DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AV38

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Coastal California Gnatcatcher (Polioptila californica californica)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are designating revised final critical habitat for the coastal California gnatcatcher (*Polioptila californica californica*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 197,303 acres (ac) (79,846 hectares (ha)) of habitat in San Diego, Orange, Riverside, San Bernardino, Los Angeles, and Ventura Counties, California, are being designated as critical habitat for the coastal California gnatcatcher. This revised final designation constitutes a reduction of 298,492 ac (120,795 ha) from the 2003 revised proposed rule. We are continuing our review of whether the current listing of the coastal California gnatcatcher as a subspecies should be retained or changed, as discussed in the 2003 proposed rule to revise critical habitat, and we will publish our determination separately at a later date.

DATES: This final rule is effective January 18, 2008.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours, at the Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92011 (telephone: 760/431–9440). The final rule, draft economic analysis and associated addendum (dated September 14, 2007), and maps are available on our Web site at *http://www.fws.gov/Carlsbad.*

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone: 760/431–9440; facsimile 760/431–5901). For information about Ventura and northwestern Los Angeles Counties, contact Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003 (telephone: 805/644–1766; facsimile 805/644–3958). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

It is our intent to discuss only those topics directly relevant to the revised designation of critical habitat for the coastal California gnatcatcher (*Polioptila californica californica*) in this final rule. For more information on the taxonomy, biology, and ecology of the coastal California gnatcatcher, refer to the final rule listing this species as threatened published in the **Federal Register** on March 30, 1993 (58 FR 16742), the original proposed and final critical habitat rules published in the **Federal Register** on February 7, 2000 (65 FR 5946) and October 24, 2000 (65 FR 63680), respectively, and the revised proposed rule published in the **Federal Register** on April 24, 2003 (68 FR 20228).

Species Distribution

The coastal California gnatcatcher (*Polioptila californica californica*) is a member of the old-world warbler and gnatcatcher family Sylviidae (AOU 1998. p. 3). This species occurs primarily in or near vegetation categorized as sage scrub. Within the United States, this species is restricted to coastal southern California from Ventura and San Bernardino Counties, south to the Mexican border (AOU 1957, p. 451; Atwood 1991, pp. 130–131; Garrett and Dunn 1981, p. 292). An evaluation of the historic range of the coastal California gnatcatcher indicates that about 41 percent of its latitudinal distribution is within the United States and about 59 percent is within Baja California, Mexico (Atwood 1990, p. 6). An analysis based on elevational limits associated with coastal California gnatcatcher locality records found that a significant portion (65 to 70 percent) of the species' historic range may have been located in southern California rather than Baja California, Mexico (Atwood and Bolsinger 1992, p. 159). Please see ''Primary Constituent Elements'' section below for a detailed discussion of the habitat requirements of the coastal California gnatcatcher.

The species was listed as threatened on March 30, 1993, because of habitat loss and fragmentation resulting from urban and agricultural development (58 FR 16742). Aside from habitat loss and fragmentation, other management issues concern fire, nonnative plants, and predation (Mock 2004, pp. 7–8).

Previous Federal Actions

On October 24, 2000, we published a final rule designating approximately 513,650 ac (207,890 ha) of land in portions of Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties as critical habitat for the coastal California gnatcatcher (65 FR 63680). Following the publication of the final rule, several lawsuits were filed against the Service by multiple parties (collectively referred to as Plaintiffs), including the Natural Resources Defense Council (NRDC); Building Industry Association of Southern California; National Association of Home Builders; Foothill/Eastern Transportation Corridor; and Rancho Mission Viejo, L.L.C. (*NRDC* v. *U.S. Dept. of Interior,* CV–99–2496 (C.D.Cal., filed 12/20/00); *Building Industry Association of Southern California et al.* v. *Norton*, CV 01–7028 (D.C.C., filed 1/17/01), and *Rancho Mission Viejo L.L.C.* v. *Babbitt,* CV 01–8412 (D.D.C. filed 12/28/00)), challenging the critical habitat designation for the coastal California gnatcatcher. On June 11, 2002, the U.S. District Court for the Central District of California granted our request for a remand of the coastal California gnatcatcher critical habitat designation so that we could reconsider the economic impact of designating any particular area as critical habitat. The Court ordered us to submit a new proposed rule to the **Federal Register** by April 11, 2003.

We published a proposed rule to revise critical habitat for the coastal California gnatcatcher in the **Federal Register** on April 24, 2003, that included approximately 495,795 ac (200,595 ha) of land in Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties (68 FR 20228). As part of the April 24, 2003 proposed rule, we also announced and sought comment on our review of the current listing classification of the coastal California gnatcatcher as a subspecies under the Act and its potential reclassification as a distinct population segment (DPS). We accepted public comments on the proposed revision of critical habitat and the listing classification until June 23, 2003.

On April 8, 2004 (69 FR 18516), we published a notice in the **Federal Register** announcing: (1) The availability of the draft economic analysis (DEA) of the proposed revised designation for public review (dated February 24, 2004); (2) the reopening of the public comment period on the revised proposed rule; and (3) the scheduling of public hearings on the proposed revised critical habitat

designation and DEA for the coastal California gnatcatcher. We held public hearings on April 29, 2004, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. in Carlsbad, California. The second public comment period closed on May 10, 2004. During the reopened comment period and the public hearings announced in the April 8, 2004, **Federal Register**, we requested comments and information applicable only to proposed revised critical habitat designation and the associated DEA. We did not ask for additional public comment on the listing classification notice.

The Service initiated work on the final revised critical habitat rule and listing classification review for the coastal California gnatcatcher, but because of other court-ordered priorities we did not complete these tasks. On February 8, 2007, a motion was filed by the Plaintiffs requesting the Court to direct us to finalize a revised critical habitat designation for the coastal California gnatcatcher. We reached an agreement with the Plaintiffs to complete a final designation on or before November 1, 2007. We sought and were granted an extension from plaintiffs of the November 1, 2007, deadline to December 3, 2007. On April 3, 2007, we published a notice in the **Federal Register** announcing the reopening of the public comment period for the April 24, 2003, proposed rule (68 FR 20228), and we accepted comments and information until May 3, 2007 (72 FR 15857). As with the April 8, 2004, notice, this April 3, 2007, notice specifically requested information only on critical habitat and the associated February 24, 2004, DEA, not the listing classification. We stated in the April 3, 2007, notice our intent to publish a listing classification determination for the coastal California gnatcatcher at a later date, separate from the critical habitat designation.

Summary of Comments and Recommendations

As discussed in the ''Previous Federal Actions'' section above, we have opened three public comment periods associated with the 2003 proposed rule to revise critical habitat for the coastal California gnatcatcher, the second and third comment periods of which also sought public comment on the associated DEA: April 24, to June 23, 2003 (68 FR 20228); April 8 to May 10, 2004 (69 FR 18516); and April 3 to May 3, 2007 (72 FR 15857). During these comment periods, we requested all interested parties to submit comments or information related to the proposed revised critical habitat designation, unit boundaries, species occurrence information and distribution, land use designations that may affect critical habitat, potential economic effects of the revised proposed designation, benefits associated with critical habitat designation, areas considered but not proposed for designation, and the associated rationale for the non-inclusion/exclusion of these areas, and methods used to designate critical habitat.

We informed all appropriate entities of the opening of these comment periods, including State and Federal agencies, County governments, elected officials, and other interested parties through telephone calls, letters, and news releases sent by facsimile, by U.S. mail, and/or by electronic mail. During the April 24 to June 23, 2003, comment period, we also invited public comment through the publication of notices in the following newspapers: Los Angeles Times, Orange County Register, The Press-Enterprise, San Bernardino Sun, and the San Diego Union-Tribune. During the April 8 to May 10, 2004, comment period, we announced the date and times of two public hearings that were to be held on the April 24, 2003, proposed revised critical habitat designation and DEA. Hearings were held on April 29, 2004, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. in Carlsbad, California. Transcripts of these hearings are available for inspection (see **FOR FURTHER INFORMATION CONTACT** section above).

We received a total of 117 comment letters from Federal, State, and local agencies, private organizations, and individuals during the three comment periods. We reviewed all comments for substantive issues and new information regarding critical habitat or the coastal California gnatcatcher. We grouped similar comments into general issue categories relating to the proposed revised critical habitat designation and the associated DEA, and we identify them below. Substantive comments and issues raised in the public comment letters or at the hearings have either been incorporated directly into this final rule or are addressed below.

Peer Review Comments

In accordance with our policy published on July 1, 1994 (59 FR 34270), during the April 24 to June 23, 2003, comment period, we requested scientific review of the proposed revised critical habitat designation and our review of the listing classification of the coastal California gnatcatcher from 16 biologists with knowledge of the species, avian systematics, or conservation genetics. Nine of the 16 reviewers submitted comments on the listing classification review. All of these reviewers restricted their comments to the DPS and related taxonomic issues, except for technical corrections related to the proposed revised critical habitat designation. The technical corrections have been incorporated into this final rule. However, we will address the listing classification and related taxonomic issues in the final DPS determination to be published in the **Federal Register** separately at a later date.

Public Comments and Comments From Other Federal Agencies

Issue 1: Biological Issues

Comment 1: Some commenters suggest that we did not use the ''best available science'' or that the information we used is outdated or flawed. These commenters believe that use of flawed data incorrectly influenced where we identify proposed critical habitat, resulting in either the inclusion of too much land in proposed critical habitat or the omission of areas that we should have included in the proposed critical habitat designation. Other commenters believe that we did not describe the analytical process used to identify critical habitat with enough detail to allow the public to review the rationale for inclusion of specific parcels of land.

Our Response: Section 4(b) of the Act; our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271); and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by us, provide criteria, establish procedures, and provide guidance to ensure that decisions made by us represent the best scientific and commercial data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. As such, we based the proposed revised critical habitat designation for the coastal California gnatcatcher on the best available peer-reviewed published literature, gray literature (non-published or non-peer-reviewed survey or research reports), survey information, and vegetation data. We incorporated site specific survey information and vegetation data into our Geographic Information System (GIS) layers and used that as the basis for the revised

critical habitat proposal. Given the scale of the designation and resource limitations, it was not possible to provide a parcel-by-parcel justification of lands included in the proposed revised designation. However, we have attempted to clarify our justification for and methodology used in the delineation of the critical habitat boundaries in this revised final rule.

Comment 2: Some commenters suggested that we should not identify the entire range of the coastal California gnatcatcher as critical habitat. Other commenters suggested that we did not adequately distinguish between occupied, unoccupied, and linkage areas when delineating critical habitat.

Our Response: Critical habitat is defined in section 3 of the Act as (i) the specific areas within the geographical 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. In developing the revised proposed rule, we considered the geographical area occupied by the species at the time of listing, and within that broad geographical area, we identified those areas that, based on the best scientific and commercial data available, contain physical and biological features essential to the species' conservation (primary constituent elements (PCEs)). We did not include all locations within the geographical area occupied by the species where individuals have been observed, nor did we include areas outside of the geographical area occupied by the species at the time of listing as we do not consider such areas to be essential to the conservation of the species. In developing this final rule, we reviewed each critical habitat unit and, where appropriate, further refined the unit boundaries to ensure that we include only the specific areas containing the PCEs for the coastal California gnatcatcher. We identified the essential physical and biological features (PCEs) contained in each critical habitat unit. All critical habitat designated for the coastal California gnatcatcher is within the geographical area occupied by the species and is likely used by them for breeding, feeding, sheltering, or dispersing at some point in time. Please see the ''Criteria Used To Identify Critical Habitat'' section below for a detailed discussion. Thus, under the broad statutory definition of critical habitat quoted above, all critical habitat designated in this final rule is within the geographical area occupied by the species. This differs from the common perception that occupancy means the detectable presence of a species at all times throughout the breeding and non-breeding seasons.

Comment 3: Several commenters suggested that the justification for the inclusion of linkage areas was inadequate.

Our Response: As discussed in greater detail in the ''Background'' section of the April 24, 2003, revised proposed rule and in the ''Primary Constituent Elements'' section of this final rule, available information indicates that dispersal of juvenile coastal California gnatcatchers generally requires a corridor of native vegetation (*i.e.*, linkage) to facilitate the exchange of genetic material and provide a path for recolonization of areas from which the species has been extirpated. Therefore, natal dispersal, through corridors, is an important aspect of the biology of a non-migratory, territorial bird such as the coastal California gnatcatcher. We identified these linkages based on survey information, vegetation maps, and the known dispersal capabilities of juvenile gnatcatchers. We are not designating as critical habitat areas that are suspected to provide a linkage between populations, but for which upon a reevaluation we have determined that we have inadequate information (*e.g.*, some lands in Unit 8 and all lands in Unit 11).

