

shall assess the overall impact that the project could have on the field, taking into account, among other factors:

(a) The significance of the goals of the proposed research, from a scientific or technical standpoint;

(b) The adequacy of the approach and methodology proposed to carry out the research;

(c) The innovativeness and originality of the proposed research;

(d) The qualifications and experience of the principal investigator and proposed staff;

(e) The scientific environment and reasonable availability of resources necessary to the research;

(f) The adequacy of plans to include both genders, minorities, children and special populations as appropriate for the scientific goals of the research;

(g) The reasonableness of the proposed budget and duration in relation to the proposed research; and

(h) The adequacy of the proposed protection for humans, animals, and the environment, to the extent they may be adversely affected by the project proposed in the application.

§ 52h.9 Unsolicited contract proposals; matters to be reviewed.

(a) Except as otherwise provided by law, no awarding official will award a contract based upon an unsolicited contract proposal covered by this part unless the proposal has been reviewed by a peer review group in accordance with the provisions of this part and said group has made recommendations concerning the scientific merit of that proposal.

(b) Except to the extent otherwise provided by law, such recommendations are advisory only and not binding on the awarding official.

§ 52h.10 Contract projects involving solicited contract proposals; matters to be reviewed.

(a) Subject to paragraphs (b) and (c) of this section, no awarding official will issue a request for contract proposals with respect to a contract project involving solicited contract proposals, unless the project concept has been reviewed by a peer review group or advisory council in accordance with this part and said group has made recommendations concerning the scientific merit of said concept.

(b) The awarding official may delay carrying out the requirements for peer review of paragraph (a) of this section until after issuing a request for proposals if he/she determines that the accomplishment of essential program objectives would otherwise be placed in jeopardy and any further delay would

clearly not be in the best interest of the Government. The awarding official shall specify in writing the grounds on which this determination is based. Under such circumstances, the awarding official will not award a contract until peer review of the project concept and the proposals have been completed. The request for proposals will indicate that the project concept will be reviewed by a peer review group and that no award will be made until the review is conducted and recommendations made based on that review.

(c) The awarding official may determine that peer review of the project concept for behavioral or biomedical research and development contracts is not needed if one of the following circumstances applies: the solicitation is to recompetete or extend a project that is within the scope of a current project that has been peer reviewed, or there is a Congressional authorization or mandate to conduct specific contract projects. If a substantial amount of time has passed since the concept review, the awarding official shall determine whether peer review is required to ensure the continued scientific merit of the concept.

(d) Except to the extent otherwise provided by law, the recommendations referred to in this section are advisory only and not binding on the awarding official.

§ 52h.11 Contract projects and proposals; review criteria.

(a) In carrying out its review of a project concept under § 52h.10(a) or § 52h.10(b), the peer review group will take into account, among other factors:

(1) The significance from a scientific or technical standpoint of the goals of the proposed research or development activity;

(2) The availability of the technology and other resources necessary to achieve those goals;

(3) The extent to which there are identified, practical uses for the anticipated results of the activity; and

(4) Where the review includes the project approach, the adequacy of the methodology to be utilized in carrying out the activity.

(b) In carrying out its review of unsolicited contract proposals under § 52h.9, the peer review group will take into account, among other factors, those criteria in § 52h.8 which are relevant to the particular proposals.

(c) In carrying out its review of solicited contract proposals under § 52h.10 (a) or (b) the peer review group will evaluate each proposal in

accordance with the criteria set forth in the request for proposals.

§ 52h.12 Applicability of other regulations.

The regulations in this part are in addition to, and do not supersede other regulations concerning grant applications, contract projects, or contract proposals appearing elsewhere in this title, title 48, or title 45 of the Code of Federal Regulations.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG34

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Riverside Fairy Shrimp

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service, propose designation of critical habitat for the Riverside fairy shrimp (*Streptocephalus woottoni*), pursuant to the Endangered Species Act of 1973, as amended. We propose designation of critical habitat within an approximately 4,880-hectare (12,060-acre) area in Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and may require special management considerations or protection. The primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal.

If this proposed rule is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: We will accept comments from all interested parties until November 20,

2000. Public hearing requests must be received by November 6, 2000.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods.

1. You may mail written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008.

2. You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California.

3. You may send comments by electronic mail (e-mail) to fw1rvfs@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office or at the Ventura Fish and Wildlife Office, 2394 Portola Road, Suite B, Ventura, California.

FOR FURTHER INFORMATION CONTACT: Please contact Ken Berg, Carlsbad Fish and Wildlife Office, at the above address (telephone 760/431-9440; facsimile 760/431-5902).

SUPPLEMENTARY INFORMATION:

Background

The endangered Riverside fairy shrimp (*Streptocephalus wootoni*) is a small aquatic crustacean (Order: Anostraca) that occurs in vernal pools, pool-like ephemeral ponds, and human-modified depressions from coastal southern California south to northwestern Baja California, Mexico. This species is typically found in pools, ponds, and depressions that are deeper and cooler than the basins that support the related species, the endangered San Diego fairy shrimp (*Streptocephalus sandiegonensis*) (Hathaway and Simovich 1996). Water chemistry, depth, temperature, and ponding are considered important factors in determining fairy shrimp distribution (Belk 1977; Branchiopod Research Group 1996; Gonzales *et al.* 1996); hence, no individuals have been found in riverine or marine waters.

Mature males are between 13 to 25 millimeters (mm) (0.5 to 1.0 inches (in.)) long. The cercopods (structures that enhance the rudder-like function of the abdomen) are separate with plumose setae (feathery bristles) along the

borders. Mature females are between about 13 to 22 mm (0.5 to 0.87 in.) in total length. The brood pouch extends to the seventh, eighth, or ninth abdominal segment. The cercopods of females are the same as the males. Both sexes of Riverside fairy shrimp have the red color of the cercopods covering all of the ninth abdominal segment and 30 to 40 percent of the eighth abdominal segment. Nearly all species of fairy shrimp feed on algae, bacteria, protozoa, rotifers, and bits of organic matter (Pennak 1989; Eng *et al.* 1990).

Basins that support Riverside fairy shrimp are typically dry a portion of the year, but usually are filled by late fall, winter, or spring rains, and may persist into April or May. All anostracans, like the Riverside fairy shrimp, deposit eggs or cysts (organisms in a resting stage) in the pool's soil to wait out dry periods. The hatching of the cysts is usually observed from January to March; however, in years with early or late rainfall, the hatching period may be extended. The species hatches within 7 to 21 days after the pool refills, depending on water temperature, and matures between 48 to 56 days, depending on a variety of habitat conditions (Hathaway and Simovich 1996). The "resting" or "summer" cysts are capable of withstanding temperature extremes and prolonged drying. When the pools refill in the same or subsequent rainy seasons, some but not all of the eggs may hatch. Fairy shrimp egg banks in the soil may be composed of the eggs from several years of breeding (Donald 1983; Simovich and Hathaway 1997). Simovich and Hathaway (1997) found that only a fraction of the total cyst bank of anostracans in areas with variable weather conditions or filling periods, such as southern California, may hatch in any given year. Thus, reproductive success is spread over several seasons.

Vernal pools have a discontinuous occurrence in several regions of California (Keeler-Wolf *et al.* 1995), from as far north as the Modoc Plateau in Modoc County, south to the international border in San Diego County. Vernal pools form in regions with Mediterranean climates, where shallow depressions fill with water during fall and winter rains and then evaporate in the spring (Collie and Lathrop 1976; Holland 1976, 1988; Holland and Jain 1977, 1988; Thorne 1984; Zedler 1987; Simovich and Hathaway 1997). In years of high precipitation, overbank flooding from intermittent streams may augment the amount of water in some vernal pools (Hanes *et al.* 1990). Critical to the formation of vernal pools is the

presence of nearly impermeable surface or subsurface soil layers and flat or gently sloping topography (less than 10 percent slope). Downward percolation of water in vernal pool basins is prevented by the presence of this impervious layer (Holland 1976, 1988). In southern California, these impervious layers are typically alluvial materials with clay or clay loam subsoils, and they often form a distinctive micro-relief known as Gilgai or mima mound topography (Hallsworth *et al.* 1955; Cox 1984a). Basaltic or granitic substrates (*e.g.*, Hidden Lake and Santa Rosa Plateau in Riverside County) or indurated hardpan layers (*e.g.*, coastal San Diego County) may contribute to poor drainage as well. Vernal pool studies conducted in the Sacramento Valley indicate that the contribution of subsurface or overland water flows is significant only in years of high precipitation when pools are already saturated (Hanes and Stromberg 1996).

On the coastal terraces in San Diego County, pools are associated with the Huerhuero, Stockpen, Redding, and Olivenhain soil series. Huerhuero and Stockpen soils were derived from marine sediments and terraces, while the Redding and Olivenhain soils series were formed from alluvium. The Redding and Olivenhain soils are believed to have supported the majority of the pools historically found in San Diego County. In Riverside County, the Santa Rosa Plateau has Murrieta stony clay loams and soils of the Las Posas series (Lathrop and Thorne 1976), and at Skunk Hollow the soils in the immediate area of the vernal pool are Las Posas clay loam, Wyman clay loam, and Willows soil (Zedler *et al.* 1990).

Vernal pool systems are often characterized by different landscape features including mima mound (miniature mounds) micro-topography, varied pool basin size and depth, and vernal swales (low tract of marshy land). Vernal pool complexes that support one to more vernal pools are often interconnected by a shared watershed. This habitat heterogeneity (consisting of dissimilar elements or parts) generally ensures that some between-pool water flow continues.

Urban and water development, flood control, highway and utility projects, as well as conversion of wildlands to agricultural use, have eliminated or degraded vernal pools and/or their watersheds in southern California (Jones and Stokes Associates 1987). Changes in hydrologic patterns, certain military activities, unauthorized fills, overgrazing, and off-road vehicle use also may imperil this aquatic habitat and the Riverside fairy shrimp. The

flora and fauna in vernal pools or swales can change if the hydrologic regime is altered (Bauder 1986). Anthropogenic (human origin) activities that reduce the extent of the watershed or that alter runoff patterns (*i.e.*, amounts and seasonal distribution of water) may eliminate the Riverside fairy shrimp, reduce population sizes or reproductive success, or shift the location of sites inhabited by this species.

