mojave Coordinated Management Plan. The Bureau of Land Management is proposing to include protections for the milk-vetch in its plan. During the public comment period, the Service will evaluate whether conservation measures for the plant are sufficient enough to remove certain areas from critical habitat in the Service’s final designation.

***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, designating critical habitat 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 we don’t have 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 milk-vetch because the potential benefits of the action did not outweigh the potential harm of designating critical habitat. In November 2001, the Southwest Center for Biological Diversity and the California Native Plant Society filed suit against the Service for failure to designate critical habitat for the species. In July 2002, the court ordered the Service to propose critical habitat, and subsequently granted the Service an extension to propose critical habitat by April 1, 2004.

***Q. Is critical habitat beneficial for a species?*** In 30 years of implementing the Act, the Service has found that the designation of critical habitat provides little additional protection to most listed species, while preventing the Service from using scarce conservation resources for activities with greater conservation benefits. In almost all cases, recovery of listed species will come through voluntary cooperative partnerships, not regulatory measures such as critical habitat. Habitat is also protected through cooperative measures under the Endangered Species Act including Habitat Conservation Plans, Safe Harbor Agreements, Candidate Conservation Agreements and state programs. In addition, voluntary partnership programs 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. Is all the acreage within the proposed boundaries critical habitat for the milk-vetch?*** Not all the areas within the critical habitat boundaries contain the specific habitat features required by the milk-vetch. For example, existing man-made structures and mine quarries don't provide habitat for the milk vetch. But they do sometimes occur within the critical habitat boundaries of the designation because of limitations in our ability to map the boundaries at a finer scale. However, these areas are not considered critical habitat.

***Q. What types of activities might impact critical habitat for Lane Mountain milk-vetch?*** The value of critical habitat may be reduced or destroyed by activities that alter its primary constituent elements. If this happens, there is less possibility that the milk-vetch can survive and recover. These activities include: livestock grazing, discing, mining, fire management, off-road vehicle use, installation of utility and communication lines, and, the application or runoff of chemical or biological agents into the air, soil, or on native plants.