Comment 4: Some commenters questioned how lands in San Bernardino County could be considered essential when, according to the listing rule (58 FR 16742), the species was considered extirpated from that County.

Our Response: As discussed in the ''Criteria Used To Identify Critical Habitat'' section of the April 24, 2003, proposed rule and in the same section below, at the time of listing in 1993, coastal California gnatcatchers were not known to occur in San Bernardino County except from historic museum records. However, subsequent to the publication of the final listing rule, Davis *et al.* (1998, pp. 362–364) summarized survey efforts in San Bernardino County, documenting species occurrences, including some breed pairs, from several different locations in 1990, 1993, 1994, and 1995. Therefore, based on pre-listing occupancy data and museum records, we consider San Bernardino County to have been occupied at the time of listing. As stated in the April 24, 2003, proposed rule, populations of coastal California gnatcatchers in San Bernardino County are at the northern extent of the species' inland distribution, and the elevation and vegetation in which they occur may be unique within the species' range. However, we have reevaluated the importance of lands in San Bernardino in Unit 11 and have determined that lands in Unit 11 are not essential to the conservation of the species. Therefore, we have removed lands in Unit 11 from this final designation (see ''Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat'' section below for a detailed discussion of the removal of these lands). However, we are designating as critical habitat lands in southern San Bernardino County in Unit 10 (see ''Critical Habitat Designation'' section below).

Comment 5: The U.S. Forest Service (USFS) commented that most areas of the Cleveland National Forest proposed for inclusion in critical habitat are chaparral, and do not support the PCEs of coastal California gnatcatcher habitat according to the model cited on pages 20239 through 20249 of the April 24, 2003, proposed rule. They further commented that most of the National Forest System lands proposed for designation are located at considerable distances from any coastal sage scrub.

Our Response: As discussed in the ''Background'' section of the April 24, 2003, revised proposed rule and in the ''Primary Constituent Elements'' section of this final rule, though the majority of coastal California gnatcatchers are likely restricted to sage scrub vegetation, availability of these non-sage scrub areas (including chaparral) is essential during certain times of the year, particularly during drought conditions, for dispersal, foraging, or nesting. Also, as discussed in the ''Proposed Critical Habitat Designation'' section of the April 24, 2003, revised proposed rule, Cleveland National Forest (identified in Unit 2) is occupied by a core population of the species and contains canyons and corridors that provide linkages to preserve lands adjacent to this unit. Therefore, this area on the Cleveland National Forest is included in this final designation.

Comment 6: One commenter stated that since 2003, development proposals and fires have continued to imperil the coastal California gnatcatcher and its habitat. Projects such as the South Orange County Transportation Infrastructure Improvement Project and wildfires will impact coastal sage scrub that the species depends on for survival. The commenter stated that the occurrence of such events [projects and

wildfires] underscores the necessity of designating sufficient habitat, beyond what is presently proposed, to comply with the mandate of the Act, requiring that the Service conserve and recover the species.

Our Response: 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. We have identified areas within the geographical area occupied by the species at the time of listing that contain features in sufficient quantity and spatial arrangement we have determined to be essential to the conservation of the species and that may require special management considerations or protection. Based on current knowledge, we do not believe that areas beyond those (1) included in this final designation, (2) exempt from critical habitat designation under section 4(a)(3) of the Act (see ''Application of Section 4(a)(3) of the Act'' section below), or (3) excluded from critical habitat designation under section 4(b)(2) of the Act (see ''Exclusions under Section 4(b)(2) of the Act'' section below), are essential for the conservation of the coastal California gnatcatcher. However, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Comment 7: The County of San Diego commented that based on the observations of local biologists, they believe that coastal sage scrub that burned during the 2003 fires is generally recovering and reiterated that fire is a natural component of sage scrub and chaparral ecosystems. The County further stated that, although the 2003 fires were extensive, they believe that the general distribution of coastal sage scrub and coastal California gnatcatchers will soon return to pre-fire conditions. Based upon this, they do not believe that we should adjust proposed revised critical habitat due to the 2003 fires. Another commenter stated that any lands that we proposed for designation before the wildfires should remain as critical habitat in the final rule, regardless of whether such land is presently occupied or unoccupied since these lands are essential to the conservation of the species and require special management considerations or protection. This commenter further stated that the fires have only increased pressure on the survival of the coastal California gnatcatcher, and lands that were previously occupied are likely to be occupied again.

Our Response: We agree that although the 2003 fires were extensive, the general distribution of coastal sage scrub and coastal California gnatcatchers is likely to return to pre-fire conditions. As discussed below in the ''Primary Constituent Elements'' section of this final rule, fire is a natural component of the southern California landscape and plays an important role in regulating coastal sage scrub distribution, density, and species composition. Our determination of areas containing the PCEs essential for the conservation of the coastal California gnatcatcher takes into account temporal variations in coastal sage scrub habitat resulting from periodic fires, which are a normal component of this dynamic, fire-adapted landscape. Based on this, we did not remove areas from this final designation that were included in the April 24, 2003, proposed revised designation that burned in the 2003 fires or the recent 2007 fires.

Comment 8: One commenter objected to the inclusion of large areas of their property (Newhall Land and Farming Company lands) in the Santa Clarita Valley in proposed critical habitat Unit 13. The objection is based on negative coastal California gnatcatcher survey data over multiple years, the loss of habitat due to wildfires in 2003, and judgment of consultants who say that the Service's contention that Unit 13 serves as a linkage between populations in the San Gabriel and Santa Susana Mountains is incorrect.

Our Response: After a re-evaluation of lands within Unit 13 included in the April 24, 2003, revised proposed rule, we have determined that portions of the Santa Clarita Valley included in the proposed revised designation are not essential to the conservation of the coastal California gnatcatcher. Numerous surveys have been conducted in the Santa Clarita Valley (including Newhall Land and Farming Company lands) but no breeding pairs have been observed. In August 2007, an individual bird was observed on Newhall Land and Farming Company (Crawford 2007, unpaginated). However, breeding on the site has not been confirmed. While the occurrence of this individual may indicate that the use of this area for dispersal, we have determined that this area does not currently have the spatial configuration and quantity of PCEs essential to the conservation of the species. Therefore, we have removed these areas, including the majority of the lands owned by the Newhall Land and Farming Company, from this final designation (see ''Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat'' section below for a detailed discussion).

However, we still consider the remaining lands in Unit 13 to be within the geographical area occupied by the coastal California gnatcatcher at the time of listing and, as explained in our response to Comment 7 above, to contain physical and biological features in spatial arrangement and quantity (i.e., PCEs) essential for the conservation of the species, although such features have been temporally affected by the 2003 fire. We believe that habitat burned by the 2003 Simi wildfire will support breeding pairs of coastal California gnatcatchers as the area recovers. The commenter stated that this habitat is likely to burn prior to its recovery, which could potentially change the vegetative community type to weedy species, rendering it unsuitable for coastal California gnatcatcher colonization. This comment is based on speculation and not supported by the fire history of the area (the area had not burned for several years prior to 2003 and supported large areas of habitat suitable for the coastal California gnatcatcher). Also, based on currently available data, none of the areas included in the 2003 proposed revised critical habitat designation that burned in the 2003 fires burned in the 2007 fires. However, the full extent of the 2007 fires is still being assessed. Furthermore, the commenter stated that the likelihood of an area being colonized by coastal California gnatcatchers after it has recovered from a burn is probably dependent on the proximity of founder populations that can disperse to the site rather than the structure of its habitat. Habitat in Unit 13 currently contains populations of coastal California gnatcatchers in areas that did not burn in 2003 or 2007, which given the opportunity and time, should colonize recovered habitat (see ''Primary Constituent Elements'' section below for a detailed discussion).

The area within Unit 13 included in this revised final designation that connects the San Gabriel and Santa Susana Mountains contains the physical and biological features in spatial arrangement and quantity (i.e., PCEs)

essential for the conservation of the species and serves as an essential linkage between the two isolated populations: a core population in the Moorpark area in Ventura County and the pairs documented in the foothills of the San Gabriel Mountains in Los Angeles County. Without this linkage, the population located in Ventura County has no other natural area connecting them with populations located east and south of Ventura County. Also, without the natural areas and habitat located on the south-facing slopes of the Santa Susana and San Gabriel Mountains, these two populations of coastal California gnatcatchers (in Moorpark area and in foothills of San Gabriel Mountains) would be completely isolated and prone to extirpation. Therefore, as part of Unit 13, we have designated critical habitat along the south-facing slopes of the Santa Susana and San Gabriel Mountains (see ''Critical Habitat Designation'' section below for more details).

Issue 2: Mapping and Methodology

Comment 9: Several commenters suggested that the proposed rule to revise critical habitat is overly broad and contains significantly more acreage than the acreage estimated as habitat in the original listing rule. Other commenters objected to the fact that the mapping scale of the proposed critical habitat includes areas that do not contain the PCEs for the coastal California gnatcatcher.

Our Response: Since the listing of the coastal California gnatcatcher as threatened in 1993 (58 FR 16742), a significant amount of survey information has become available that provides a much more complete dataset delimiting the range of the species within the United States. We used this new survey information in mapping areas containing the PCEs required by the species throughout its range.

We are required to describe critical habitat with specific limits using reference points and lines as found on standard topographic maps of the area (50 CFR 424.12(c)). In the April 24, 2003, proposed revised designation, we delineated critical habitat based on Universal Transverse Mercator (UTM) gridlines set every 328 feet (ft) (100 meters (m)). We overlaid these 100 meter square grids on areas determined to contain the PCEs required by the species. While we removed entire grid squares that did not contain the PCEs for the coastal California gnatcatcher, portions of grid squares that did not contain PCEs were inadvertently included within the boundaries of our proposed revision of critical habitat due to mapping limitations. However, in this final designation, we revised the methodology used to delineate critical habitat unit boundaries (see ''Criteria Used To Identify Critical Habitat'' section below for a detailed discussion). Using this revised methodology allowed us to describe more precisely boundaries associated with areas that we have determined to contain the PCEs and to eliminate additional areas that do not contain the PCEs for the species.

Comment 10: Several commenters suggested that the PCEs defined as being essential for the coastal California gnatcatcher are not specific and appear to encompass most natural plant communities in southern California. Furthermore, the commenters assert that the proposed rule to revise critical habitat does not explain why the PCEs are essential.

Our Response: The PCEs for the coastal California gnatcatcher are based on data from peer-reviewed published literature, gray literature (non-published or non-peer-reviewed survey or research reports), and biologists knowledgeable about the species and its habitat requirements. The PCEs, as described, represent the specific physical and biological features essential for the conservation of the coastal California gnatcatcher, such as habitat for breeding, foraging, and dispersal. The coastal California gnatcatcher, while considered an obligate (requires a specific habitat type to survive) of sage scrub plant communities, utilizes other plant communities and associations such as chaparral, grassland, and riparian (areas near a source of water) habitats where they occur in proximity to sage scrub. These non-sage scrub habitats are used for dispersal and foraging. Though the majority of coastal California gnatcatchers are likely restricted to sage scrub, availability of these non-sage scrub areas is essential during certain times of the year, particularly during drought conditions, for dispersal, foraging, or nesting (see the ''Primary Constituent Elements'' section below for a detail discussion of this species' habitat requirements).

These additional plant communities and associations have become more important to the conservation of the coastal California gnatcatcher with the continued loss of coastal sage scrub habitat due to urban and agricultural development. For this reason, we categorize the PCEs in spatial arrangement and structure and function to capture the plant communities, associations, and corridors of vegetation (i.e., linkages) that are essential for conservation of coastal California gnatcatcher and that provide connectivity between populations. In this final rule, we have clarified and refined the PCEs to enable landowners and managers to more clearly identify habitat containing features essential to the conservation of the species. We have also provided a clearer connection between the PCEs and the basic components of the life history of the coastal California gnatcatcher to show why these elements are essential.

Comment 11: Several commenters stated that the model used to assist in identifying PCEs is flawed and should not have been used.

Our Response: The model is one of many tools used to define the specific areas containing the PCEs for the coastal California gnatcatcher and, therefore, to define the areas proposed as revised critical habitat as explained in the Methods section, we used many other categories of information, including coastal California gnatcatcher presence and absence survey data, vegetation data, land use data, and aerial photography to delineate areas containing features in a spatial arrangement that provides the structure and function essential to the conservation of the species. Most coastal sage scrub patches in Orange and San Diego counties, the Counties covered by the model, have been surveyed for the species at least once. These survey data were the primary information used, in conjunction with aerial photography, in those Counties. We verified the accuracy of the model using survey data, and then we used the model primarily to help identify high quality breeding habitat in Orange and San Diego counties in locations where no survey information was available.