Historically, vernal pool soils covered approximately 500 square kilometers (km²) (200 square miles (mi²)) of San Diego County (Bauder and McMillan 1998). The greatest recent losses of vernal pool habitat in San Diego County have occurred in Mira Mesa, Rancho Penasquitos, and Kearny Mesa, which accounted for 73 percent of all the pools destroyed in the region during the 7-year period between 1979 and 1986 (Keeler-Wolf *et al.* 1995). Other substantial losses have occurred in the Otay Mesa area, where over 40 percent of the vernal pools were destroyed between 1979 and 1990. Similar to San Diego County, vernal pool habitat was once extensive on the coastal plain of Los Angeles and Orange counties (Mattoni and Longcore 1998). Unfortunately, there has been a near-total loss of vernal pool habitat in these areas (Ferren and Pritchett 1988; Keeler-Wolf *et al.* 1995). Significant losses of vernal pools supporting this species have also occurred in Riverside County.

Previous Federal Action

The San Geronio chapter of the Sierra Club submitted a petition dated September 19, 1988, to list the Riverside fairy shrimp as endangered. The petitioner asserted that emergency listing for this species was appropriate. However, the Service determined that emergency listing was not warranted since the species was more widespread than first thought and occurred in at least one protected site. Nevertheless, we did publish a proposed rule to list the Riverside fairy shrimp as an endangered species in the **Federal Register** on November 12, 1991 (56 FR 57503). Because the species was not identified until 1985, and its existence remained known only to a few scientists until 1988, the proposed rule constituted the first Federal action on the Riverside fairy shrimp. We published the final rule to list the Riverside fairy shrimp as endangered in the **Federal Register** on August 3, 1993 (58 FR 41384). In 1998, the Vernal Pools of Southern California Recovery Plan ((U.S. Fish and Wildlife Service (USFWS) 1998) was finalized. This recovery plan included the efforts

required to meet the recovery needs of the Riverside fairy shrimp.

On June 30, 1999, the Southwest Center for Biological Diversity filed a lawsuit in Federal District Court for the Northern District of California for our failure to designate critical habitat for the Riverside fairy shrimp. On February 15, 2000, the Service entered into a settlement agreement with the plaintiff, by which the Service agreed to readdress the prudence of designating critical habitat for the Riverside fairy shrimp by September 1, 2000, and propose critical habitat if prudent (*Southwest Center for Biodiversity v. United States Department of the Interior et. al.*, C99-3202 SC). This date was subsequently extended to September 15, 2000.

At the time of listing, we concluded that designation of critical habitat for the Riverside fairy shrimp was not prudent because such designation would not benefit the species. We were concerned that critical habitat designation would likely increase the degree of threat from vandalism, collecting, or other human activities. However, we have determined that the threats to this species and its habitat from specific instances of habitat destruction do not outweigh the broader educational and any potential regulatory and other possible benefits that designation of critical habitat would provide for this species. A designation of critical habitat for the Riverside fairy shrimp will provide educational benefits by formally identifying those areas essential to the conservation of the species. These areas were already identified in the Vernal Pools of Southern California Recovery Plan as the focus of our recovery efforts for the Riverside fairy shrimp (Service 1998).

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographic area occupied by a species at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures that are necessary to bring an endangered species or a threatened species to the point at which listing under the Act is no longer necessary.

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Critical habitat also identifies areas that may require special management considerations or protection, and may provide protection to areas where significant threats to the species have been identified. Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat.

Section 7(a)(2) of the Act requires Federal agencies to consult with us to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat. In 50 CFR 402.02, "jeopardize the continued existence" (of a species) is defined as engaging in an activity likely to result in an appreciable reduction in the likelihood of survival and recovery of a listed species. "Destruction or adverse modification" (of critical habitat) is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of "jeopardy" to the species and "adverse modification" of critical habitat are nearly identical (50 CFR 402.02).

Designating critical habitat does not, in itself, lead to recovery of a listed

species. Designation does not create a management plan, establish numerical population goals, and prescribe specific management actions (inside or outside of critical habitat). Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery, conservation, and management plans, and through section 7 consultations and section 10 permits.

Methods

In determining areas that are essential to conserve the Riverside fairy shrimp, we used the best scientific and commercial data available. This included data from research and survey observations published in peer-reviewed articles, recovery criteria outlined in the Recovery Plan for Vernal Pools of Southern California (Recovery Plan) (USFWS 1998), regional Geographic Information System (GIS) vegetation and species coverages (including layers for Los Angeles, Orange, Riverside, and San Diego counties), data collected on the U.S. Marine Corps Air Station Miramar (Miramar) and U.S. Marine Corps Base Camp Pendleton (Camp Pendleton), and data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits. As stated earlier, Riverside fairy shrimp occur in ephemeral pools and ponds that may not be present throughout a given year or from year to year. Therefore, proposed critical habitat units include a mosaic of vernal pools, ponds, and depressions currently supporting Riverside fairy shrimp, as well as areas that have supported vernal pools in the past and are still capable of supporting pools, vernal pool vegetation, and the Riverside fairy.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, we are required to base critical habitat determinations on the best scientific and commercial data available. We consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These features include, but are not limited to: space for individual and population growth and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding and reproduction; and habitats that are

protected from disturbance or are representative of the historic and ecological distributions of a species.

The primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal. These primary constituent elements are found in areas that support vernal pools or other ephemeral ponds and depressions and their associated watersheds. The primary constituent elements are: small to large pools with moderate to deep depths that hold water for sufficient lengths of time necessary for Riverside fairy shrimp incubation and reproduction, but not necessarily every year; the associated watershed(s) and other hydrologic features that support pool basins and their related pool complexes; flat or gently sloping topography; and any soil type with a clay component and/or an impermeable surface or subsurface layer known to support vernal pool habitat. All proposed critical habitat areas contain one or more of the primary constituent elements for the Riverside fairy shrimp.

Criteria Used To Identify Critical Habitat

In an effort to map areas essential to the conservation of the species, we used data on known Riverside fairy shrimp locations and those vernal pools and vernal pool complexes that were identified in the Recovery Plan as essential for the stabilization and recovery of the species. We then evaluated those areas based on the hydrology, watershed, and topographic features. Based on this evaluation, a 250-meter (m) (0.15 mile (mi)) Universal Transverse Mercator (UTM) grid was overlaid on top of those vernal pool complexes and their associated watersheds. The UTM grid encompasses either individual vernal pool basins or vernal pool complexes and provides additional assurances that watersheds and hydrologic processes are captured and maintained for this species. In those cases where occupied vernal pools were not specifically mapped in the Recovery Plan, we relied on recent scientific data to update the map coverage. We did not map critical habitat in sufficient detail to exclude all developed areas, such as towns or housing developments, or other lands unlikely to contain the primary constituent elements essential for conservation of the Riverside fairy shrimp. Areas of existing features and structures within the boundaries of the mapped units, such as buildings, roads,

aqueducts, railroads, airports, other paved areas, lawns, and other urban landscaped areas, will not contain one or more of the primary constituent elements. Federal actions limited to these areas, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

We also considered the existing status of lands in areas proposed as critical habitat and whether to exclude legally operative Habitat Conservation Plans (HCP) through section 4(b)(2) of the Act. We fully expect that HCPs undertaken by local jurisdictions (*e.g.*, counties, cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. We also expect that activities covered by and carried out in accordance with the provisions of a legally operative HCP will not result in destruction or adverse modification of critical habitat.

We expect that critical habitat may be used as a tool to help identify areas within the range of the Riverside fairy shrimp that are most critical for the conservation of the species. Critical habitat designation should not preclude the development of HCPs on non-Federal lands. We consider HCPs to be one of the most important methods through which non-Federal landowners can resolve endangered species conflicts. We provide technical assistance and work closely with applicants throughout development of HCPs to help identify special management considerations for listed species.

Proposed Critical Habitat Designation

The approximate area encompassing proposed critical habitat by county and land ownership is shown in Table 1. Proposed critical habitat includes Riverside fairy shrimp habitat throughout the species' range in the United States (*i.e.*, Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California) and is generally based on the geographic location of vernal pools, soil types, and local variation of topographic position (*i.e.*, coastal mesas or inland valleys). Lands proposed are under private, State, and Federal ownership and divided into six Critical Habitat Units. A brief description of each unit and reasons for proposing it as critical habitat are presented below.

TABLE 1.—APPROXIMATE AREA ENCOMPASSING PROPOSED CRITICAL HABITAT IN HECTARES (HA) (ACRES (AC)) BY COUNTY AND LAND OWNERSHIP.¹

County	Federal land	Local/state land	Private land	Total
Los Angeles	N/A	N/A	195 ha (480 ac)	195 ha (480 ac)
Ventura	N/A	N/A	25 ha (60 ac)	25 ha (60 ac)
Riverside	N/A	N/A	1,775 ha (4,390 ac)	1,775 ha (4,390 ac)
Orange	45 ha (110 ac)	5 ha (10 ac)	405 ha (1,000 ac)	455 ha (1,120 ac)
San Diego	2,290 ha (5,660 ac)	N/A	140 ha (350 ac)	2,430 ha (6,010 ac)
Total	2,335 ha (5,770 ac)	5 ha (10 ac)	2,540 ha (6,280 ac)	4,880 ha (12,060 ac)

¹ Approximate hectares have been converted to acres (1 ha = 2.471 ac). Based on the level of imprecision of mapping at this scale, approximate hectares and acres have been rounded to the nearest 5.

Map Unit 1: Transverse Range Critical Habitat Unit, Ventura and Los Angeles Counties, California (145 ha (350 ac)).

The Transverse Range critical habitat unit includes the vernal pools at Cruzan Mesa, Los Angeles County, and the former Carlsberg Ranch, Ventura County. These vernal pools represent the northern limit of occupied habitat for the Riverside fairy shrimp and are the last remaining vernal pools in Los Angeles and Ventura counties known to support this species. The conservation of these vernal pools is necessary to stabilize the populations of Riverside fairy shrimp in Los Angeles and Ventura counties by providing protection for the pools, as well as indicating the importance of these pools to the recovery of the species.

Map Unit 2: Los Angeles Basin-Orange Management Area, Los Angeles and Orange Counties, California. (525 ha (1,310 ac)).

The Los Angeles coastal prairie unit includes an approximately 12-ha (30-ac) area within and adjacent to the El Segundo Blue Butterfly Preserve, west of Pershing Drive at the Los Angeles International Airport. This unit is the only suitable remnant area located within the historical coastal prairie landscape, which formerly extended from Playa del Rey south to the Palos Verdes Peninsula, an area of approximately 95 km² (37 mi²). This landscape historically included the federally endangered California orcutt grass (*Orcuttia californica*) and San Diego button-celery (*Eryngium aristulatum* var. *parishii*). This unit also supports versatile fairy shrimp (*Branchnecta lindahli*) and western spadefoot toad (*Scaphiopus hammondi*). Riverside fairy shrimp cysts were first collected east of Pershing Drive in 1997, but adult shrimp have not been found to date, likely due to the extensive disturbance to the landscape, including the introduction of fill material, changes in water chemistry, modification of the

watersheds, and the resulting shortened duration of water ponding. We are not designating the area east of Pershing Drive due to the extensive alteration of the habitat that has occurred.

