narrowly define suitable habitat in terms of plants per unit area, vegetation density, specific plant community composition, type and volume of surface water, and patch size. The Service has no information to indicate inaccuracy or inadequacy of the habitat description presented in this rule. Specifically regarding patch sizes, one to two E. t. extimus pairs have been observed nesting in habitat patches of 0.5 ha (Sogge et al. 1993, Sogge et al. unpubl. 1994 data); therefore 1.0 to 1.5 ha is not an accurate estimate of the minimum patch size needed to support a single nesting pair.

*Issue 21:* Habitats used by nesting pairs differ from those used by single, unmated, wandering, or migrant flycatchers; the latter face minimal threats and are not essential to conservation of the species.

Service Response: The commenters provided no data supporting the statement that habitats used by unpaired E. t. extimus differ from nesting habitat, and the Service found no indication of this in the available literature. Unmated, resident E. t. extimus have been found in habitats identical to nearby habitats occupied by nesting pairs (Sogge and Tibbitts 1992, Sogge et al. 1993). The Service believes that single, unmated E. t. extimus also face threats of habitat loss, and that conservation of these individuals is essential to the conservation of the species, particularly at the low current numbers of flycatchers.

*Issue 22:* Listing constitutes singlespecies management that will damage other species; *E. t. extimus* habitat is incompatible with habitat needs of other listed and sensitive species, particularly the spikedace and loach minnow.

Service Response: The purposes of the Act are to provide a program for the conservation of threatened and endangered species and to conserve the ecosystems upon which threatened and endangered species depend. The Service believes that managing for *E. t. extimus* and other listed riparian and aquatic species accomplishes this purpose, to the mutual benefit of listed and nonlisted species alike. The intent of this listing is to conserve and recover *E. t. extimus* and the riparian and aquatic ecosystems of which it is a part.

The primary constituent elements of critical habitat described for the spikedace (59 FR 10906) and loach minnow (59 FR 10898) are not in conflict with the habitat requirements for the southwestern willow flycatcher, and are not in conflict with the primary constituent elements of its proposed critical habitat (58 FR 39495). The fishes require "a healthy, intact riparian

community," which will also benefit E. t. extimus and other riparian and aquatic species. The spikedace, loach minnow, and *E. t. extimus* all require surface water and/or a high water table, a low to moderate stream gradient, and periodic flooding. The fishes specifically require a "natural, unregulated hydrograph," which the Service believes would also benefit the flycatcher. These fish also require moderate to high bank stability; maintenance of the riparian vegetation on which E. t. extimus depends will provide such bank stability. The Service does not view management for E. t. extimus, spikedace, and loach minnow as mutually exclusive, but as mutually beneficial.

*Issue 23:* Floods regenerate habitat, they do not destroy it; floods destroy habitat; floods, not livestock, caused much of riparian degradation; the proposed rule is confusing and contradictory on the role of floods as a threat or necessary ecological function.

Service Response: The proposed rule stated that "Its habitat rarity, and small, isolated populations make the remaining *E. t. extimus* increasingly susceptible to local extirpation through stochastic events such as floods \* \* \*. In early 1993, catastrophic floods in southern California and Arizona damaged or destroyed much of the remaining occupied or potential breeding habitat. Historically, these floods have always destroyed habitat but were also important events in regenerating cottonwood-willow communities."

It is important to note that *E*. *t*. extimus is threatened by stochastic events like floods because of its current rarity and isolated nature of populations. If the species existed at healthy population levels, and if its riparian habitat were not greatly reduced, these natural stochastic events would not constitute threats. The 1993 flood events referred to were extraordinary in nature, described regionally as 500-year floods. Therefore, they do not typify flood events in the river systems involved. Further, while natural flood events are expected to destroy some flycatcher habitat, they are also crucial for regenerating natural riparian nesting habitat. In a healthy system where riparian vegetation is abundant and the stream channel is not eroded or destabilized, destruction and regeneration are balanced and habitat is generally available. Only when riparian vegetation is severely reduced and the stream channel and watershed are destabilized are riparian and aquatic species threatened by the natural, shortterm habitat losses resulting from flooding.

*Issue 24:* To manage for *E. t. extimus*, the Service will enforce or has proposed a fenced livestock-free corridor.

*Service Response:* The Service has neither proposed nor been consulted regarding a fenced, livestock-free corridor established along riparian areas on State, Federal, or private lands.

*Issue 25:* Beneficial land management practices should be recognized and discussed; the proposed rule fails to acknowledge that some habitats are protected from urban development.

Service Response: The Service recognizes that some management practices are beneficial. Some practices have protected or improved habitat, resulted in expanded populations, and/ or improved reproduction. The Service will look to these beneficial land management practices as important examples in the recovery planning process. However, in making a listing determination the Service must consider the situation across the species' entire range. It is this overall perspective that drives the listing decision. Although some nesting groups of E. t. extimus may be safe, stable, or perhaps even increasing, the Service has determined that overall the species is endangered.

*Issue 26:* Existing regulatory mechanisms are adequate, including: the Migratory Bird Treaty Act (MBTA); State listings for Arizona, New Mexico, and California; section 404 of the Clean Water Act; Bureau of Land Management and Forest Service policies; Executive Orders 11988 and 11990; protection of riparian habitat due to presence of other listed species; private and/or cooperative management plans at local areas.

Service Response: The Service considered these regulatory mechanisms and management plans, and determines that overall existing regulatory mechanisms are insufficient to conserve and recover *E. t. extimus* in the face of the primary threats of loss and modification of habitat and cowbird parasitism. A full discussion of Federal and State protection is found in this document under Factor D: "Inadequacy of existing regulatory mechanisms".

The Service recognizes that some local management plans benefit and conserve *E. t. extimus* and its habitat. Examples include management of the Bureau of Land Management's San Pedro Riparian National Conservation Area (SPRNCA) in Arizona, where six years of livestock exclusion have resulted in significant restoration of riparian habitats and increases in birds associated with habitats similar to *E. t. extimus* (Krueper 1993). Willow