The model used in the proposed rule to revise critical habitat was developed during the planning process for the North San Diego County Multiple Habitat Conservation Plan. Though many potential parameters could be used in a model, we selected four parameters for our model: habitat patch size, slope, temperature, and precipitation. The predictive power of the model beyond the specific geographical area for which it was developed was tested with a large coastal California gnatcatcher data set of abundance information from surveys conducted in 2002 during the breeding season. This data set was collected to provide an estimate of current population levels in Orange and San Diego counties, and it provided a useful and appropriate test of the predictive power of the model. Forty-eight percent of the points located in habitat modeled as very-high quality were occupied, 28

percent of the points located in high-quality habitat were occupied, 8 percent of the points in medium-quality habitat were occupied, and none of the points in low-quality habitat were occupied (see ''Criteria Used To Identify Critical Habitat'' section below for more detailed discussion). We used this model to assist us in identifying breeding habitat quality because of the predictive power of the model.

Comment 12: Several commenters identified specific areas that they thought should not be designated as critical habitat. The CDFG requested that CDFG-owned conservation lands be removed from critical habitat since these lands are already protected and managed for the coastal California gnatcatcher as well as other listed and sensitive species. They further commented that designating critical habitat on State lands within the CDFG's jurisdiction would provide no added conservation benefit and would be detrimental to State conservation efforts, as critical resources would be diverted from substantive resource protection to procedural regulatory efforts.

Our Response: When commenters provided us site-specific documentation that explained why an area should not be designated critical habitat, we evaluated that information in accordance with the definition of critical habitat in section 3(5)(A) of the Act and the provisions of section 4(b)(2) of the Act. Following our evaluation of the new information, we made a determination as to whether modifications to the critical habitat boundaries were warranted. In the preparation of this final rule, we reexamined and refined the critical habitat boundaries to remove those areas that do not, or are not likely to, contain the physical and biological features in spatial arrangement and quantity (i.e., PCEs) essential for the conservation of the coastal California gnatcatcher or areas that may have one or more of the PCEs but are no longer essential to the conservation of the species (e.g., area does not contain a core population or provide important linkage habitat). We also exempted and excluded additional areas from this revised final designation under sections 4(a)(3)(B) or 4(b)(2) of the Act. Please refer to the ''Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat'' section below for a detailed discussion of changes from the revised proposed rule and the ''Application of Section 4(a)(3) of the Act'' and ''Exclusions under Section 4(b)(2) of the Act'' sections for a discussion of our exemption or exclusion of additional lands in this revised final rule.

Regarding the CDFG's request that CDFG-owned conservation lands be removed from critical habitat, we excluded from this final designation, under section 4(b)(2) of the Act, three ecological reserves (McGinty Mountain, Otay Mountain and Rancho Jamul) in Unit 1 and five ecological reserves (Pilgrim Creek, Carlsbad Highland, Agua Hedionda Lagoon, Batiquitos Lagoon, and San Elijo Lagoon) in Unit 3 based on management actions that are or will be conducted under the San Diego Multiple Species Conservation Program (MSCP) and the San Diego Multiple Habitat Conservation Plan (MHCP), respectively. While CDFG is not a permittee to these regional HCPs, they have committed to manage their lands consistent with the MSCP and MHCP regional conservation plans (see *''Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act''* section below for a detailed discussion). The only CDFG lands included in this final revised designation are approximately 9 ac (4 ha) of the San Luis Rey River Ecological Reserve in Unit 5 (see ''Table 3'' below). Since this 9 ac (4 ha) is not within an area covered by an approved HCP or other management plan and the PCEs may require special management protections or considerations, this area was not excluded from this final designation.

Issue 3: Regulatory Impacts and Exclusions

Comment 13: Several commenters requested that their individual properties be excluded from critical habitat because they have completed a section 7 consultation for the coastal California gnatcatcher.

Our Response: We disagree that all lands addressed by a section 7(a)(2) consultation should be excluded from critical habitat. However, we agree that lands that no longer contain PCEs as a result of a section 7 consultation should be removed from the revised designation. As discussed in the ''Summary of Changes from the 2003 Proposed Rule To Revise Critical Habitat'' section below, we used recent aerial imagery to re-evaluate and subsequently remove lands that do not contain the physical and biological features essential to the conservation of the species.

Comment 14: Some commenters stated that the protections provided to the coastal California gnatcatcher by the 4(d) special rule for the species at 50 CFR 17.41(b) are more comprehensive than those provided by critical habitat. Therefore, lands within jurisdictions enrolled in the Natural Community Conservation Planning (NCCP) process and that are subject to a coastal California gnatcatcher habitat loss permit under the 4(d) special rule should be excluded from the final critical habitat designation.

Our Response: The Special Rule under section 4(d) of the Act at 50 CFR 17.41(b) allows for a limited amount of incidental take of coastal California gnatcatchers (associated with the loss of up to five percent of sage scrub, i.e., coastal California gnatcatcher habitat) for an interim period of time while enrolled jurisdictions are actively engaged in preparing an NCCP plan, provided the activities resulting in such take are conducted in accordance with the NCCP Conservation and Process Guidelines finalized by the California Department of Fish and Game (CDFG) updated in January 1998. These guidelines rely on the voluntary commitment of jurisdictions to engage in the subregional conservation planning process and complete a Habitat Conservation Plan (HCP) or NCCP. While we trust that jurisdictions will fulfill their commitment to complete conservation plans, this voluntary enrollment does not assure that such plans will be completed. As such, the 4(d) special rule protections for coastal California gnatcatcher habitat provided through a participating jurisdiction's enrollment in the NCCP process are temporary and are not assured; such protections are lost if the enrolled jurisdiction elects to withdraw from the NCCP program. Given the temporary nature of the habitat protections afforded by the special 4(d) rule for the coastal California gnatcatcher, lands containing PCEs essential for the conservation of this species that are covered by the 4(d) rule do not warrant exclusion from critical habitat.

Comment 15: Naval Weapons Station Seal Beach, Detachment Fallbrook (Detachment Fallbrook), Marine Corps Base Camp Pendleton (MCB Camp Pendleton), and Marine Corps Air Station Miramar (MCAS Miramar) suggested that they should be exempt or excluded from critical habitat under sections 3(5)(A), 4(b)(2), or 4(a)(3)(B) of the Act based on their approved Integrated Natural Resource Management Plans (INRMPs) and adverse effects to military training and readiness.

Our Response: We have re-examined the inclusion of lands on these three military installations in light of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136), which amended the Act. Specifically,

section 4(a)(3)(B) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) states that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. Following a review of the INRMPs prepared for each of these three installations, we have determined that the approved INRMPs for each provides a benefit the coastal California gnatcatcher, its habitat, and its PCEs on the subject lands, and we have exempted these lands from this final designation under section 4(a)(3)(B) of the Act (see ''Application of Section 4(a)(3) of the Act'' below for a detailed discussion).

Comment 16: The Pala Band of Mission Indians and the Rincon Band of Luiseño Indians (on behalf of the Capitan Grande Reservation) expressed support for and concurred with the exclusion of those Tribal lands from critical habitat designation, stating that failure to designate these lands as critical habitat will not result in the extinction of the coastal California gnatcatcher. The Bureau of Indian Affairs opposed the inclusion of Capitan Grande and Pala Tribal lands in the designation of critical habitat for the coastal California gnatcatcher. They note that Tribal lands have not been subjected to the same development philosophies and pressures that have occurred on non-Indian lands and that Tribal conservation practices and Tribal resource management programs should be rewarded when we are considering designation of critical habitat.

Our Response: As stated in the revised proposed rule, physical and biological features essential to the conservation of the coastal California gnatcatcher exist on Pala Reservation lands. We considered but did not propose lands on the Pala Reservation in the April 24, 2003, proposed rule and we affirm our exclusion of these areas in this final rule (see ''Exclusion of Pala Band of Mission Indians Tribal Lands Under Section 4(b)(2) of the Act—American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' section below for a detailed discussion). We do not consider the physical and biological features on lands within the Capitan Grande Reservation to be essential to the conservation of the coastal California gnatcatcher. Therefore, the lands containing these features were not included in the April 24, 2003, revised proposed rule and are not included in this final designation of critical habitat for the coastal California gnatcatcher.

Comment 17: One commenter stated that our analysis under section 4(b)(2) of the Act for excluding lands from the Pala Band of Mission Indians Reservation from proposed critical habitat for the coastal California gnatcatcher on the basis of our efforts to preserve partnerships should also extend to private landowners.

Our Response: As discussed in the ''Exclusion of Pala Band of Mission Indians Tribal Lands Under Section 4(b)(2) of the Act—American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' section below, we are working with the Pala Band of Mission Indians and other Tribes under Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); Executive Order 13175; and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2) to preserve our partnership. We readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, make information regarding federally listed species available to Tribes, and remain sensitive to Indian sovereignty and culture. We further acknowledge that special considerations flow from our government-to-government relationship with Indian Tribes, the U.S. trust responsibility for Tribal natural resources it holds in trust, and the fact that Tribal lands are not subject to the same controls as Federal public lands. The special considerations inherent in our trust responsibilities to Indian tribes do not apply to private landowners. However, we are continuing to work to develop positive partnerships with private landowners that result in benefits to the coastal California gnatcatcher, through conservation tools such as HCPs and Safe Harbor Agreements. We recognize that private landowners play a significant role in helping to recover listed species, including the coastal California gnatcatcher, and therefore we continue to seek opportunities to work cooperatively with landowners to conserve the coastal California gnatcatcher and its habitat.

Comment 18: Several commenters, including the CDFG, were supportive of our proposal that lands covered by approved HCPs that provide take authorization for the coastal California gnatcatcher be excluded from critical habitat because they do not meet the definition of critical habitat or because the benefits of exclusion outweigh the benefits of designating such lands as critical habitat. These commenters stated that exclusion of lands covered by approved HCPs benefits partnerships, benefits future planning, prevents additional regulation, avoids legal challenges that HCPs will result in ''adverse modification'' of critical habitat, and supports implementation agreements. They also stated that without the exclusion of HCPs from critical habitat, ongoing and future HCP planning efforts would be jeopardized. Several commenters stated that HCPs protect habitat on a larger scale, rather than a piece-meal ''project-by-project'' approach that is achieved through the section 7 consultation process. Commenters further stated that HCPs provide a much greater conservation benefit than critical habitat designation to private land areas because HCPs incorporate management measures and protections for conservation lands designed to preserve, restore, and enhance the lands' value as habitat for covered species.

Our Response: We recognize that critical habitat is one of many tools available to help conserve federally listed species and agree that approved HCPs are one of the most important tools for reconciling land use with the conservation of listed species on non-Federal lands. Section 4(b)(2) of the Act allows us to exclude from critical habitat areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We believe that in most instances the benefits of excluding lands covered by approved HCPs from critical habitat designations will outweigh the benefits of including them. For this final designation, we have determined that the benefits of exclusion outweigh the benefits of designation for all approved and legally operative HCPs in which coastal California gnatcatcher is a covered species (see ''Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion).

Comment 19: Several commenters, including the CDFG, stated that the benefits of excluding specific lands under section 4(b)(2) of the Act include the development of much needed housing, increased local government funding, decreased litigation burdens, production of new jobs, creation of additional habitat preserves, greater participation in HCPs, and/or promotion of smart growth.

Our Response: As discussed in the ''Effects of Critical Habitat'' section of this rule, section 4(b)(2) of the Act and 50 CFR 424.19 require us to consider the economic impact, impact on national security, and any other relevant impact, of designating any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of exclusion outweigh the benefits of designating the specific areas as critical habitat, unless that exclusion will lead to extinction of the species. We have considered and analyzed the benefits of exclusion described under section 4(b)(2) of the Act and we discuss them in this final rule (see ''Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion).

Comment 20: Several commenters requested that exclusions of HCPs under section 4(b)(2) of the Act should also apply to pending HCPs and lands enrolled in the NCCP program because the designation may have a chilling effect on entities pursuing HCP approval and diminish the assurances that are one of the key reasons entities participate in HCPs. Commenters further stated that the net result of designating lands as critical habitat within jurisdictions currently working to develop an HCP/NCCP will result in a diversion of scarce resources to address the uncertainties, probable litigation, and additional section 7 consultations that would be created by such designation and that these diversions of resources amount to a ''relevant impact'' under section 4(b)(2) and that the Service should not designate lands within pending HCPs for this reason alone.