Considering the extensive habitat available, populations of Riverside fairy shrimp in this region were likely robust and formed the core population between the limited Cruzan Mesa and Carlsberg Ranch pools (Unit 1), at the northern end of the range of the species, and the pool groups in central and southern Orange County. The conservation of this area is necessary for the recovery of an isolated, formerly robust population that likely contains unique genetic diversity important to the overall long-term conservation of the species.

In Orange County, this critical habitat unit includes the vernal pools and vernal pool-like ephemeral ponds at the Marine Corps Air Station El Toro, Chiquita Ridge, Tejas Creek, Rancho Viejo, Saddleback Meadows, and along the southern Orange County foothills. These vernal pools are the last remaining vernal pools in Orange County known to support this species (Service 1993). The conservation of these vernal pools is necessary to stabilize the populations of Riverside fairy shrimp in Orange County by providing specific protection to important habitat for the shrimp.

Map Unit 3: Western Riverside County Critical Habitat Unit, Riverside County, California (1,780 ha (4,400 ac)).

The Western Riverside County critical habitat unit includes the vernal pools on the Santa Rosa Plateau and in Murrieta. These populations represent the eastern limit of occupied habitat for Riverside fairy shrimp and are two of the three remaining populations in Riverside County. Conservation of these pools will provide for the conservation and recovery of the Riverside fairy shrimp, as well as stabilize the current populations of shrimp in Riverside County. The third population, Skunk Hollow, is protected as part of an

approved mitigation bank that is within the Rancho Bella Vista HCP area.

Map Unit 4: North San Diego County Critical Habitat Unit, San Diego County, California (2,340 ha (5,780 ac)).

The North San Diego County critical habitat unit includes the vernal pools at Marine Corps Base Camp Pendleton. This unit encompasses approximately 45 ha (110 ac) within Camp Pendleton. Camp Pendleton has several substantial vernal pool complexes that support the Riverside fairy shrimp. The Recovery Plan for Vernal Pools of Southern California includes the Camp Pendleton pool complexes within the San Diego North Coastal Mesas Management Areas. Designation of critical habitat in this area will conserve important habitat for the Riverside fairy shrimp and will contribute to the recovery efforts identified in the Recovery Plan.

Within the jurisdiction of the City of Carlsbad, one vernal pool complex is located at the Poinsettia Lane train station. This complex is associated with a remnant parcel of coastal terrace habitat and is essential for stabilizing the species in northern San Diego County and preserving genetic diversity.

Map Unit 5: Central San Diego County Critical Habitat Unit, San Diego County, California (30 ha (75 ac)).

The Central San Diego County critical habitat unit includes a vernal pool within Marine Corps Air Station, Miramar. This location is the only known occurrence of Riverside fairy shrimp within the Central Coastal Mesa Management Area, San Diego County. In addition, this pool is identified in the Recovery Plan as necessary to stabilize the Riverside fairy shrimp in central San Diego County.

Map Unit 6: South San Diego County Critical Habitat Unit, San Diego County, California (65 ha (160 acres)).

The South San Diego County critical habitat unit includes the ephemeral basin along the United States-Mexico border. This ephemeral basin is on Federal lands (Immigration and Naturalization Service) and represents

the southern limit of occupied habitat for the Riverside fairy shrimp in the United States. This basin is identified in the Recovery Plan as necessary to stabilize the Riverside fairy shrimp in southern San Diego County. The protection provided through the designation of critical habitat will assist in the recovery efforts identified in the Recovery Plan.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued

existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Through this consultation, we would ensure that the permitted actions do not adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation in instances where we have already reviewed an action for its effects on a listed species if critical habitat is subsequently designated. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat a description and evaluation of those activities involving a Federal action that may adversely modify or destroy such habitat or that may be affected by such designation. When determining whether any of these activities may adversely modify or destroy critical habitat, we base our analysis on the effects of the action on the entire critical habitat area and not just on the portion where the activity will occur. Adverse effects on constituent elements or individual segments of critical habitat units generally do not result in an adverse modification determination unless that loss, when added to the environmental baseline, is likely to appreciably

diminish the capability of the critical habitat to satisfy essential requirements of the species. In other words, activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the Riverside fairy shrimp is appreciably reduced.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery, and actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species (50 CFR 402.02).

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned when the habitat is occupied by the species. The purpose of designating critical habitat is to contribute to a species' conservation, which by definition equates to survival and recovery. Section 7 prohibitions against the destruction or adverse modification of critical habitat apply to actions that would impair survival and recovery of the listed species. Designation of critical habitat in areas occupied by the Riverside fairy shrimp is not likely to result in a regulatory burden above that already in place due to the presence of the listed species. Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the U.S. Army Corps of Engineers (Corps) requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, an additional section 7 consultation with the Service

not previously required may be necessary for actions funded, authorized, or carried out by Federal agencies.

Activities on Federal lands that may affect the Riverside fairy shrimp or its designated critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the Corps under section 404 of the Clean Water Act, or some other Federal action, including funding (e.g., Federal Highway Administration, Federal Aviation Administration, or Federal Emergency Management Agency) will be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and require that a section 7 consultation be conducted include, but are not limited to:

(1) Any activity, including the regulation of activities by the Corps under section 404 of the Clean Water Act or activities carried out by or licensed by the U.S. Environmental Protection Agency, that could alter the watershed, water quality or quantity to an extent that water quality becomes unsuitable to support Riverside fairy shrimp, or any activity that significantly affects the natural hydrologic function of the vernal pool system and/or ephemeral pond or depression;

(2) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities, or any activity funded or carried out by the Department of Transportation or Department of Agriculture that results in discharge of dredged or fill material, excavation, or mechanized land clearing of ephemeral and/or vernal pool basins;

(3) Regulation of airport improvement or maintenance activities by the Federal Aviation Administration;

(4) Military training and maneuvers on Camp Pendleton and Miramar, and other applicable DOD lands;

(5) Construction of roads and fences along the international border with Mexico, and associated immigration enforcement activities by the INS; and

(6) Licensing of construction of communication sites by the Federal Communications Commission.

Any of the above activities that appreciably diminish the value of critical habitat to the degree that they affect the survival and recovery of the Riverside fairy shrimp may be considered an adverse modification of

critical habitat. We note that such activities may also jeopardize the continued existence of the species.

If you have questions regarding whether specific activities will constitute adverse modification of critical habitat, contact the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 N.E. 11th Ave, Portland, OR 97232 (telephone 503/231-2063; facsimile 503/231-6243).

Exclusion of Habitat Conservation Plans Under Section 4(b)(2)

Subsection 4(b)(2) of the Act allows us to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. The Service believes that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them.

The benefits of excluding Habitat Conservation Plans (HCPs) include relieving landowners, communities and counties of any additional regulatory burden that might be imposed by critical habitat. This benefit is particularly compelling given the past representations on the part of the Service that once an HCP is negotiated and approved by us after public comment, activities consistent with the plan will satisfy the requirements of the Endangered Species Act. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery of covered species. Imposing an additional regulatory review after HCP completion could have a chilling effect on our entire HCP program, jeopardizing conservation efforts and conservation partnerships in many areas. Excluding HCPs provides the Service an opportunity to streamline regulatory compliance; and provides regulatory certainty for HCP participants.

Another critical benefit of excluding HCPs is that it would encourage the continued development of partnerships with HCP participants, including states, local governments, conservation organizations, and private landowners, that together can implement conservation actions we would be unable to accomplish alone. These partnerships are built on our assurance

that no additional requirements, beyond the commitments in the HCP, will be imposed to comply with the Act. The designation of critical habitat in areas covered by HCPs threatens these existing partnerships, and reduces the likelihood of successful future partnerships. The common perception, even if incorrect, that critical habitat designation will impose new and additional regulatory requirements on landowners, including lands covered by HCPs, suggests to many HCP participants that the Service may not fulfill the commitments we made during HCP negotiations. By excluding areas covered by HCPs from critical habitat designation, we clearly maintain our commitments, preserve these partnerships, and, we believe, set the stage for more effective conservation actions in the future.

The benefits of including HCPs in critical habitat are normally small. The development and implementation HCPs provides important conservation benefits, including the development of biological information to guide conservation efforts to assist in species recovery and the creation of innovative solutions to conserve species while allowing for regional development. When a species for which we are considering the designation of critical habitat is a covered species in an HCP, the additional protection for this species on HCP lands that would be provided by critical habitat designation would be minimal.

One benefit provided by designation of critical habitat is the consultation requirement. The HCP would have to go through an additional consultation to look at the question of adverse modification of critical habitat. However, HCPs have already gone through a consultation process when the HCP was first established. Since HCPs address land use within the plan boundaries, habitat issues within the plan boundaries have been thoroughly addressed in HCP consultations. Therefore, in most instances we do not expect any additional regulatory impact on HCPs by critical habitat consultations. In addition, any educational benefits provided by critical habitat designation have been met by the public notice aspects of establishing an HCP, as well as by public participation in the development of many regional HCPs. As a result of the factors discussed above, when the benefits of excluding HCP land from critical habitat designation outweigh the benefits of including the land, we find that it is appropriate to exclude lands covered by legally operative HCPs.

For this designation, we find that the benefits of exclusion outweigh the benefits of designation for the San Diego Multiple Species Conservation Program (MSCP). This exclusion will not result in the extinction of the species. We discuss this and the other specific HCPs in the range of the Riverside Fairy Shrimp area below.

A number of habitat planning efforts have been completed within the range of the Riverside fairy shrimp. Principal among these are the San Diego Multiple Species Conservation Program (MSCP) in San Diego County, and the Rancho Bella Vista HCP in Riverside County. The MSCP, through its subarea plans, provides conservation measures for the Riverside fairy shrimp as a covered species, although authorization for take, should any be needed, would come from a subsequent permitting process (typically through a section 7 consultation with the Corps of Engineers). The MSCP provides that the remaining fairy shrimp habitat within the Multiple Habitat Planning Area (MHPA) should be avoided to the maximum extent practicable. Unavoidable impacts to this remaining area of habitat is to be minimized and mitigated to achieve no net loss of wetland function and value and to provide additional protective measures, including adaptive management, contained in the MSCP. The Rancho Bella Vista HCP provides conservation measures for the Riverside fairy shrimp as a covered species. We find that the benefits of exclusion outweigh the benefits of designation for these plans. The plans provides for the preservation of fairy shrimp habitat and any additional protection provided by critical habitat would be minimal. On the other hand the benefits of exclusion are high. Participants in these HCP processes have relied on the Service's assurances that once an HCP has been developed it will satisfy the participant's requirements under the ESA. Therefore, we propose that non-Federal land within the approved HCP planning areas in San Diego County and Riverside County for the Riverside fairy shrimp should be exempted from the designation, and therefore, not be proposed as critical habitat.

We do not propose to exclude the NCCP/HCP for the Central/Coastal Orange County subregion. This plan provides only conditional coverage for the Riverside fairy shrimp. Riverside fairy shrimp in vernal pool habitats that are highly degraded and/or artificially created are a covered species and take is authorized under the HCP. However, Riverside fairy shrimp in non-degraded, natural vernal pool habitats are not

considered covered species under the HCP, and take, should any be needed, can be authorized only under a separate permitting process (typically through a section 7 consultation with the Corps of Engineers). Because the natural vernal pools within the Central/Coastal Orange County subregion are considered complexes of high habitat value for the Riverside fairy shrimp that are not covered by the current HCP, the benefits from designating this area as critical habitat are not outweighed by the benefits provided by the HCP. Therefore, we are proposing that the natural vernal pools at Rancho Viejo, Tejas Creek, and Marine Corps Air Station El Toro be included as critical habitat.

HCPs currently under development are intended to provide for protection and management of habitat areas essential for the conservation of the Riverside fairy shrimp, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the Riverside fairy shrimp. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a biologically configured system of interlinked habitat blocks. We fully expect that HCPs undertaken by local jurisdictions (e.g., counties, cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. We believe and fully expect that our analyses of these proposed HCPs and proposed permits under section 7 will show that covered activities carried out in accordance with the provisions of the HCPs and biological opinions will not result in destruction or adverse modification of critical habitat.

We provide technical assistance and work closely with applicants throughout the development of HCPs to identify lands essential for the long-term conservation of the Riverside fairy shrimp and appropriate conservation management actions. Several HCP efforts are now under way for listed and nonlisted species in areas within the range of the Riverside fairy shrimp in areas we propose as critical habitat. These HCPs, which will incorporate adaptive management, should provide for the conservation of the species. Furthermore, we will complete intra-service consultation on our issuance of

section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat. The take minimization and mitigation measures provided under these HCPs are expected to protect and provide the conservation of essential habitat lands that lead to designation of the lands as critical habitat in this rule.

Public Comments Solicited

We intend for any final action resulting from this proposal to be as accurate and effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of Riverside fairy shrimp habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Economic and other values associated with designating critical habitat for the Riverside fairy shrimp, such as those derived from nonconsumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, "existence values," and reductions in administrative costs).

In this proposed rule, we do not propose to designate critical habitat on non-Federal lands within the boundaries of an existing approved HCP and subarea plan with an executed implementation agreement (IA) for Riverside fairy shrimp approved under section 10(a)(1)(B) of the Act on or before the date of the final rule designating critical habitat. We believe that, since an existing HCP provides for long-term commitments to conserve the species and areas essential to the conservation of the species, the benefits of exclusion outweigh the benefits of inclusion. However, we are soliciting comments on the appropriateness of this

approach, and on other alternative approaches for critical habitat designation in areas covered by existing approved HCPs:

The amount of critical habitat we designate for the Riverside fairy shrimp in a final rule may either increase or decrease, depending upon which approach we adopt for dealing with designation in areas of existing approved HCPs.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

If you would like to submit comments by e-mail (see **ADDRESSES** section), please submit your comments as an ASCII file and avoid the use of special characters and any form of encryption. Please also include "Attn: RIN 1018-AG34" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760/431-9440.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment,

during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make proposed rules easier to understand including answers to questions such as the following:

- (1) Are the requirements in the document clearly stated?
- (2) Does the proposed rule contain technical language or jargon that interferes with the clarity?
- (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
- (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB), under Executive Order 12866.

(a) This rule will not have an annual economic effect of \$100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The Riverside fairy shrimp was listed as an

endangered species in 1993. In fiscal years 1997 through 1999, we conducted seven formal section 7 consultations with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the fairy shrimp.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2 below). Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of listed species. Based upon our experience with the species and its needs, we conclude that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat currently occupied by Riverside fairy shrimp would currently be considered as "jeopardy" under the Act. Accordingly, the designation of currently occupied areas as critical habitat does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons that do not have a Federal "sponsorship" of their actions are not restricted by the designation of critical habitat (however, they continue to be bound by the provisions of the Act concerning "take" of the species). Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, additional section 7 consultation with the Service not previously required may be necessary for actions funded, authorized, or carried out by Federal agencies. We will evaluate this impact through our economic analysis (required under section 4 of the Act; see Economic Analysis section of this rule).

TABLE 2.—IMPACTS OF RIVERSIDE FAIRY SHRIMP LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only ¹	Additional activities potentially affected by critical habitat designation ²
Federal Activities Potentially Affected ³	Activities such as those affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act; road construction and maintenance, right-of-way designation, and regulation of agricultural activities; regulation of airport improvement activities under Federal Aviation Administration jurisdiction; military training and maneuvers on Marine Corps Base Camp Pendleton and Marine Corps Air Station, Miramar and other applicable DOD lands; construction of roads and fences along the international border with Mexico and associated immigration enforcement activities by the Immigration and Naturalization Service; construction of communication sites licensed by the Federal Communications Commission, and; activities funded by any Federal agency.	None in occupied habitat. In unoccupied habitat containing vernal pools, no additional consultation would be required since the Corps already initiates consultations in these areas. In unoccupied habitat not containing vernal pools, no additional types of activities will be affected, but consultation, previously not required due to listing, will be required on these activities.
Private or other non-Federal Activities Potentially Affected ⁴ .	Activities such as removing or destroying Riverside fairy shrimp habitat (as defined in the primary constituent elements discussion), whether by mechanical, chemical, or other means (e.g., grading, overgrazing, construction, road building, herbicide application, etc.) and appreciably decreasing habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals, or fragmentation that require a Federal action (permit, authorization, or funding)).	None in occupied habitat. In unoccupied habitat containing vernal pools, no additional consultation would be required since the Corps already initiates consultations in these areas. In unoccupied habitat not containing vernal pools, no additional types of activities will be affected, but consultation, previously not required due to listing, will be required on these activities.

¹ This column represents the activities potentially affected by listing the Riverside fairy shrimp as an endangered species (August 3, 1993; 58 FR 41384) under the Endangered Species Act.

² This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.

³ Activities initiated by a Federal agency.

⁴ Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the Riverside fairy shrimp since the listing in 1993. The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist in occupied areas of proposed critical habitat. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical

habitat designation) will have any incremental effects in areas of occupied habitat. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies.

(d) This rule will not raise novel legal or policy issues. The proposed rule follows the requirements for determining critical habitat contained in the Act.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis (required under section 4 of the Act), we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of occupied critical habitat. As indicated on Table 1 (see Proposed Critical Habitat Designation section), we proposed property owned by Federal, State, and local governments and private property and identify the types of Federal actions or authorized activities that are of potential concern (Table 2). If these activities sponsored by Federal agencies within the proposed critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization. As discussed above, these actions are currently required to comply with the listing protections of the Act,

and the designation of critical habitat is not anticipated to have any additional effects on these activities in areas of critical habitat occupied by the species. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. For actions on non-Federal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we will determine whether designation of critical habitat will cause (a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. As discussed above, we anticipate that the designation of critical habitat will not have any additional effects on these activities in areas of critical habitat occupied by the species. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies. Additionally, designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden since the Corps requires review of projects requiring permits in all vernal pools, whether it is known that Riverside fairy shrimp are present or not.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

(a) This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated in areas of occupied proposed critical habitat. Designation of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies.

(b) This rule will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of the Riverside fairy shrimp. Due to current public knowledge of the species protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provides no incremental restrictions in areas of occupied critical habitat, we do not anticipate that property values will be affected by the critical habitat designation. Designation

of critical habitat in areas that are not known to be occupied by this species will also not likely result in an increased regulatory burden because the Corps already requires review of projects involving vernal pools since vernal pools typically contain listed species for which the Corps must consult with us under section 7. In those limited cases where activities occur on designated critical habitat where Riverside fairy shrimp and other listed species are not found at the time of the action, section 7 consultation with the Service may be necessary for actions funded, authorized, or carried out by Federal agencies. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival and recovery of the Riverside fairy shrimp. This proposed rule will not “take” private property and will not alter the value of private property. Critical habitat designation is only applicable to Federal lands and to private lands if a Federal nexus exists.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in California. We will continue to coordinate any future designation of critical habitat for the Riverside fairy shrimp with the appropriate State agencies. The designation of critical habitat in areas currently occupied by the Riverside fairy shrimp imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary for the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act, and plan public hearings on the proposed designation during the comment period. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Riverside fairy shrimp.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

We determined that there are no Tribal lands that are essential for the conservation of the Riverside fairy shrimp because they do not support populations or suitable habitat. Therefore, we are not proposing to designate critical habitat for the Riverside fairy shrimp on Tribal lands.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary authors of this notice are the Carlsbad Fish and Wildlife Office staff (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble, we propose to amend 50 CFR part 17 as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for “Fairy shrimp, Riverside” under “CRUSTACEANS” to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* CRUSTACEANS	*	*	*	*	*		*
Fairy shrimp, Riverside.	<i>Streptocephalus woottoni</i> .	U.S.A. (CA)	Entire	E	608	17.95(h)	NA
*	*	*	*	*	*		*

3. In § 17.95 add critical habitat for the Riverside fairy shrimp (*Streptocephalus woottoni*) under paragraph (h) in the same alphabetical order as this species occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *
(h) *Crustaceans.*
* * * * *

RIVERSIDE FAIRY SHRIMP (*Streptocephalus woottoni*)

1. Critical habitat units are depicted for Los Angeles, Orange, Riverside, San Diego, and Ventura counties, California, on the maps below.

2. Critical habitat includes vernal pools, vernal pool complexes, and ephemeral ponds and depressions indicated on the maps below and their associated watersheds and hydrologic regime.

3. Within these areas, the primary constituent elements for the Riverside fairy shrimp are those habitat components that are essential for the primary biological needs of foraging, sheltering, reproduction, and dispersal.

The primary constituent elements are found in those areas that support vernal pools or other ephemeral ponds and depressions, and their associated watersheds. The primary constituent elements are: small to large pools with moderate to deep depths that hold water for sufficient lengths of time necessary for incubation and reproduction, but not necessarily every year; entire watershed(s) and other hydrologic features that support pool basins and their related pool complexes; flat or gently sloping topography; and any soil type with a clay component and/or an impermeable surface or subsurface layer

known to support vernal pool habitat. All proposed critical habitat areas contain one or more of the primary constituent elements for Riverside fairy shrimp.