Our Response: Protections for coastal California gnatcatcher habitat provided through a participating jurisdiction's enrollment in the NCCP process is temporary, is not legally assured, and would be lost if the jurisdiction elects to withdraw from the NCCP program. In addition, because HCPs/NCCPs under development that propose to cover the coastal California gnatcatcher are not finalized, the Service has not determined whether they are adequate to support the issuance of incidental take permits under section 10 of the Act or the Special Rule for the coastal California gnatcatcher under section 4(d) of the Act at 50 CFR 17.41(b). Also, the conservation measures proposed or under consideration in such plans have not been assured through binding permit conditions. However, we may consider excluding under section 4(b)(2) of the Act habitat covered by a pending HCP if we determine that an applicant has demonstrated a sustained commitment to develop the HCP to comply with section 10(a)(1)(B) of the Act, the California Endangered Species Act, and the State's NCCP program. In the past, we have excluded habitat covered by pending HCPs that have undergone public review as a result of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) review process. Currently, there are no pending HCPs that have undergone public review as a result of the NEPA review process. Therefore, we are not excluding any pending HCPs from this final revised critical habitat designation.

Comment 21: Several commenters, including the CDFG, suggested that designated critical habitat be removed concurrently with approval of future HCPs. Commenters recommended the establishment of a set of standards for HCPs/NCCPs that would provide for their automatic removal from critical habitat designated for species covered under such plans upon the issuance of the permit, if these standards are met.

Our Response: Revisions to critical habitat are governed by section 4 of the Act and require publication of a proposed rule and an opportunity for public comment on the proposed revision prior to removing lands from critical habitat designation. Future revisions to critical habitat based on the approval of HCPs must follow this statutory process. We anticipate that some future HCPs will include the coastal California gnatcatcher as a covered species and provide for its long-term conservation. We expect that HCPs undertaken by local jurisdictions (e.g., counties and 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.

Section 10(a)(1)(B) of the Act states that HCPs must meet issuance criteria, including minimizing and mitigating any take of the listed species covered by the permit to the maximum extent practicable, and that the taking must not appreciably reduce the likelihood of the survival and recovery of the species in the wild. We fully expect that our future analyses under section 7 of the Act of HCPs and section 10(a)(1)(B) permits will show that covered activities carried out in accordance with the provisions of the HCPs and section 10(a)(1)(B) permits will not result in the destruction or adverse modification of critical habitat designated for the coastal California gnatcatcher. The take minimization and mitigation measures provided under these HCPs are expected to adequately protect the lands designated as critical habitat in this rule, such that the value of these lands for the survival and recovery of the coastal California gnatcatcher is not appreciably diminished through direct or indirect alterations. If an HCP that addresses the coastal California gnatcatcher as a covered species is ultimately approved, we may elect to revise the critical habitat boundaries through a subsequent rulemaking if available funding and program priorities allow us to do so.

Comment 22: Several commenters stated that the critical habitat rule should not distinguish between individual and regional HCPs.

Our Response: Our evaluation of the benefits provided to listed species and their habitat by HCPs under section 4(b)(2) of the Act is the same regardless of HCP scale (e.g., regional or individual). We distinguished between the two types of HCPs solely to organize our discussion of areas considered but not proposed as critical habitat under section 4(b)(2) of the Act by grouping HCPs of a similar scale. We have continued this grouping of HCPs of similar scale in this final rule (see ''Exclusions Under Section 4(b)(2) of the Act'' section below).

Comment 23: One commenter stated that the establishment of HCPs in no way removes the attendant lands from the scope of section 4(a)(3) of the Act, which requires the designation of critical habitat, and states that the Service is legally required to designate critical habitat irrespective of other agencies' management considerations. Therefore, the approval of incidental take permits for completed regional HCPs, including the Southern Orange County Subregion HCP and Western Riverside County MSHCP, and pending HCPs, including the City of Rancho Palos Verdes, should not reduce the Service's proposed designation of critical habitat for the coastal California gnatcatcher.

Our Response: As discussed in our response to comment 20, we are not excluding any pending HCPs from this critical habitat designation. We are, however, excluding lands covered by the Southern Orange County Subregion HCP and Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) under section 4(b)(2) of the Act. Section 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. We believe that in most instances the benefits of excluding essential areas within approved HCPs from critical habitat designations will outweigh the benefits of including them. For this designation, we find that the

benefits of exclusion outweigh the benefits of designation for all approved and legally operative HCPs in which coastal California gnatcatcher is a covered species (see ''Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion).

Regional Habitat Conservation Plans (HCPs) have been the primary tool for recovering the coastal California gnatcatcher in southern California since the early 1990s. Development of regional HCPs in southern California has enabled the Service to conduct detailed evaluations of habitat for numerous species, including the gnatcatcher, in the context of developing a system of interconnected reserves to provide for the long-term biological needs of the species. This has been a challenging and complex undertaking, in large part due to the mix of Federal and non-Federal landownership patterns throughout the listed species' range. Completion and implementation of these HCPs will provide for the long term recovery and conservation of the coastal California gnatcatcher due to a significant reduction in and management of threats facing the species.

Most of the core populations of the coastal California gnatcatcher are concentrated along the coastal portions of Los Angeles, Orange, and San Diego counties. The eastern boundary of the species' range includes portions of southwestern San Bernardino County, and western Riverside County. Conservation and management of core populations of the coastal California gnatcatcher are addressed in the Orange County Central and Coastal NCCP/HCP, the City and County of San Diego's Multiple Species Conservation Program (MSCP) (including the cities of Poway, La Mesa, and Chula Vista), the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), and the City of Carlsbad within the multi-city Multiple Habitat Conservation Program (MHCP). Other HCPs are under development or have recently been completed, such as the Southern Orange County Subregion NCCP/HCP and the Rancho Palos Verdes HCP. Similar management of core gnatcatcher populations in northern San Diego County are being addressed through the proposed North County MSCP.

On Federal lands and other portions of the species' range in southern California, major core populations of the species have been conserved through section 7 consultations or are located on lands controlled by the Department of Defense and managed through their Integrated Natural Resource Management Plans (INRMP).

The combined efforts of regional HCPs, INRMPs, and key consultations under section 7 of the Act have made significant progress in managing the threats to the coastal California gnatcatcher and collectively will provide for the species' long term conservation. We conclude that completion and implementation of these HCPs/NCCPs is usually a more effective conservation approach than is a designation of critical habitat on these lands. Such a designation would provide redundant regulatory oversight and in some cases could hinder effective implementation of the respective HCPs/NCCPs. Thus we believe it is an appropriate use of the Secretary's authority to exclude such areas from critical habitat under section 4(b)(2) of the Act.

Comment 24: Several commenters stated opposition to the exclusion of pending and approved HCPs from critical habitat for the coastal California gnatcatcher, stating that we have relied on an erroneous interpretation of the phrase ''special management considerations'' in section 3(5)(A) of the Act.

Our Response: In this final rule, we are no longer relying on section 3(5)(A) of the Act as a basis to not include lands in the designation. We have reevaluated and reaffirmed our exclusion of areas considered but not proposed as critical habitat in the April 24, 2003, proposed rule under section 4(b)(2) of the Act (see ''Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion).

Comment 25: USFS commented that like HCPs, Land Management Plans (LMP) are designed to ensure the long-term survival of covered species in the plan area and their recently revised LMPs for the Cleveland, Angeles, and San Bernardino National Forests incorporate management direction they believe provides sufficient protection and management for coastal California gnatcatchers and their habitat. USFS further commented that the Cleveland National Forest's LMP includes management direction specifically designed to protect, restore, and enhance the value of Forest Lands as habitat for listed species. Standards 11 and 12 (part 3, page 6 of the LMP) stipulate that, ''When occupied or suitable habitat for a threatened, endangered, proposed, candidate or sensitive species is present on a project site, consider species guidance documents to develop project specific design criteria.'' These standards also stipulate, ''when implementing new projects in areas that provide for threatened, endangered, proposed or candidate species, use design criteria so that discretionary uses and facilities promote the conservation and recovery of these species and their habitats.''

Our Response: We have determined that Forest Service lands meet the definition of critical habitat and are essential to the conservation of coastal California gnatcatcher (see ''Criteria Used to Identify Critical Habitat'' section below). We acknowledge that the LMP will benefit coastal California gnatcatcher and its habitat. The LMP contains general provisions for species conservation and suggests specific management and conservation actions that will benefit this species and its PCEs. Implementation of the LMP should address known threats to this species on Forest Service lands. As stated above, we appreciate and commend the efforts of USFS to conserve federally listed species on their lands. However, Federal agencies have an independent responsibility under section 7(a)(1) of the Act to use their programs in furtherance of the Act and to utilize their authorities to carry out programs for the conservation of endangered and threatened species. USFS'' development and implementation of the LMP is consistent with the agency's statutory obligation under section 7(a)(1) of the Act, and is not an appropriate basis for excluding essential coastal California gnatcatcher habitat on Forest Service lands from critical habitat designation.

The Secretary may exclude an area from critical habitat under section 4(b)(2) of the Act after taking into consideration the economic impact, the impact on national security and any other relevant impact if he determines that the benefits of such exclusion outweigh the benefits of specifying such area, unless he determines that the exclusion would result in the extinction of the species concerned. We have considered the request from USFS that we exclude their lands based on the burden that the critical habitat designation would add to their section 7(a)(2) consultation requirement for actions on their lands and the fact that they completed consultation under section 7(a)(2) of the Act on their LMP. The primary benefit of including an area within a critical habitat designation is the protection provided by section 7(a)(2) of the Act that directs Federal agencies to ensure that their actions do not result in the destruction or adverse modification of critical habitat. This benefit of designating an area as critical habitat is limited if the areas under consideration for designation occur on

private lands for which there may not be a Federal nexus to invoke the protections of section 7(a)(2) of the Act. Federal lands by default have a Federal nexus and the intent of section 7 of the Act is to require Federal Agencies to consult on any action authorized, funded, or carried out by such agency to insure that the action will not jeopardize a listed species or destroy or adversely modify its critical habitat. Therefore, the benefits of inclusion of these areas are greater because they are Federal lands. We do not agree that any additional analysis required under section 7(a)(2) due to this critical habitat designation on Federal lands constitutes an undue burden for USFS such that the benefits of exclusion would outweigh the benefits of inclusion in this circumstance.

Under the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations published in the **Federal Register** on December 8, 2003 (68 FR 68254), projects that support the National Fire Plan that the Forest Service determines are ''not likely to adversely affect'' any listed species or designated critical habitat do not require any additional consultation under the Act with the Service. Projects within the scope of the National Fire Plan include projects such as, prescribed fire, mechanical fuels treatments (thinning and removal of fuels to prescribed objectives), emergency stabilization, burned area rehabilitation, road maintenance and operation activities, ecosystem restoration, and culvert replacement actions. Therefore, projects such as restoration, revegetation, and removal of nonnative species conducted in support of the National Fire Plan that are not likely to adversely affect federally-listed species should not add to USFS' workload or cost burden by requiring them to conduct a separate analysis and make a determination of effect on critical habitat when consulting under section 7 of the Act.

Also, as part of our Section 7 consultation with the USFS on the LMP, the USFS has already consulted on various activities carried out on national forest lands including: roads and trail management; recreation management; special use permit administration; administrative infrastructure; fire and fuels management; livestock grazing and range management; minerals management; and law enforcement. In our 2005 biological opinion on the LMP, we determined that implementation of the plan was not likely to jeopardize the continued existence of the coastal California gnatcatcher or adversely modify critical habitat designated in 2000 or revised critical habitat proposed in 2003 for this species. Since the USFS has already consulted with us on potential impacts to critical habitat (both currently designated and proposed related to the activities outlined in the LMP, the designation of revised critical habitat should not require additional consultation for those activities.

In conclusion, we are designating Forest Service lands that meet the definition of critical habitat for the coastal California gnatcatcher because we have determined that the exclusion of Forest Service lands is not appropriate in light of the USFS' independent obligation under section 7(a)(1) of the Act to utilize the agency's authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of the coastal California gnatcatcher. Also, because of the agency's statutory obligations, the additional analysis under section 7(a)(2) of the Act as a result of designation of critical habitat on National Forest lands should not be considered a relevant impact under Section 4(b)(2) or constitute an undue burden for USFS.

Comment 26: USFS commented that they believe that no additional benefit to, or protection for, this species would occur as a result of critical habitat designation and that designation of the critical habitat identified in the revised proposed rule would unnecessarily add to the USFS' workload and cost burden by requiring them to conduct a separate analysis and make a determination of effect on critical habitat when consulting under section 7 of the Act. They stated that this would increase the number of formal consultations required for implementation of the fuels treatment programs and delay management actions yet to be implemented such as restoration, revegetation, and removal of nonnative species. They further stated that the additional time needed to comply with the added regulations under section 7 of the Act resulting from the critical habitat designation could delay some emergency maintenance activities that could compromise public safety.