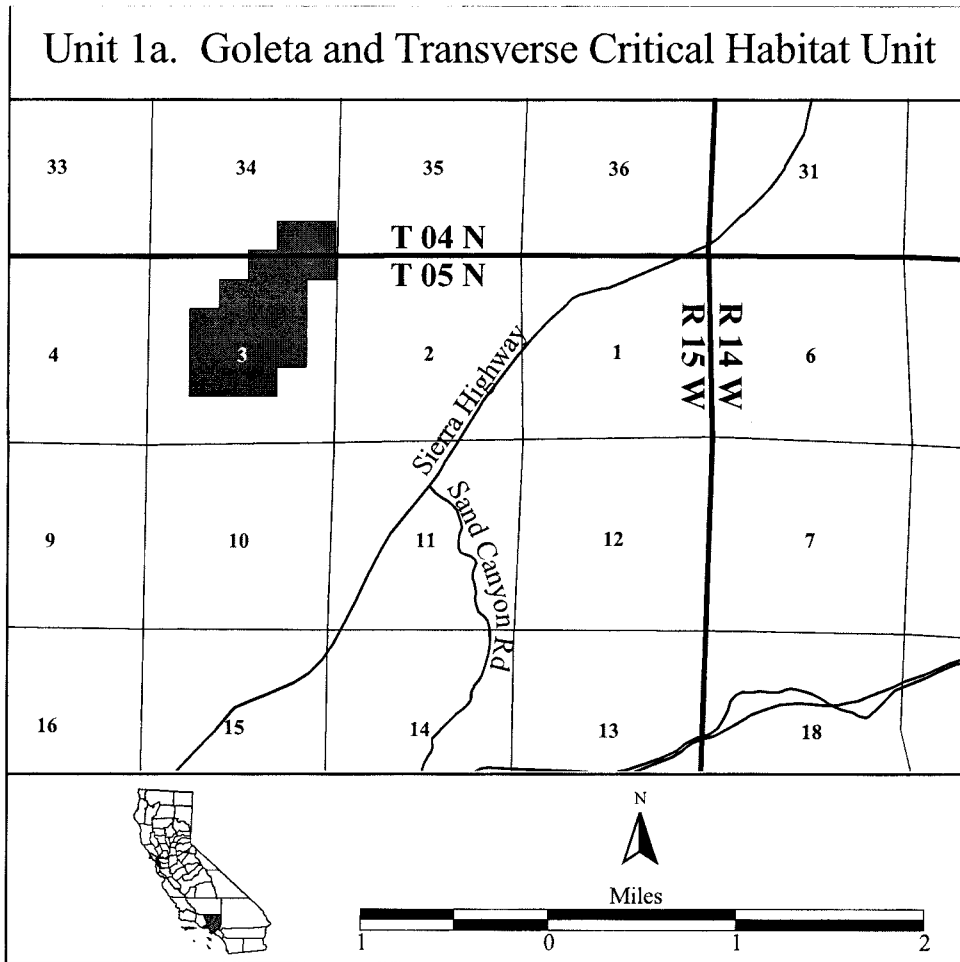
4. Existing features and structures, such as buildings, roads, railroads, urban development, and other features not containing primary constituent elements, are not considered critical habitat. In addition, critical habitat does not include non-Federal lands covered by a Habitat Conservation Plan, in which the Riverside fairy shrimp is a covered species, with an executed implementation agreement under section 10(a)(1)(B) of the Act on or before September 21, 2000.

BILLING CODE 4310–55–U

Map Unit 1: Goleta and Transverse Management Area, Ventura and Los Angeles Counties, California.



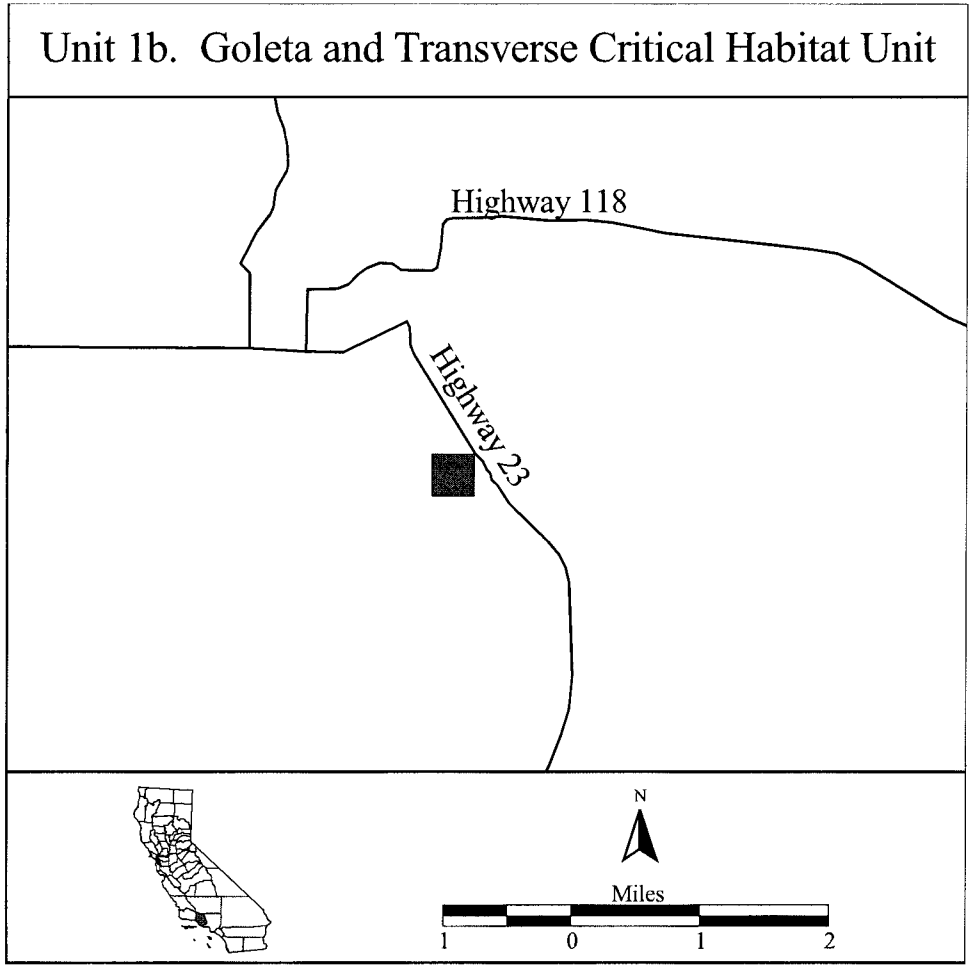
Unit 1a: From USGS 1:24,000 quadrangle map Mint Canyon, the lands bounded by the following UTM coordinates (E,N): 368000,3815000; 368500,3815000; 368500,3814500; 368250,3814500; 368250,3813750; 368000,3813750; 368000,3813500; 367250,3813500; 367250,3814250; 367500,3814250; 367500,3814500; 367750,3814500; 367750,3814750; 368000,3814750; 368000,3815000.



Unit 1b: From USGS 1:24,000 quadrangle map Simi Valley West, the lands bounded by the following UTM

coordinates (E,N): 329000,3793250; 329500,3793250; 329500,3792750;

329000,3792750; 329000,3793250. Note: Map follows:

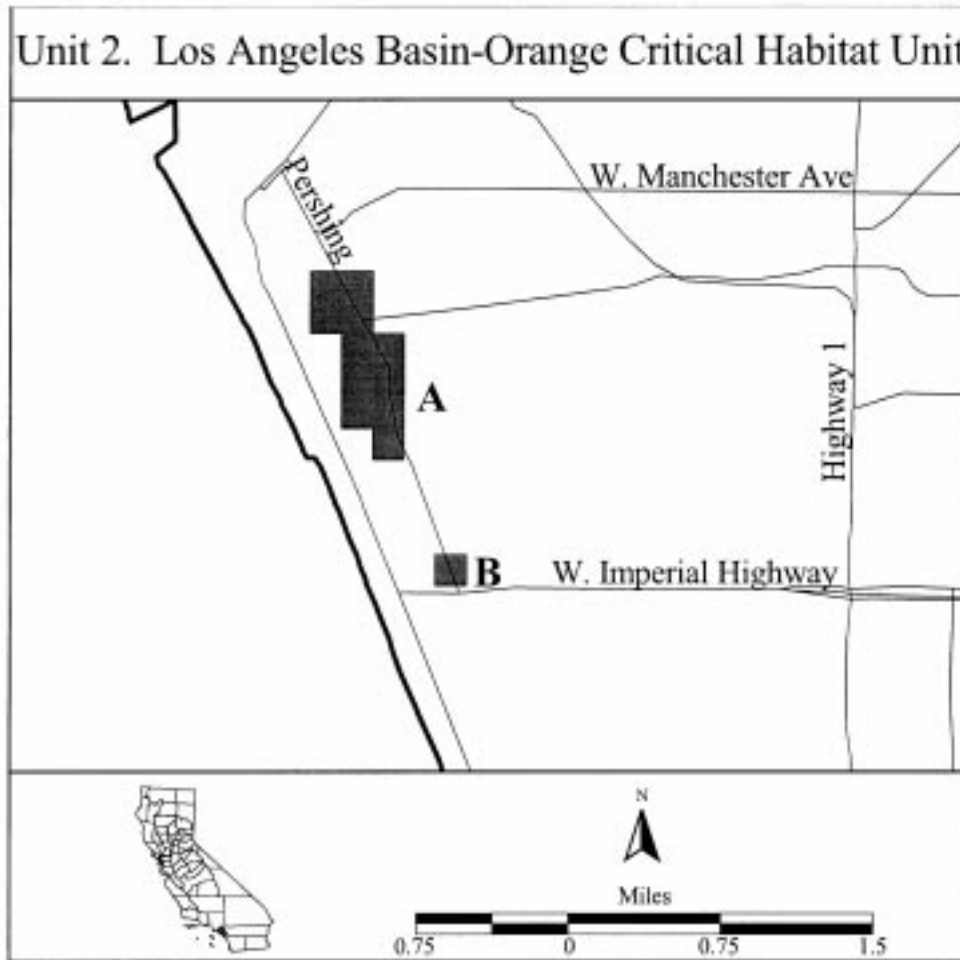


Map Unit 2: Los Angeles Basin-Orange Management Area, Los Angeles and Orange Counties, California.

Unit 2a: From USGS 1:24,000 quadrangle map Venice, the lands bounded by the following UTM

coordinates (E,N): 366750,3757750; 367250,3757750; 367250,3757250; 367500,3757250; 367500,3756250; 367250,3756250; 367250,3756500; 367000,3756500; 367000,3757250; 366750,3757250; 366750,3757750.

Unit 2b: From USGS 1:24,000 quadrangle map Venice, the lands bounded by the following UTM coordinates (E,N): 367750,3755500; 368000,3755500; 368000,3755250; 367750,3755250; 367750, 3755500.



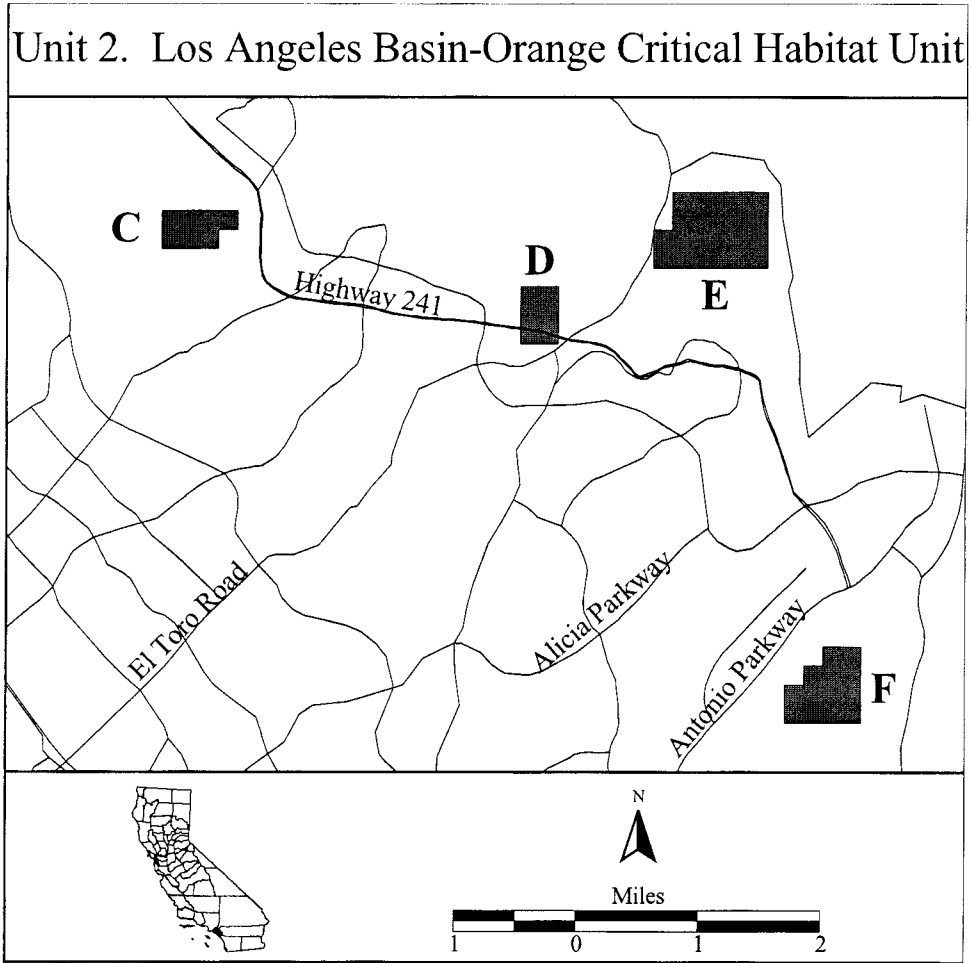
Unit 2c: From USGS 1:24,000 quadrangle map El Toro, the lands bounded by the following UTM coordinates (E,N): 435750,3726750; 436750,3726750; 436750,3726500; 436500,3726500; 436500,3726250; 435750,3726250; 435750,3726750.

Unit 2d: From USGS 1:24,000 quadrangle map El Toro, the lands bounded by the following UTM

coordinates (E,N): 440500,3725750; 441000,3725750; 441000,3725000; 440500,3725000; 440500,3725750.

Unit 2e: From USGS 1:24,000 quadrangle map Santiago Peak, the lands bounded by the following UTM coordinates (E,N): 442500,3727000; 443750,3727000; 443750,3726000; 442250,3726000; 442250,3726500; 442500,3726500; 442500,3727000.

Unit 2f: From USGS 1:24,000 quadrangle maps Santiago Peak and Canada Gobernadora, the lands bounded by the following UTM coordinates (E,N): 444500,3721000; 445000,3721000; 445000,3720000; 444000,3720000; 444000,3720500; 444250,3720500; 444250,3720750; 444500,3720750; 444500,3721000.

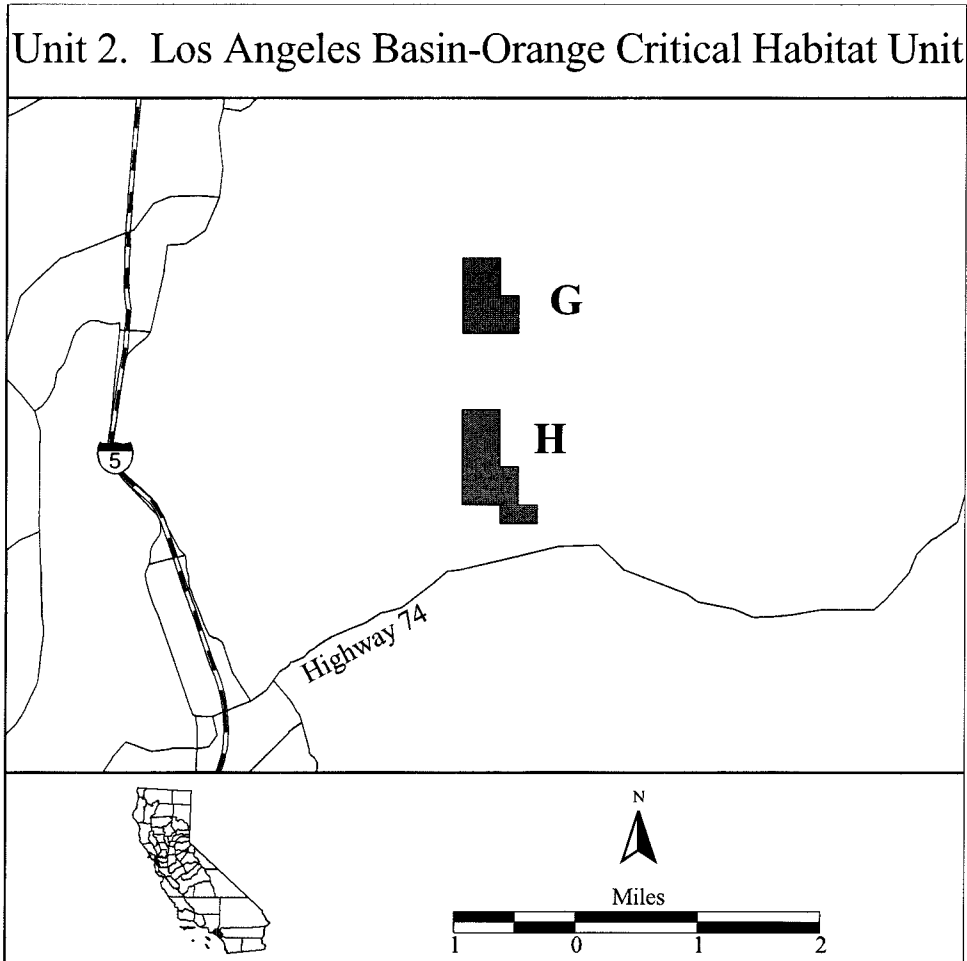


Unit 2g: From USGS 1:24,000
 quadrangle map Canada Gobernadora,
 the lands bounded by the following
 UTM coordinates (E,N):
 442000,3713000; 442500,3713000;
 442500,3712500; 442750,3712500;

442750,3712000; 442000,3712000;
 442000,3713000.

Unit 2h: From USGS 1:24,000
 quadrangle map Canada Gobernadora,
 the lands bounded by the following
 UTM coordinates (E,N):

442000,3711000; 442500,3711000;
 442500,3710250; 442750,3710250;
 442750,3709750; 443000,3709750;
 443000,3709500; 442500,3709500;
 442500,3709750; 442000,3709750;
 442000,3711000.



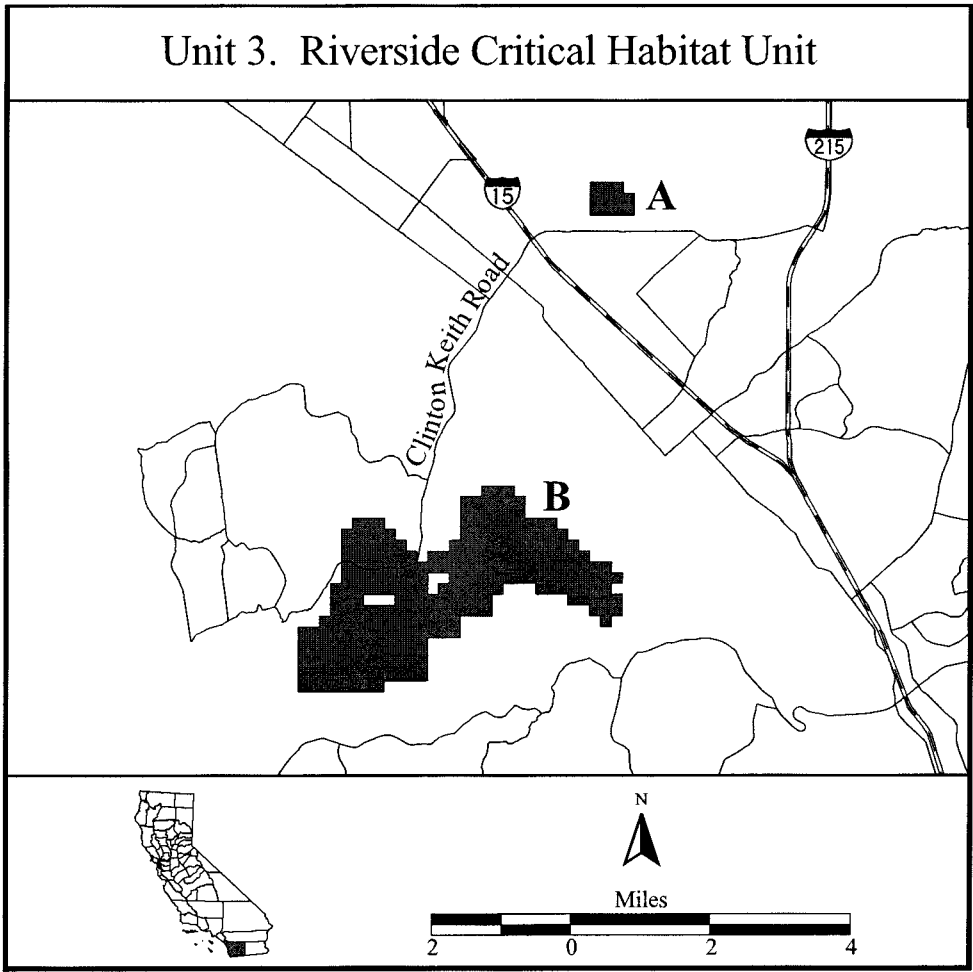
Map Unit 3: Riverside Management Area, Riverside County, California.