Our Response: As explained in our response to comment 25 above, the USFS has an independent statutory obligation under Section 7 of the Act to protect the coastal California gnatcatcher and its essential habitat on Federal lands it administers. We point out that the Act's section 7 consultation regulations specifically address emergency situations and provide an alternative consultation procedure to enable rapid responses to emergencies. The regulations at 50 CFR 402.05 allow for informal consultation where emergency circumstances mandate the need to consult in an expedited manner. The Act does not prohibit any Federal agency from undertaking actions necessary to protect human health and safety during a declared emergency. Formal consultation must be initiated as soon as possible after the emergency is under control. In addition, we have conducted programmatic consultations with Federal Emergency Management Agency (FEMA) and other Federal agencies for future anticipated emergency actions. These consultations can be conducted prior to the emergency and address anticipated response activities.

Regarding potential delays in management actions, any action that ''may affect'' the species or its designated critical habitat, even if beneficial, is required to undergo consultation under section 7 of the Act if there is a Federal nexus. However, under the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations published in the **Federal Register** on December 8, 2003 (68 FR 68254), projects that support the National Fire Plan that the USFS determines are ''not likely to adversely affect'' any listed species or designated critical habitat do not require any additional consultation under the Act with the Service. Projects within the scope of the National Fire Plan include projects such as, prescribed fire, mechanical fuels treatments (thinning and removal of fuels to prescribed objectives), emergency stabilization, burned area rehabilitation, road maintenance and operation activities, ecosystem restoration, and culvert replacement actions. Therefore, projects such as restoration, revegetation, and removal of nonnative species being conducted in support of the National Fire Plan should not add to the USFS' workload and cost burden by requiring them to conduct a separate analysis and make a determination of effect on critical habitat when consulting under section 7 of the Act.

Comment 27: USFS commented that extrapolating costs from recently completed consultations, the estimated cost to USFS for conferencing under section 7 of the Act on proposed critical habitat would exceed $150,000 over the next 3 to 5 years and includes payment to the Service to work on the consultations, USFS costs to complete biological assessments and surveys, and USFS costs to implement terms and conditions. They state that this estimated cost is not consistent with the statement made on page 20247 of the April 24, 2003, revised proposed rule

that designation of critical habitat will not cause ''any increases in costs or prices * * * for Federal agencies.'' They further commented that these consultations would be required for critical habitat that is not suitable for the coastal California gnatcatcher, and for which consultation would not otherwise have been required.

Our Response: As discussed in the April 24, 2003, proposed rule, the statement that designation of critical habitat will not cause ''any increases in costs or prices * * * for Federal agencies'' was based on a preliminary version of the DEA. We noted our intention to modify our assessment of economic effect based on the development and review of the DEA (see page 20247 of the ''Regulatory Flexibility Act'' section of the proposed rule). Based on the DEA, costs associated with section 7 consultations and associated project modifications for land management projects on Federal lands are estimated to total approximately $1 million through 2025. However, since completion of the DEA analysis in 2003, two section 7(a)(2) consultations have been completed that should decrease the economic impacts of critical habitat designation on USFS lands: The Joint Counterpart Endangered Species Act Section 7 Consultation Regulations (68 FR 68254; December 8, 2003) and the section 7(a)(2) consultation on the USFS' LMP completed in 2005.

As discussed in our response to comment 25 above, projects conducted under the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations in support of the National Fire Plan that are not likely to adversely affect federally-listed species or their habitat should not add to USFS' workload or cost burden. As also discussed in our response to comment 25 above, the USFS has already consulted with us on potential impacts to critical habitat (both currently designated and proposed) related to various land management activities outlined in the LMP. The designation of revised critical habitat should not require additional consultation for those activities already analyzed in the LMP.

We disagree with the statement that consultations would be required for critical habitat that is not suitable. As discussed in the April 24, 2003, proposed revised rule, the areas we are designating as critical habitat are within the geographical area occupied by the species at the time of listing and currently occupied and contain PCEs in sufficient quantity and spatial arrangement such that these areas are essential to the conservation of the species (see ''Criteria Used To Identify Critical Habitat'' section below for a detailed discussion).

Comment 28: One commenter stated that critical habitat designated in areas containing species with different habitat needs creates needless confusion for land managers.

Our Response: Many lands are managed for multiple species at different temporal and spatial scales. A matrix of lands with different vegetation characteristics is consistent with historic conditions that supported coastal California gnatcatchers. Management plans to conserve coastal California gnatcatchers and other listed species already address the varying needs of these species and their habitats, as do the section 7 consultations conducted on these plans. We believe the addition of a critical habitat consideration to these management plans and consultations should not result in significantly different conservation requirements or create confusion for land managers.

Issue 4: Notification and Public Comments

Comment 29: Several commenters requested that the complete administrative record be made available for review with additional time granted for the public to respond.

Our Response: Until a final critical habitat determination is made, a complete record for this action does not exist. However, we have made documents used to prepare the April 24, 2003, revised proposed rule, including the model used to assist in defining specific areas containing the PCEs for the coastal California gnatcatcher, available to all who requested it. Files concerning the listing of the coastal California gnatcatcher and the primary supporting files for the designation of critical habitat are currently available for review, upon request, at the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section above).

Comment 30: Several commenters requested that we extend the comment period on the proposed revised designation and DEA.

Our Response: We have opened three public comment periods associated with the April 24, 2003, proposed rule to revise critical habitat, of which the second and third comment periods also sought public comment on the associated 2004 DEA. The public comment periods were as follows: April 24 to June 23, 2003 (68 FR 20228); April 8 to May 10, 2004 (69 FR 18516); and April 3 to May 3, 2007 (72 FR 15857). During these open comment periods, we conducted outreach notifying affected elected officials, local jurisdictions, interest groups and property owners. We notified interested parties through the publication of legal notices in regional newspapers, telephone calls, letters and news releases sent by facsimile and/or mailed to affected elected officials, local jurisdictions, and interest groups. We also posted information and materials related to the proposed revised designation on the Carlsbad Fish and Wildlife Office's public Web site *(http://www.fws.gov/Carlsbad/).*

During the second comment period (April 8 to May 10, 2004), we made the 2004 DEA of the April 24, 2003, proposed revised critical habitat designation available to the public for review. During this comment period, we also held two public hearings on April 29, 2004, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. in Carlsbad, California. We provided notification of the DEA through telephone calls and letters and news releases faxed and/or mailed to affected elected officials, local jurisdictions, and interest groups. We also published the DEA and associated material on our Web site following the draft's release on April 8, 2004. In addition, several public comment periods were held on our 2000 proposed and final critical habitat rules, which are similar in many respects to the 2003 proposed revised and this final rule.

In light of these actions, we have met the statutory and regulatory requirements to notify the public and seek public comment on our proposed designation. Also, as stated in the April 3, 2007, **Federal Register** notice announcing the reopening of the comment period for the proposed critical habitat for the coastal California gnatcatcher, we are under a court order to finalize the critical habitat designation for the coastal California gnatcatcher on or before November 2, 2007. Given the relatively short timeframe in which we have to finalize this proposed action, we are unable to open any additional comment periods or hold additional public hearings for the proposed designation and still meet our court-mandated deadline.

Issue 5: Economic Analysis

Comment 31: Several commenters stated that the DEA should have incorporated the approach and findings from a study released by the California Resource Management Institute (CRMI) (dated August 15, 2003) entitled ''Economic Impacts of Critical Habitat Designation for the Coastal California Gnatcatcher'' (Sunding 2003). Several commenters stated that the economic impacts estimated in the DEA are

incorrect because they are significantly lower than those contained in the CRMI study.

Our Response: We released the DEA for public comment on April 8, 2004 (69 FR 18516), but we completed the analysis prior to the public release of the CRMI study. However, we subsequently reviewed the CRMI study and its results in detail. The CRMI study relies on an economic model developed to assess the impacts of reductions in real estate product (e.g., residential and commercial buildings) in areas of the proposed revised designation. In order to respond to public comments regarding comparisons between the CRMI study and the DEA, our discussion below of the DEA and costs outlined in Table 1 are based on the total economic impact estimated in the DEA ($915 million) minus the costs borne by the Transportation Corridor Agency (TCA) ($35 million) since the CRMI study did not include TCA costs.

The CRMI study calculates a total economic impact due to the critical habitat designation of $4.6 billion, compared to $880 million in the DEA, a difference of approximately $3.7 billion. Differences in the magnitude of these estimates of total impact are primarily due to differences in the scope of the impacts measured. Despite the use of different economic models of regulatory impact, when CRMI's analysis is adjusted to address the same question as the DEA (i.e., the economic impact of section 7 of the Act), the estimated total economic impacts and ranking of proposed units by cost are relatively comparable, as discussed further below.

The DEA and CRMI study share a number of important analytical and methodological similarities. For example, both studies rely on demographic and land use projections provided by the Southern California Association of Governments (SCAG) and the San Diego Association of Governments (SANDAG) as the basis for calculating the economic impacts of the critical habitat designation. In addition, both studies agree that the primary economic impacts will result from: (1) Reduced real estate development; (2) project modification and regulatory compliance costs associated with coastal California gnatcatcher conservation activities; and (3) project delay. The DEA also includes a number of additional economic categories not evaluated in the CRMI study, but these categories represent a relatively small component of the total economic impact (including costs associated with uncertainty as well as those incurred by State and Federal entities).

Much of the difference in the magnitude of the cost estimates reported in the DEA and CRMI study results from the DEA's exclusion from the analysis of real estate development projects that are unlikely to have a Federal nexus, and thus not likely to be regulated under section 7 of the Act. The DEA also excludes ''baseline'' economic impacts that are attributable to existing regulations other than section 7 of the Act.

Under section 7 of the Act, projects or activities within critical habitat that are authorized, funded, or carried out by a Federal agency, that is, have a Federal nexus, will require consultation with the Service to ensure that they do not jeopardize the continued existence, or adversely modify the habitat, of threatened or endangered species. The DEA assumes that the designation of critical habitat will have no direct impact on projects or activities that do not have a Federal nexus.

As described in Chapter III of the DEA, the issuance of section 404(b) permits by the U.S. Army Corps of Engineers (USACE) is likely to represent the primary Federal nexus for private real estate development activities. The DEA estimates that this Federal nexus will occur in approximately 69 percent of all real estate projects. Consequently, the economic impact estimated in the DEA assumes that approximately 31 percent of future real estate projects will have no Federal nexus and thus will not be directly impacted by the critical habitat designation.

In contrast to the DEA, the CRMI study assumes that all projects will be affected, regardless of the presence of a Federal nexus. This difference accounts for approximately $1.4 billion, or approximately 28 percent of the total difference between the two estimates.

The DEA endeavors to account for the regulatory impacts that are expected to occur in the absence of this rulemaking (a further discussion of the baseline approach is provided elsewhere in this Response to Comments). Existing ''baseline'' regulations that provide protection to the coastal California gnatcatcher and its habitat, absent section 7 and the proposed designation, include the Orange County Central/Coastal NCCP/HCP, the 4(d) special rule at 50 CFR 17.41(b), and the California Environmental Quality Act (CEQA). (Pertinent baseline laws, regulations, and policies are described in detail in Chapter II of the DEA.)

The CRMI study considers the cost of all future coastal California gnatcatcher conservation activities. In other words, the CRMI does not factor out the impact of the ''baseline'' regulations noted above. This difference in the scope of impacts estimated in the two studies accounts for $2.3 billion, or approximately 62 percent, of the difference between the DEA and CRMI study results. In certain units (e.g., San Diego) this difference significantly affects estimated costs, whereas in others (e.g., Riverside) there is no effect at all (i.e., the two models yield results of similar magnitude).

An estimate of the cumulative effect of applying the DEA assumptions regarding (1) Federal nexus and (2) baseline regulations to the CRMI study is summarized in Table 1. As shown, making these adjustments to the CRMI study reduces the total economic impact from $4.6 billion to an estimated $1.38 billion (the total or cumulative impact of each of these assumptions when applied to the CRMI study is less than the sum of their separate impacts). This revised $1.38 billion estimate is approximately $497 million more than the $880 million economic impact reported in the DEA (compared to the $3.7 billion difference without these adjustments). Thus, together the Federal nexus and regulatory baseline assumptions used in the DEA account for most of the difference between the two studies.