Unit 3a: From USGS 1:24,000 quadrangle map Murrieta, the lands bounded by the following UTM coordinates (E,N): 478750,3718500; 479500,3718500; 479500,3718250; 479750,3718250; 479750,3717750; 478750,3717750; 478750,3718500.

Unit 3b: From USGS 1:24,000 quadrangle maps Wildomar and Murrieta, the lands bounded by the following UTM coordinates (E,N): 476250,3711500; 477000,3711500; 477000,3711250; 477250,3711250; 477250,3710750; 478000,3710750; 478000,3710500; 478250,3710500; 478250,3710250; 478500,3710250; 478500,3710000; 478750,3710000;

478750,3709750; 479250,3709750; 479250,3709500; 479500,3709500; 479500,3709250; 479250,3709250; 479250,3709000; 479500,3709000; 479250,3708500; 479250,3708250; 479000,3708250; 479000,3708500; 478750,3708500; 478750,3708750; 478250,3708750; 478250,3709000; 477500,3709000; 477500,3709250; 476750,3709250; 476750,3709000; 476500,3709000; 476500,3708500; 475750,3708500; 475750,3708000; 475000,3708000; 475000,3707000; 474000,3707000; 474000,3706750; 472000,3706750; 472000,3708250; 472500,3708250; 472500,3708500; 472750,3708500; 472750,3709250; 473000,3709250;

473000,3710500; 473250,3710500; 473250,3710750; 474000,3710750; 474000,3710500; 474250,3710500; 474250,3710250; 474500,3710250; 474500,3710000; 474750,3710000; 474750,3709750; 475000,3709750; 475000,3710000; 475500,3710000; 475500,3710250; 475750,3710250; 475750,3711250; 476250,3711250; 476250,3711500. Excluding lands bounded by the following UTM coordinates (E,N): 475000,3709500; 475000,3709000; 475250,3709000; 475250,3709250; 475500,3709250; 475500,3709500; 475000,3709500; and bounded by (E,N): 473500,3709000; 473500,3708750; 474250,3708750; 474250,3709000; 473500,3709000.



Map Unit 4: San Diego: North Coastal Mesa Management Area, San Diego, California.

Unit 4a: From USGS 1:24,000 quadrangle map San Clemente, the lands bounded by the following UTM coordinates (E,N): 446250,3701000; 446750,3701000; 446750,3699500; 445750,3699500; 445750,3700000; 446000,3700000; 446000,3700750; 446250,3700750; 446250,3701000.

Unit 4b: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 454500,3687000; 455000,3687000; 455000,3686500; 455250,3686500; 455250,3686250; 455000,3686250; 455000,3686000; 454500,3686000; 454500,3686250; 454250,3686250; 454250,3686750; 454500,3686750; 454500,3687000, excluding the Pacific Ocean.

Unit 4c: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 455500,3685250; 456000,3685250; 456000,3685000; 456250,3685000; 456250,3684750; 456500,3684750; 456500,3684500; 456750,3684500; 456750,3684000; 456250,3684000; 456250,3684250; 456000,3684250; 456000,3684500; 455750,3684500; 455750,3684750; 455500,3684750; 455500,3685250, excluding the Pacific Ocean.

Unit 4d: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 457000,3685250; 458000,3685250; 458000,3685000; 458250,3685000; 458250,3684750; 458000,3684750; 458000,3684500; 457000,3684500; 457000,3684750;

456750,3684750; 456750,3685000; 457000,3685000; 457000,3685250.

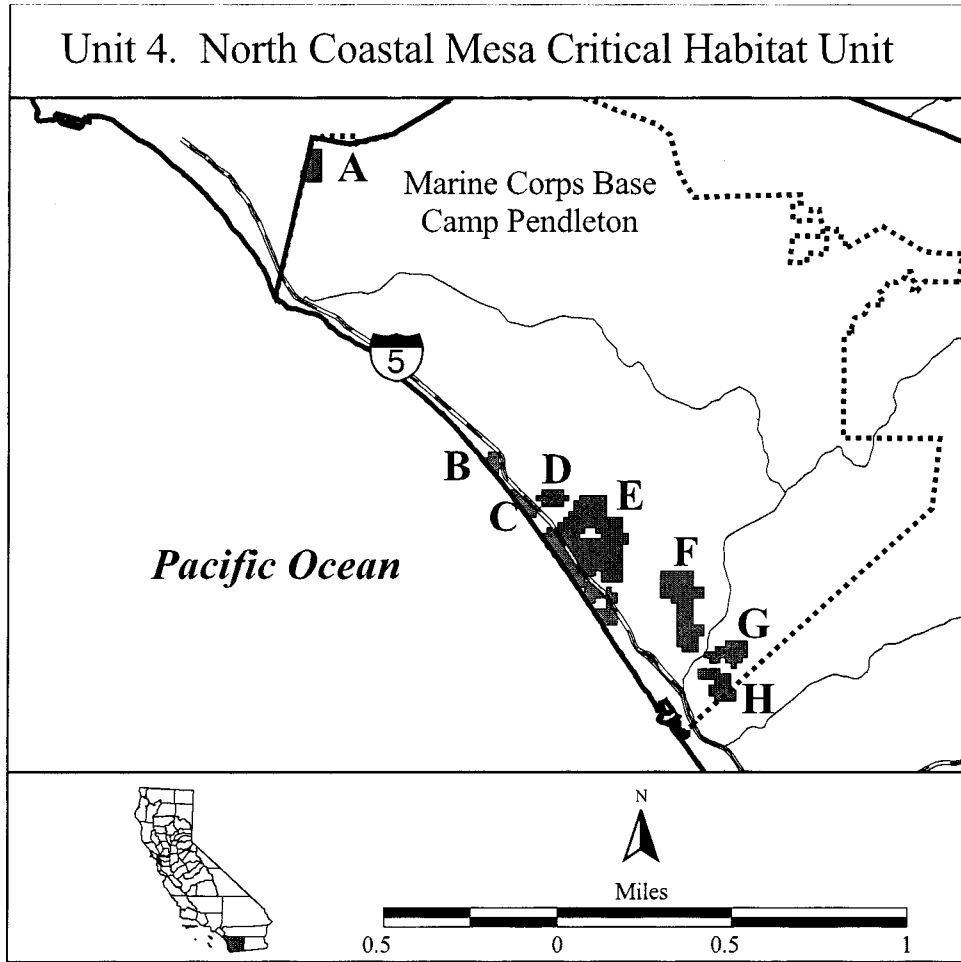
Unit 4e: From USGS 1:24,000 quadrangle map Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 458750,3685000; 460000,3685000; 460000,3684000; 460750,3684000; 460750,3683250; 461000,3683250; 461000,3682750; 460750,3682750; 460750,3681000; 459750,3681000; 459750,3681500; 459500,3681500; 459500,3681250; 459000,3681250; 459000,3681000; 459500,3681000; 459500,3680750; 459750,3680750; 459750,3680500; 460000,3680500; 460000,3680750; 460250,3680750; 460250,3680500; 460500,3680500; 460500,3680000; 460250,3680000; 460250,3679750; 460500,3679750; 460500,3679000; 459500,3679000; 459500,3679250; 459250,3679250; 459250,3679750; 460000,3679750; 460000,3680250; 459500,3680250; 459500,3680000; 458750,3680000; 458750,3680500; 459000,3680500; 459000,3680750; 458250,3680750; 458250,3681250; 458000,3681250; 458000,3681500; 457750,3681500; 457750,3682000; 457500,3682000; 457500,3682250; 457250,3682250; 457250,3682500; 457000,3682500; 457000,3683250; 457250,3683250; 457250,3683500; 457750,3683500; 457750,3683750; 458000,3683750; 458000,3684000; 458250,3684000; 458250,3684250; 458500,3684250; 458500,3684750; 458750,3684750; 458750,3685000. Excluding the Pacific Ocean and lands bounded by the following UTM coordinates (E,N): 459000,3683500; 459000,3683250; 458750,3683250; 458750,3683000; 459750,3683000;

459750,3683250; 459500,3683250; 459500,3683500; 459000,3683500.

Unit 4f: From USGS 1:24,000 quadrangle maps Oceanside and Las Pulgas Canyon, the lands bounded by the following UTM coordinates (E,N): 462500,3681500; 464000,3681500; 464000,3680750; 464500,3680750; 464500,3680250; 464000,3680250; 464000,3679000; 464500,3679000; 464500,3678500; 464250,3678500; 464250,3677750; 463500,3677750; 463500,3678000; 463250,3678000; 463250,3680000; 463000,3680000; 463000,3680250; 462500,3680250; 462500,3681500.

Unit 4g: From USGS 1:24,000 quadrangle maps Oceanside and San Luis Rey, the lands bounded by the following UTM coordinates (E,N): 465500,3678250; 466500,3678250; 466500,3677500; 466250,3677500; 466250,3677250; 466000,3677250; 466000,3677000; 465750,3677000; 465750,3677250; 465500,3677250; 465500,3677500; 465250,3677500; 465250,3677250; 464750,3677250; 464750,3677500; 464500,3677500; 464500,3677750; 465000,3677750; 465000,3678000; 465500,3678000; 465500,3678250.