TABLE 1.—COMPARISON OF ADJUSTED CRMI STUDY RESULTS AND DEA RESULTS—CALIFORNIA GNATCATCHER RESPONSE TO COMMENTS

Unit	Adjusted CRMI study results (1)		DEA results (2)	
	Amount	Unit rank	Amount	Unit rank
1	$100,097	10	$4,014,410	10
2	6,342	11	3,533,136	11
3	2,696,488	8	11,009,233	7
4	518	12	2,719,057	12

TABLE 1.—COMPARISON OF ADJUSTED CRMI STUDY RESULTS AND DEA RESULTS—CALIFORNIA GNATCATCHER RESPONSE TO COMMENTS—Continued

Unit	Adjusted CRMI study results (1)		DEA results (2)	
	Amount	Unit rank	Amount	Unit rank
5	277,649	9	13,806,983	6
6	70,163,377	5	53,968,904	4
7	3,820,191	7	5,306,404	8
8	0	13	449,115	13
9	140,463,276	3	42,671,006	5
10	524,487,037	1	459,907,538	1
11	75,371,628	4	93,364,387	3
12	37,759,521	6	4,029,835	9
13	521,667,076	2	185,457,233	2
Total	1,376,813,200		880,237,241	

(1) Estimates of CRMI study results adjusted to include DEA regulatory baseline and Federal nexus assumptions.
(2) Differences between the unit costs given in this table and those given in the DEA are due to differences in rounding.

Once the methodological assumptions described above are accounted for, the CRMI study and the DEA generate similar relative cost rankings between units. For example, the DEA and adjusted CRMI study results identify the same five units as generating the greatest costs (units 6, 9, 10, 11, and 13). Conversely, revising the DEA findings to eliminate the regulatory baseline and Federal nexus assumptions produces results comparable to those in the unadjusted CRMI study. That is, despite using different economic models and assumptions, the two reports generally agree in terms of the magnitude and distribution of costs.

The DEA and CRMI study do produce results that differ by $497 million, even after accounting for the key assumptions described above. A variety of other factors contributes to the different economic impact calculations, many of which are difficult to isolate and quantify with precision. For example, the DEA assumes that developers on average will incur a much higher economic burden when compensating for impacts to coastal California gnatcatcher habitat (i.e., the DEA assumes that developers will set aside 1.26 ac (0.51 ha) on site for every acre of developed habitat compared to a ratio of approximately 0.11:1.0 in the CRMI study). However, two key analytical differences that appear to contribute significantly to the higher economic costs calculated in the CRMI study include (1) discounting, and (2) consumer surplus effects, as described below:

(1) Discounting: The two studies apply a different approach to evaluating economic impacts that occur over time. Specifically, the DEA applies a positive real discount rate to costs that occur in the future to account for the effect of the time value of money. In contrast, the CRMI study assumes that the real discount rate will equal real property appreciation, and thus the timing of development has no impact on economic value. (The CRMI study does assume a positive discount rate to calculate the economic impact of delay.)

(2) Consumer Surplus: The DEA concludes that the critical habitat designation will primarily affect individual property owners/developers and not market prices or consumers of real estate. In contrast, the CRMI study concludes the critical habitat designation will lead to an increase in real estate market prices and thus a reduction in consumer surplus. The CRMI study calculates this reduction in consumer surplus and includes it in the total economic impact (our response to Comment 32 below provides a further discussion of this issue).

Comment 32: David Sunding of Charles River Associates (author of the CRMI study described in Comment 31 above) submitted a comment letter on the DEA criticizing its methodology and findings in a number of areas. Many of these criticisms are similar to those submitted by others and as such are addressed elsewhere in this ''Public Comments'' section. The primary comment addressed here is that the DEA's estimates of real estate development impacts are low because they are based solely on the cost incurred by individual landowners/developers and do not adequately account for impacts to real estate markets and thus consumers.

Our Response: Chapter III of the DEA evaluates the potential for the critical habitat designation to reduce consumer surplus by increasing real estate market prices. The analysis concludes that the critical habitat designation will not affect regional real estate markets or prices, and thus consumer surplus, because the total reduction in land supply is expected to represent a very small component of total future market demand in the region. Specifically, the estimated amount of acres that would have been developed but for critical habitat designation represents about 1.7 percent of future market growth in the six counties (San Diego, Orange, Riverside, San Bernardino, Los Angeles, and Ventura) through 2025. Supply adjustments by developers, including increased density and/or project reconfigurations, are likely to further cancel the market impact of the relatively small land supply reduction potentially created by the critical habitat designation.

The comment from Dr. Sunding argues that the DEA analysis is flawed because (1) it assumes that housing prices are determined at the county rather than the census tract level, and (2) it ignores the severely land-constrained nature of the southern California region as a whole. The DEA (as well as the CRMI study) rely on real estate growth projections provided by SCAG and SANDAG, which reflect economic and demographic trends at the county and regional level. The DEA assumes that in this instance county-wide economic and demographic trends are a better determinant of real estate prices than are individual census tracts because aggregate consumer behavior is expected to be more heavily influenced by broader or regional market supply and demand dynamics than by those within the more arbitrary boundaries of an individual census tract.

The DEA also acknowledges that the regional land supply is scarce relative to projected growth in several counties within the critical habitat designation. However, since the reduction in land supply resulting from the critical habitat designation represents such a small

fraction of the total market, the DEA reasonably assumes that it will not alter these regional market dynamics, affect market prices, or result in consumer surplus losses. Although the DEA does not anticipate consumer surplus effects, the DEA's ranking of critical habitat units by cost is similar to that provided in the CRMI study after adjusting for other methodological differences (see our response to Comment 31 above).

Comment 33: One commenter stated that the Service's DEA fails to account for, and thus fails to quantify the economic impacts of the reduction in, the overall size of development projects and/or the number of housing units constructed. The commenter also stated that the DEA assumes, against all reason with virtually no methodological or evidentiary support, that the designation will have no impact whatsoever on the size or quality of the housing stock in southern California and that all costs of the proposed rule will be borne by landowners, with absolutely no housing price implications. Dr. Sunding estimated reduced project output of 10 percent as a result of the proposed designation of critical habitat for the coastal California gnatcatcher alone. Further restricting the amount of developable land by a vast designation of critical habitat has the potential to impose large economic costs. Taking these and other factors into his analysis of the economic impacts of critical habitat designation for the coastal California gnatcatcher alone, Dr. Sunding has estimated economic impacts in the range of $4.6 to $5.1 billion, roughly five times higher than the Service's estimate.

Our Response: As noted in the Response to Comment 32, the DEA acknowledges that the regional land supply is scarce relative to projected growth in several counties within the critical habitat designation. However, since the reduction in land supply resulting from the critical habitat designation represents such a small fraction of the total market, the DEA assumes that it will not alter these regional market dynamics, affect market prices, or result in consumer surplus losses.

Comment 34: One commenter questions why losses to development in locations within the proposed critical habitat designation are not offset by gains to development in locations outside the proposed critical habitat designation. Furthermore, the commenter questions why offsetting economic gains are not estimated. Given the likelihood of offsetting economic gains, the costs to individual property owners estimated in the DEA should be presented as primarily distributional in nature rather than as a reduction in economic efficiency.

Our Response: As described in our responses to Comments 31 and 32 above, the DEA concludes that the critical habitat designation is unlikely to affect regional real estate prices because the amount of land that would have been developed but for critical habitat designation is small relative to market supply. Consequently, offsetting gains to property owners outside the critical habitat designation after designation are also expected to be minor. The long-term scarcity of land in some of the counties affected by the critical habitat designation will constrain the reallocation of output to other locations. Consequently, the DEA treats the cost to individual landowners resulting from the critical habitat designation as a reduction in economic efficiency rather than a distributional impact.

Comment 35: Several commenters stated that the coastal sage scrub CEQA baseline assumptions employed by the DEA should not be applied throughout the entire proposed critical habitat designation. Specifically, one comment asserts that ''the proposed critical habitat designation for the coastal California gnatcatcher includes a variety of vegetation communities and coastal sage scrub vegetation covers much less than 50 percent of the overall critical habitat acreage under the revised proposed designation.''

Our Response: Coastal sage scrub is a PCE for coastal California gnatcatcher critical habitat. The DEA found that, in many areas within revised proposed critical habitat, coastal sage scrub mitigation resulting from the California Environmental Quality Act (CEQA) review process provides pre-existing protection for Gnatcatcher habitat. Specifically, the DEA assumes that CEQA serves as a baseline regulation in San Diego and Orange County as well as parts of Los Angeles County. In addition, according to the Service, Federal Agencies active in Southern California routinely consult with the Service for projects that occur in areas with coastal sage scrub. In other words, critical habitat does not provide any new information about the potential presence of the species in areas with coastal sage scrub because the presence of coastal sage scrub would likely already trigger a consultation and regulatory protection under the listing. Therefore, we maintain that in certain areas within the critical habitat determination, coastal sage scrub mitigation resulting from the CEQA review process provides pre-existing protection for coastal California gnatcatcher habitat.

However, we acknowledge that coastal sage scrub may not be present within each acre of the critical habitat designation. To the degree that coastal sage scrub is not present in specific areas within the critical habitat designation, the DEA may have overstated its role in providing baseline protection for coastal California gnatcatcher. The final addendum to the DEA (dated September 14, 2007) found that, based on estimates provided by the Service, about 40 percent of the revised proposed critical habitat for coastal gnatcatcher contains coastal sage scrub (see ''Economic Analysis'' section for further discussion of the final DEA addendum). If coastal sage scrub is assumed to be present in only 40 percent of the designation, total private development project modification costs increase from $743 million to about $800 million. This increase of $58 million represents approximately 6 percent of the original total DEA cost estimate of $915 million.

The DEA assumes that CEQA is the primary baseline regulation in areas where the 4(d) rule (50 CFR 17.41(b)) has not been adopted. The DEA assumes CEQA is a secondary baseline regulation in areas where the 4(d) rule is the primary baseline regulation. In areas covered by the 4(d) rule, the DEA assumes that mitigation under CEQA applies to the 5 percent of projects that are ''exempt'' or ''ineligible'' for 4(d) processing.

Reducing the CEQA baseline by 60 percent causes the number of acres, assumed to be restricted by section 7 consultations, to increase substantially in some areas. In San Diego County, for example, reducing the CEQA baseline by 60 percent increases the amount of foregone development resulting from section 7 consultations for the California gnatcatcher from 34 ac (14 ha) to 372 ac (150 ha). In other areas, the CEQA baseline assumption has little or no effect since the 4(d) rule applies as a pre-existing regulation or lead agencies do not normally mitigate for coastal sage scrub habitat loss (as noted in the DEA, lead agencies in California have different practices regarding the implementation of CEQA).

Comment 36: Rancho Mission Viejo commented that the pending Orange County Southern Subregion HCP/NCCP would preclude the use of the 4(d) rule on the vast majority of the remaining land in Unit 6.

Our Response: The DEA assumes that CEQA is the primary baseline regulation in Unit 6 (i.e., the DEA does not consider the 4(d) rule in this unit),

which includes the Rancho Mission Viejo project. A text omission in DEA Table 10, footnote 2, creates confusion regarding the treatment of the units where the 4(d) rule does not apply. In actuality, ''Projected Growth Acres Affected by Section 7'' in Table 10 are reduced to reflect both areas covered by the 4(d) rule (as stated in footnote 2) and CEQA mitigation resulting in reduced development.

Comment 37: One commenter stated that the DEA ignores the direct impacts that the critical habitat designation may have on projects that are subject to CEQA.

Our Response: The DEA treats the potential impact of the critical habitat designation on CEQA as an indirect cost (Chapter V of the DEA). CEQA costs are indirect because there is no statutory link between CEQA and the critical habitat designation. That is, CEQA does not explicitly require consideration of critical habitat in the project review process. Consequently, the DEA considers the potential for the critical habitat designation to provide new information that may indirectly generate CEQA costs. Because coastal sage scrub is well identified, the DEA concludes that the critical habitat designation will not provide new information regarding coastal California gnatcatcher habitat. To the degree that coastal sage scrub is not present in areas of the critical habitat designation, the critical habitat designation may provide new information and trigger additional CEQA costs not accounted for in the DEA, as discussed in our Response to Comment 35 above.

Comment 38: One commenter stated that the use of CEQA mitigation ''requirements'' to estimate CEQA baseline protection for the coastal California gnatcatcher and its habitat is incorrect. Similarly, economic impacts resulting from CEQA compliance due to the species being federally listed should be attributed to the designation of critical habitat and should not be included in the baseline.

Our Response: The DEA assumes that CEQA acts as a baseline regulatory requirement in certain Counties containing revised proposed critical habitat. The DEA utilizes CEQA ''mitigation ratios'' as a proxy for negotiated environmental impact report (EIR) outcomes. That is, the mitigation ratios used represent the expected outcome of an EIR. The CEQA related mitigation ratios represent an average outcome of the CEQA process, not a requirement of CEQA. These average mitigation ratios are based on information provided by the CDFG. Also, as discussed in our response to comment 37 above, there is no statutory link between CEQA and the critical habitat designation. That is, CEQA does not explicitly require consideration of critical habitat in the project review process. Therefore it is appropriate to include economic impacts resulting from CEQA compliance in the baseline.

Comment 39: Several commenters addressed the DEA's treatment of section 7 consultation costs associated with HCP approval. In particular, commenters pointed out that third-party costs associated with section 7 consultations on HCPs are not accounted for in the DEA.

Our Response: The DEA incorrectly states that existing ''HCPs would require internal, informal [section 7] consultations and that the costs would be borne by the Service'' (DEA p. 20). This is an error in the DEA text and does not reflect the actual calculations of economic costs provided. The administrative cost reported in the DEA assumes that one third-party participant is engaged in each of the 28 consultations. Approximately 27 percent of the $141,000 cost estimate presented in the DEA will be borne by third parties.

Furthermore, it is true that third-party HCP proponents may bear administrative costs associated with section 7 consultations on future HCPs. To address this comment the Service estimates a range of administrative costs associated with future HCPs that reflect potential third-party involvement. The DEA identifies 16 ''reasonably foreseeable'' future consultations involving HCPs in critical habitat and estimates an associated administrative cost of approximately $37,000 (DEA, pp. 21 and 128–129). If third-party costs are included, these administrative costs are estimated to increase to as much as $104,000.

Comment 40: One commenter asserted that the DEA should consider potential future HCPs within the Matrix NCCP Subregion of Orange County. Specifically, the commenter stated that five HCPs exist or are in progress in this area currently and that the DEA should consider the related costs.

Our Response: The DEA only considers costs that are reasonably foreseeable. Plans for HCPs in the Matrix NCCP Subregion of Orange County had stalled and were therefore not considered reasonably foreseeable. Because these HCPs were not reasonably foreseeable at that time, administrative costs associated with section 7 consultations on the HCPs were not included in the DEA.

Comment 41: One commenter stated that the DEA accounts for regulatory burdens only as they exist at this moment in time, making no attempt to assess whether and how these burdens may change over the study period. This results in an underestimate of the baseline regulations.

Our Response: While it is possible that Federal, State, or local agencies will promulgate regulations that will affect future land uses, the Service has no reasonable means for predicting future regulatory changes. The Office of Management and Budget (OMB), in its guidance on preparing regulatory analysis, agrees that, ''It may be reasonable to forecast that the world absent the regulation will resemble the present'' (OMB, Circular A–4, September 17, 2003). Given the lack of reasonably foreseeable changes in the regulatory environment, the Service believes an analysis based on the current regulatory environment provides the best estimate of potential impacts.

Comment 42: Several commenters argued that impacts to local water providers are not appropriately addressed by the DEA. Specifically, comments pointed out that the DEA does not present information on how the rulemaking will affect individual water districts. Additionally, commenters suggested that the DEA ignores project modification costs, consultation costs, delay costs, potential water replacement costs, potential capital facilities costs, and other costs that may be borne by water providers.

Our Response: Due to the large number of independent water providers operating within the proposed critical habitat designation, the DEA does not examine specific impacts to each. The DEA focuses on larger water agencies and the regional distribution network. Nonetheless, some of the costs borne by local water providers are captured by the DEA. Estimated costs associated with real estate development project modifications (e.g., land set-asides) include compliance costs associated with development of local water infrastructure (i.e., some water infrastructure is installed within real estate development project sites). Allocating these water infrastructure costs to real estate development is appropriate since local water agencies are likely to pass on compliance costs to consumers, including developers and owners of real estate. In addition, it is important to note that no specific information indicating how or the extent to which particular local water districts will be unduly burdened has been identified.

The DEA estimates that the critical habitat designation delays projects in

the first year after designation (Chapter V of the DEA, p. 131). To the degree that water infrastructure project modifications are captured by the DEA's analysis of real estate development, water infrastructure delay costs are also captured.

The DEA addresses the consultation cost expected to be associated with the HCPs covering water operations. The DEA cost estimate includes the expected cost to the Service of an internal consultation on these HCPs. Furthermore, third-party HCP proponents may bear administrative costs associated with section 7 consultations on HCPs (See our response to Comment 31 above).

The water replacement costs and capital costs cited in some comments are potential costs that the DEA does not address. Additional analysis would be needed to quantify these costs. Specifically, the Service would need to evaluate whether coastal California gnatcatcher conservation efforts are likely to affect specific water systems. In addition, this analysis might require a model of water system operations to quantify changes in water supply in some cases.

Comment 43: The DEA ignores the economic impacts of critical habitat proposed on important regional transportation facilities. Dr. Sunding's report documents costs of $450 million to the existing Transportation Corridor Agency (TCA) projects (not including the pending Foothill (South) Transportation Corridor) attributable to regulatory delays, including those attributable to the Act.

Our Response: The DEA discusses potential impacts of revised proposed critical habitat on regional transportation facilities starting on page 110 of Chapter IV. Future transportation projects include road construction by California Department of Transportation (Caltrans) Districts 7, 8, 11, and 12, and the Transportation Corridor Agency (TCA). Total costs for the four Caltrans districts are estimated at approximately $45 million, or roughly 5 percent of total costs. This analysis estimates that all Caltrans districts combined will participate in 191 formal consultations resulting in project modification costs, though construction in Riverside and San Bernardino counties is expected to result in significantly higher section 7 costs than in any other district. The TCA's proposed SR–241 Foothill-South toll road is estimated to result in an estimated section 7 cost of approximately $35 million, based on an average of two potential development scenarios.

Comment 44: The CRMI study estimates higher critical habitat designation costs associated with local infrastructure (including water infrastructure) than the DEA.

Our Response: The DEA estimates $63 million in project modification and administrative costs for local infrastructure projects (this figure excludes TCA costs so as to provide a more comparable estimate to the CRMI study which also estimates these costs separately). The CRMI study reports an increase in compliance cost to local public infrastructure from the coastal California gnatcatcher critical habitat designation equal to $1,000 per housing unit constructed, roughly $124 million in total.

The CRMI study relies on an average local infrastructure cost of $33,000 per new housing unit and an incremental impact of the critical habitat designation on local public infrastructure of 3 percent. The DEA applies a cost estimate based on anticipated project modification costs associated with planned or proposed projects identified primarily through interviews with potential public project proponents. The DEA discounts estimates at 7 percent while it appears the CRMI study does not discount public infrastructure costs. The Service believes that applying a positive discount rate to future costs provides a better estimate of the present value of these costs since this methodology accounts for the time value of money.

Comment 45: One commenter stated that the DEA does not account for additional costs related to review of Federal documents (e.g., review and preparation of comments on the DEA of the critical habitat designation for the coastal California gnatcatcher) and costs related to legal challenges (e.g., whether the MSCP Subarea plans may result in adverse modification). Another commenter stated that the analysis considers permitting cost and land prices only, and ignores factors like reduction in output, delay costs, indirect costs and other real costs that Dr. Sunding analyzed. According to the commenter, when all costs are applied, the costs are profound. For example, the CRMI study states that if a designation reduces a 1,000-unit subdivision by just 200 units, the economic impact is $33 million, and that impact falls most heavily on consumers. The commenter asserts that home and land costs are higher today in southern California than they were in 2004, so that even with the recent downturn, greater economic impact would be expected.

Our Response: Potentially affected parties likely incurred administrative costs related to review of Federal documents, such as the proposed rule for example, to ensure their activities were appropriately considered in the DEA or to request exemption from the rulemaking. The DEA appropriately considers only the direct and indirect costs associated with compliance with the final designation since the purpose of the economic analysis is to determine what the economic costs resulting from designation would be on a particular area, so that the benefits of including the area in critical habitat can be weighed against the benefits of excluding the area. The DEA does, however, include administrative costs of compliance with the rulemaking where appropriate, for example the administrative costs of section 7 consultation, which may similarly include review of Federal documents. In addition, the DEA focuses on activities that are considered reasonably foreseeable. The number, scope, and timing of potential legal challenges associated with the rulemaking are speculative and impossible to quantify.

Comment 46: According to one commenter, development areas proposed for designation provide critically needed housing to the region, create new sources of employment, and provide tax revenues for local jurisdictions. The commenter stated that the DEA fails to capture the opportunity cost of lost benefits from real estate development.

Our Response: The DEA concludes that the reduction in real estate development is unlikely to substantially affect regional housing markets. Therefore, it is unlikely that the coastal California gnatcatcher critical habitat designation will alter job growth. In addition, while it is true that future tax revenue may be lower than projected due to a potentially reduced level of real estate development, corresponding public expenditures on public services and infrastructure related to new development would also be lower. The net affect of these two factors is difficult to determine and the Service considers such an estimate as speculative.

Comment 47: One commenter stated that the critical habitat designation would create delays in the processing of various proposed development projects. These delays may result in lost employment benefits, lost tax revenue, delayed mitigation measures that may benefit the species, and lost benefits from decreased housing availability.

Our Response: The DEA estimates that project delay lasts 6 months and occurs only in the first year after the critical habitat designation (Chapter V of the DEA, p. 131). It is possible that in

the first six months, some projects may be so delayed because other entitlement activities (e.g., preparation of an Environmental Impact Report) may have been completed and consideration of critical habitat designation may result in additional administrative effort. As described in the DEA, however, after the first six months any additional administrative or regulatory compliances costs associated with critical habitat is expected to be coordinated simultaneously with other standard entitlement activity and thus not delay project start time. The DEA estimates costs associated with delay using a time value of money equal to 12 percent. While it is true that the DEA does not capture the cost to the species of delayed mitigation, such costs are difficult to quantify monetarily and are best evaluated in biological terms. Substantial impacts to regional housing markets or employment levels are not anticipated to result from the critical habitat designation (See our responses to Comments 31 and 32 above).

Comment 48: One commenter stated that the DEA does not properly consider the environmental implications of the economic impacts identified in the analysis. The economic impacts identified affect population and its distribution in the study area, along with the location and number of housing units in the region.

Our Response: It is difficult to predict a-priori how the pattern of development will change due to the critical habitat designation. Limits on development within the critical habitat designation could conceivably induce sprawl, increase density, or a combination of both.

Comment 49: One commenter stated that the DEA states that it is not able to predict the number of reinitiated section 7 consultations that will be required once revised critical habitat for the coastal California gnatcatcher is designated. This leads to an underestimate of the costs of the critical habitat designation.

Our Response: The DEA looks at consultations that are reasonably foreseeable. The best publicly available data regarding future consultations were used. The comment does not provide any specific new information about future consultations.

Comment 50: One commenter stated that the impacts specific to Rancho Mission Viejo ranching operations include costs of new section 7 consultation, loss of income as a result of delays and restrictions to activities, and increased operating costs attributable to regulatory restrictions resulting from implementing the Act. The DEA does not consider these costs.

Our Response: Impacts to ranching activities are potential costs that are not included in the DEA. However, these costs are likely to be small in magnitude relative to the impacts calculated in the report and are unlikely to result in a change in the ranking of units by cost. Also, lands owned by Rancho Mission Viejo included in the Orange County Southern Subregion HCP have been excluded from this revised final rule. Therefore, we anticipate that costs associated with the proposed designation of critical habitat on Rancho Mission Viejo would be nonexistent.

Comment 51: One commenter stated that the Service is required to completely revise its critical habitat economic impact analysis in light of the passage in 2006 of California Propositions 1A through1E, which will fund a massive infrastructure construction program. The majority of the proposed projects to be funded by these propositions are in southern California, many within coastal California gnatcatcher habitat areas. A critical habitat designation would increase the costs of proposed infrastructure projects because of increased capital costs caused by delays, increased planning costs, and increased construction and land acquisition costs that would result when the lowest-cost alternative is made infeasible due to critical habitat impacts.

Our Response: Proposition 1A–1E, approved by California voters on November 7, 2006, provides $40.4 billion in bond revenue for transportation, education, housing, and flood control. These bonds are to be used to upgrade transportation infrastructure, modernize and build new schools facilities, expand funding for affordable and infill housing programs, and repair and secure all flood control facilities throughout the State. It is also worth noting that most of the projects to be funded by these bonds focus on expanding and repairing already existing facilities in urban areas such as the improving security at ports, procuring new buses and rail cars, funding construction on existing community college and university campuses, and providing for infill housing.