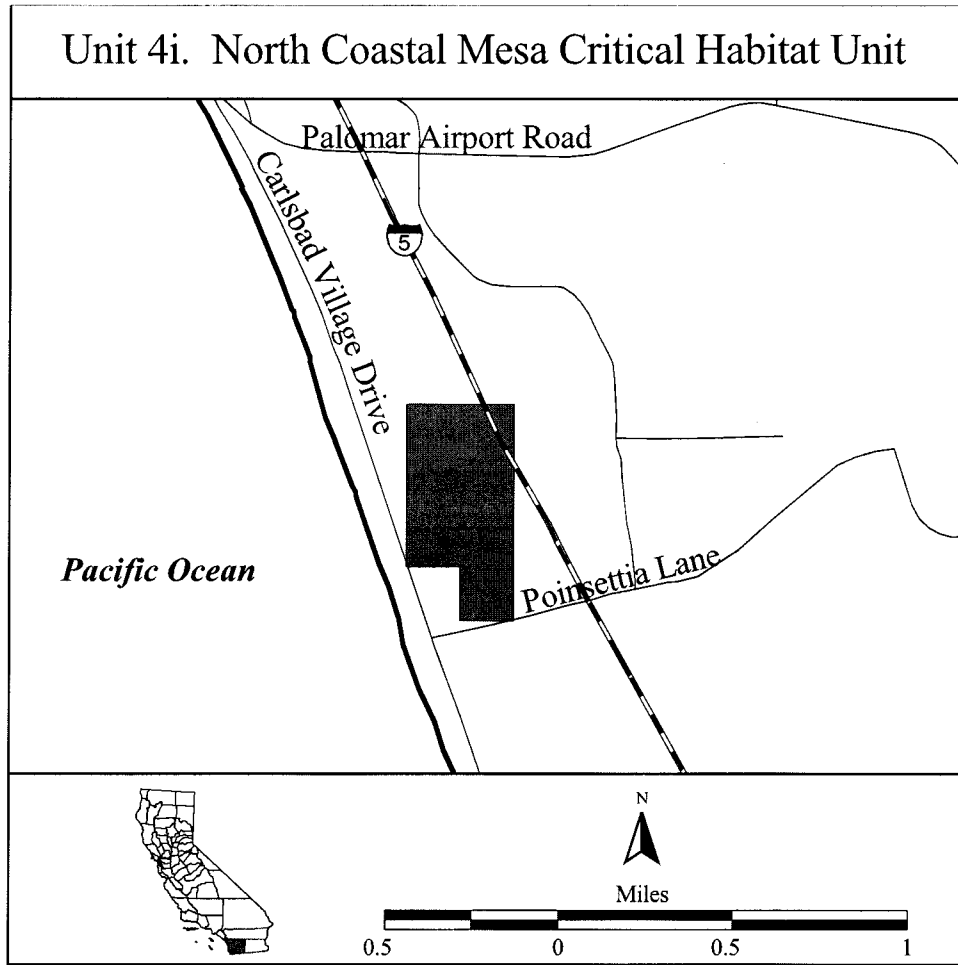
Unit 4h: From USGS 1:24,000 quadrangle maps Oceanside and San Luis Rey, the lands bounded by the following UTM coordinates (E,N): 464250,3677000; 465250,3677000; 465250,3676750; 465750,3676750; 465750,3676000; 466000,3676000; 466000,3675500; 465000,3675500; 465000,3675750; 464750,3675750; 464750,3676250; 465000,3676250; 465000,3676500; 464250,3676500; 464250,3677000.



Unit 4i: From USGS 1:24,000
quadrangle maps Encinitas, the lands
bounded by the following UTM

coordinates (E,N): 470250,3663500;
470750,3663500; 470750,3662500;

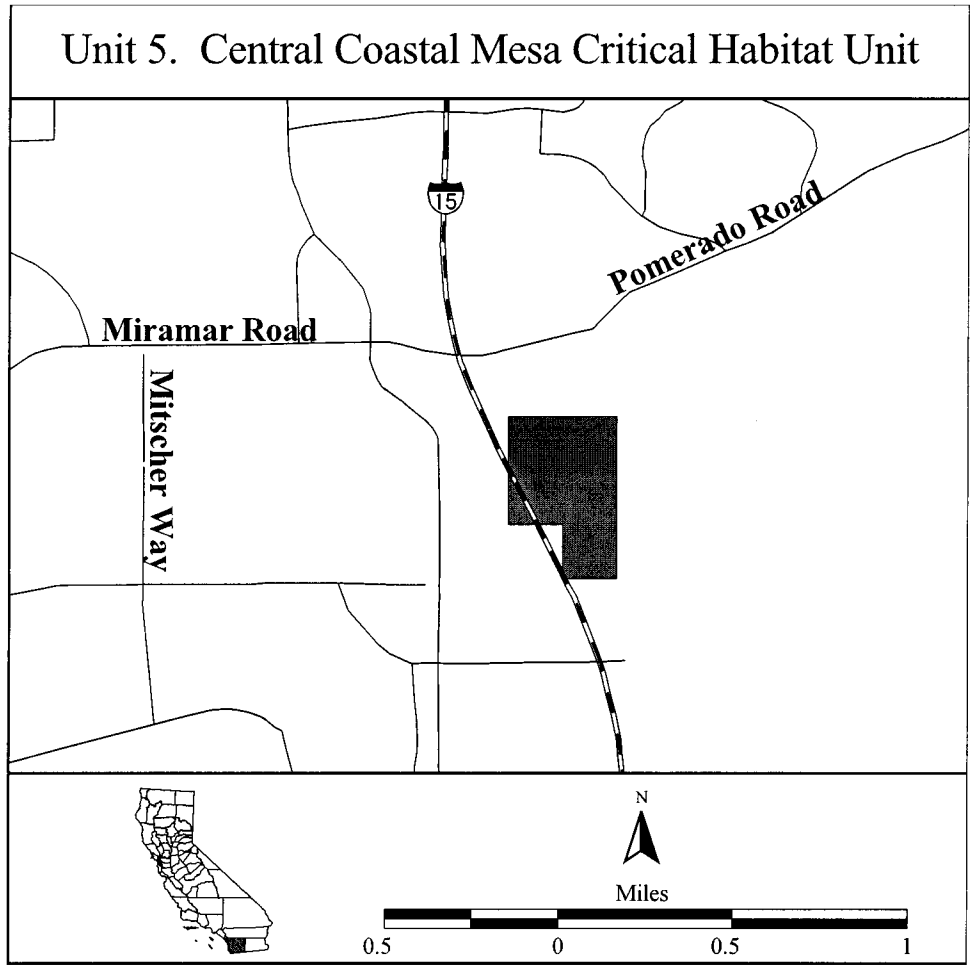
470500,3662500; 470500,3662750;
470250,3662750; 470250,3663500.



Map Unit 5: San Diego: Central
Coastal Management Area, San Diego
County, California. From USGS 1:24,000

quadrangle maps Poway, the lands
bounded by the following UTM
coordinates (E,N): 489500,3639000;

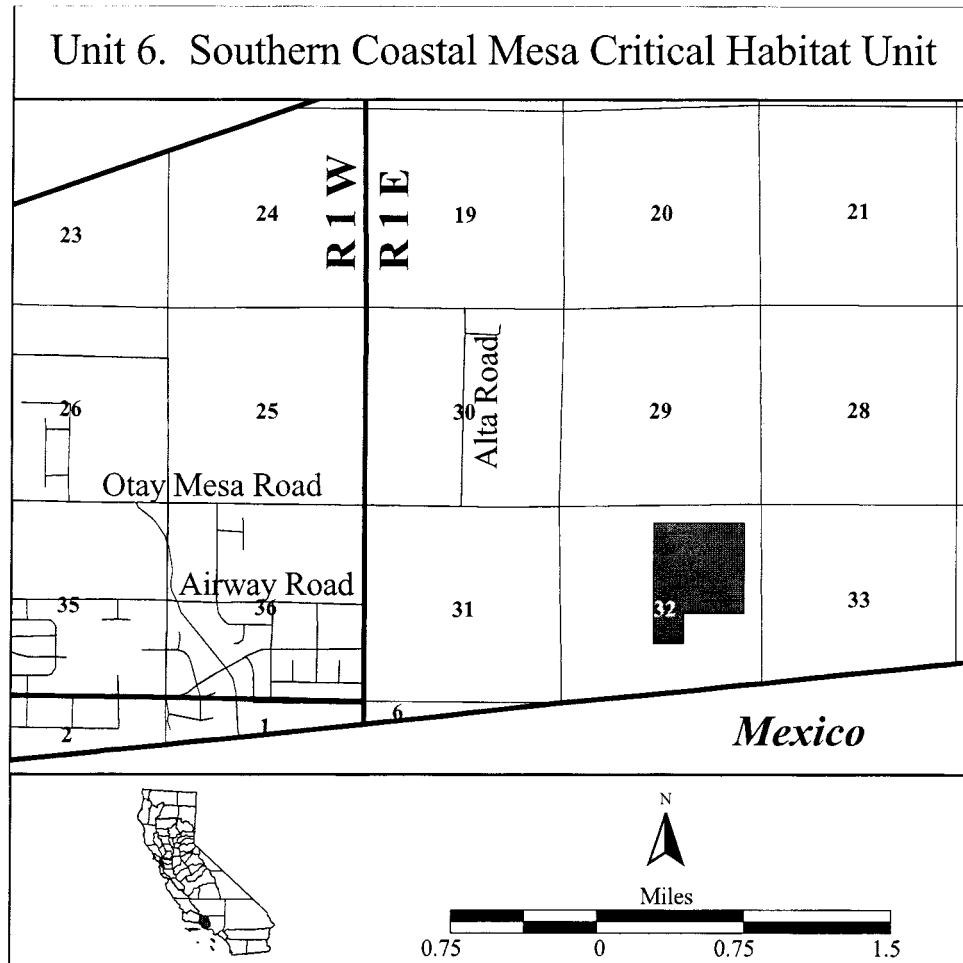
490000,3639000; 490000,3638250;
489750,3638250; 489750,3638500;
489500,3638500; 489500,3639000.



Map Unit 6: San Diego: South Coastal Management Area, San Diego County, California. From USGS 1:24,000

quadrangle maps Otay Mesa, the lands bounded by the following UTM coordinates (E,N): 509250,3603000;

510000,3603000; 510000,3602250; 509500,3602250; 509500,3602000; 509250,3602000; 509250,3603000.



Dated: September 15, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00-24198 Filed 9-20-00; 8:45 am]

BILLING CODE 4310-55-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 091100F]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic, Shrimp Fishery of the Gulf of Mexico; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings to review Draft Amendment 11 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Draft Amendment 11). Draft Amendment 11 contains alternatives for requiring shrimp vessel permits, shrimp vessel registration, operator permits, and for prohibiting trap gear in the royal red shrimp fishery in the exclusive economic zone (EEZ). Public testimony will also be accepted at the Council meeting in Biloxi, MS, on November 15, 2000. A notification of the meeting time and location will be published in the **Federal Register**.

DATES: Written comments will be accepted until 5 p.m., November 3, 2000. The public hearings will be held from October 2 through October 26,

2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to, and copies of Draft Amendment 11 are available from, the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619; telephone: (813) 228-2815.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: (813) 228-2815.

SUPPLEMENTARY INFORMATION: The public hearings will be convened to review Draft Amendment 11. This amendment contains alternatives for requiring shrimp vessel permits, shrimp vessel registration, operator permits, and for prohibiting trap gear in the royal red shrimp fishery in the EEZ.