With a few exceptions, Propositions 1A–1E do not specify where or on what projects the bond revenue must be applied. The only exception is for improvements on Route 99 and flood control improvements on Folsom Dam. Both these projects are located outside of gnatcatcher critical habitat. Since Propositions 1A–1E were approved subsequent to the completion of the DEA, they are not addressed therein. In addition, the September 14, 2007, addendum to the DEA does not attempt to quantify the impact of the revised proposed critical habitat on infrastructure projects funded by these propositions. The Service regards such impacts, if any, as speculative given the lack of geographic specificity in Propositions 1A–1E.

Comment 52: Several commenters questioned the accuracy of development projections used in the DEA.

Our Response: The DEA relies on development projections generated by SCAG and SANDAG to determine the number of acres slated for real estate development. The DEA does not assume that absent designation, all of the proposed critical habitat designation will be developed. The DEA only evaluates the impact of the proposed designation on land that is within the critical habitat designation and forecasted (by SCAG or SANDAG) to be developed by the year 2025. The 23-year time frame (2003 to 2025) was chosen for the analysis because, as the time horizon for an economic analysis is expanded, the assumptions on which the projected number of projects and cost impacts associated with those projects become increasingly speculative.

Commenters have identified some growth projection inaccuracies. For example, Rancho Mission Viejo stated that it owns 12,067 ac (4,883 ha) of undeveloped land within Unit 6 of the revised proposed critical habitat designation. The DEA reports that there are 3,387 ac (1,371 ha) of projected growth acres with a Federal nexus. Rancho Mission Viejo, however, has already filed a general plan amendment/zone change (GPA/ZC) that would develop about 7,700 ac (3,116 ha), the vast majority of which would have a Federal nexus. Also, because lands owned by Rancho Mission Viejo included in the Orange County Southern Subregion HCP have been excluded from this revised final rule, we anticipate that costs associated with the proposed designation of critical habitat on Rancho Mission Viejo would be nonexistent.

Though SCAG projections do rely on general plan and zoning information, these projections do not reflect very recent amendments and changes. An evaluation of every local land use plan or proposal that could potentially affect development of coastal California gnatcatcher habitat was beyond the scope of this analysis and would not likely lead to more accurate results. SCAG and SANDAG are the best

publicly available sources of development projection data.

Comment 53: A number of commenters questioned the accuracy of the land values relied upon by the DEA. Whereas the DEA uses a residual land value of 10 percent, one commenter suggested that 30 to 40 percent would be appropriate.

Our Response: The DEA estimates the per-acre value of raw, unimproved, and residentially zoned land at ten percent of the built value. The Service recognizes that the value of raw land as a percent of home price will depend on a variety of factors and can differ significantly by region. In general, raw land values for single-family homes of equal density are higher in areas with high land supply constraints. However, raw land values as a percent of home price also declines as density and development costs increase. The 10 percent assumption represents a generalized estimate for all the critical habitat designation submarkets. It is based on a residual land value analysis that subtracts hard and soft real estate development costs from median home prices in a number of southern California Counties. Median home prices and densities are based on data from Rand and Data Quick while development cost estimates are based on data from Square Foot Costs by RSMeans, a product of the Reed Construction Data company that supplies construction cost information.

Additionally, it is important to note that the 10 percent residual land value assumptions reflect raw rather than improved land. Raw land does not include backbone infrastructure such as roads and utilities, as developers are unlikely to set aside improved land for habitat. The 30 to 40-percent residual land value sited in several comments is more consistent with improved land values. Raw land value appears more appropriate in this context since developers will not build backbone infrastructure to serve areas that they cannot develop.

Comment 54: One commenter stated that the DEA adjusted 1998 home values by 3 percent per year between 1998 and 2002, when in reality it should have used 10 percent per year during this time.

Our Response: The DEA relies on home value data from Rand. Rand reports 2002 sales prices in 1998 dollars, adjusted for inflation. Therefore, the DEA inflates the Rand data using an annual inflation rate of 3 percent in order to return 2002 home values to 2002 dollars.

Comment 55: One commenter stated that the DEA estimates costs of $30,000 per acre to restore coastal sage scrub. One comment states that this estimate should be closer to $50,000.

Our Response: To address this comment, total restoration costs are estimated using the $50,000 per acre figure. This increase in per-acre restoration cost yields a $29.6 million increase in total restoration cost.

Comment 56: One commenter asserted that the DEA understates mitigation costs. According to this comment, mitigation costs are regularly in excess of $100,000 per acre.

Our Response: The DEA relies on data from 16 active private mitigation banks to develop mitigation credit price estimates. The $100,000/acre price cited is within range of reported prices, $6,000 to $125,000 per acre. The DEA estimates costs based on an average per-acre cost of offsite mitigation.

Comment 57: San Diego Gas and Electric (SDG&E) commented that the cost of future section 7 consultations will be greater than that estimated by the DEA. The DEA estimates that the cost of habitat mitigation to offset impacts resulting from potential future SDG&E projects on up to 183 ac (74 ha) would be approximately $70,000. SDG&E stated that the basis for this is unclear as the DEA indicates a net mitigation ratio of 0.6:1 and a per-acre cost of $19,750, which would result in a total cost of $217,000.

Our Response: The $70,000 presented in the DEA reflects the present value of mitigation costs over 23 years, discounted at 7 percent (see Appendix Table G–11). Calculations presented in this comment do not take into account that 183 ac (74 ha) will be impacted over 23 years and should be discounted accordingly.

Comment 58: One commenter stated that the Service is not precluded from conducting its economic analyses consistent with the standard enunciated in *New Mexico Cattle Growers* and its progeny as long as the Service gives sufficient consideration to the recovery standard. Where, as in *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* much of the proposed critical habitat has been shown to have substantial economic impacts and a substantial portion of that is covered by an HCP, NCCP, or similar management plan, the Service must conclude that exclusion of these areas is appropriate.

Our Response: In conducting economic analyses, we are guided by the Tenth Circuit Court of Appeal's ruling in the New Mexico Cattle Growers Association case (248 F.3d at 1285), which directed us to consider all impacts, ''regardless of whether those impacts are attributable co-extensively to other causes.'' Therefore, the DEA considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. As explained in the analysis, due to possible overlapping regulatory schemes and other reasons, some elements of the analysis may also overstate some costs.

As discussed in more detail in the ''Economic Analysis'' section below, we developed an addendum of the potential economic effects of the proposed revised designation (dated September 14, 2007) that estimates the total cost attributable to the critical habitat designation. The addendum further estimates that the *Gifford Pinchot* decision could have either negligible impact or could increase the economic impacts reported in the draft analysis based on the extent that the court decision results in additional ''within critical habitat'' conservation above that required by existing HCPs that provide baseline protection. However, the final addendum states that the implications of this relatively recent court decision are difficult to quantify at this time. We have evaluated numerous management plans, HCPs, and NCCPs for exclusion from this final critical habitat. For those plans where we have determined the benefits of exclusion outweigh those of inclusion, we have excluded them from this final critical habitat designation. Therefore, since the final addendum is based on the 2003 revised proposed critical habitat boundaries, and it does not account for the removal, exclusion, and exemption of lands from this revised final designation as discussed in the ''Exclusions under Section 4(b)(2) of the Act'' section below, we anticipate the actual costs of the final designation to be somewhat less than those estimated in the 2004 DEA or the 2007 final addendum.

Issue 6: Procedural and Legal

Comment 59: Many commenters believed that the designation of critical habitat for the coastal California gnatcatcher should be postponed until the listing classification of the species is resolved.

Our Response: As discussed in the ''Previous Federal Actions'' section above, we announced and sought comment on our review of the current listing classification of the coastal California gnatcatcher as a subspecies under the Act and its potential reclassification as a distinct population segment (DPS) as part of the April 24, 2003 proposed revised designation. As also discussed above, we initiated work on both the final revised critical habitat

rule and listing classification review for the coastal California gnatcatcher following the publication of the April 24, 2003 proposed revised designation but because of other court-ordered priorities we did not complete these tasks. Then, as a result of a lawsuit in 2007 and subsequent settlement agreements, we agreed to finalize this revised designation of critical habitat for the coastal California Gnatcatcher on or before December 3, 2007. As a result of court-ordered priorities and our court-ordered deadline to complete the revised critical habitat designation, we were unable to postpone the final rule until we complete our review of the listing classification for the coastal California gnatcatcher. We announced our intent to publish a listing classification determination for the coastal California gnatcatcher at a later date, separate from the critical habitat designation, in the April 3, 2007 (72 FR 15857) **Federal Register** notice reopening the comment period on the proposed revised designation.

Comment 60: One commenter suggested that the designation of critical habitat should be combined with the preparation of the recovery plan for the coastal California gnatcatcher so that all of the information about the species could be considered simultaneously.

Our Response: Not only is the Service constrained by the court-ordered deadline to submit this revised final rule to the **Federal Register** on or before December 3, 2007 (see ''Previous Federal Actions'' section above), but as we indicated in our latest report to Congress, the coastal California gnatcatcher is ''exempt'' from the requirement to develop a recovery plan (Service 2004c, page 40). Species are ''exempt'' if we determine that developing a recovery plan will not promote the conservation of the species (Service 2004c, page 34). The State of California's Natural Community Conservation Planning Act of 1991 (NCCP), is designed specifically to address conservation of its wildlife while allowing for appropriate development and growth. The concept behind NCCP was to create a multiple species-multiple habitat reserve system to provide for the conservation of a suite of wildlife and plant species. The first focus of the NCCP program was the coastal sage scrub vegetation community, which is essential to the conservation of the coastal California gnatcatcher and numerous other species. The approval and implementation of the NCCP program and the development of regional NCCP/HCPs throughout the range of the coastal California gnatcatcher in the United States, provides for the conservation needs of the species. Regional NCCP/HCPs include funding mechanisms to provide for habitat acquisition, species monitoring, and adaptive management, and are vital to moving the coastal California gnatcatcher towards recovery. In contrast to actions outlined in recovery plans that are voluntary, NCCP/HCPs require the approval of the State and the Service, thus providing greater assurance that measures specifically benefitting recovery of the coastal California gnatcatcher will be implemented. Based on these considerations, the Service determined that a recovery plan for the coastal California gnatcatcher is not beneficial to the species, and that the NCCP program in southern California is superior to the development of a recovery plan in terms of promoting conservation actions that will further recovery of the species.

Comment 61: One commenter thought that only the minimum amount of habitat needed in the short-term to avoid a jeopardy determination was appropriate for designation as critical habitat.

Our Response: We disagree. Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical 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 geographical 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 (see ''Critical Habitat'' section below for more discussion).

Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Prior to our designation of critical habitat, Federal agencies consult with us on actions that may affect a listed species and must refrain from undertaking actions that are likely to jeopardize the continued existence of the species. Thus, the analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species and requires that we specifically take into account the potential impacts of a proposed action on the ability of designated critical habitat to continue to perform its intended species conservation function. For some species, and in some locations, the outcome of these analyses will be similar, because effects on habitat will often result in effects on the species. However, the regulatory standard is different: the jeopardy analysis looks at the action's impact on survival and recovery of the species, while the adverse modification analysis looks at the action's effects on the designated habitat's contribution to the species' conservation. This will, in many instances, lead to different results and different regulatory requirements.

Comment 62: Some commenters stated that, according to the Tenth Circuit Court of Appeals finding in *Catron County Board of Commerce, New Mexico* v. *United States Fish and Wildlife Service,* 75F.3d 1429 (10th Cir 1996) (*Catron* v. *FWS*), we are required to prepare an environmental assessment or environmental impact statement before designating critical habitat.

Our Response: It is our position that, outside the jurisdiction of the Circuit Court of the United States for the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA (42 U.S.C. 4321 et seq.) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld by the Circuit Court of the United States for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). In that case the Court held that NEPA does not apply to the Secretary's decision to designate critical habitat for an endangered or threatened species under the Act because (1) Congress intended that the Act's critical habitat procedures displace the NEPA requirements; (2) NEPA does not apply to actions that do not change the physical environment; and (3) to apply NEPA to the Act would further the purposes of neither statute. Please refer to our discussion of NEPA in the Required Determinations section of this final rule.

Comment 63: One commenter stated that critical habitat should not have been proposed before an economic analysis was completed and that the opportunity to comment on the DEA and the revised proposed rule was limited.

Our Response: We were unable to complete a DEA prior to publication of the revised proposed critical habitat rule in compliance with the court-ordered deadline. Pursuant to 50 CFR 424.19, we are not required to consider the probable economic impacts of designating a particular area as critical habitat until after critical habitat is proposed. Upon publication of the

proposed rule to revise the designation of critical habitat for the coastal California gnatcatcher in the **Federal Register** (68 FR 18516; April 24, 2003), we invited public comment and held two public hearings. We used comments received on the proposed critical habitat to develop the DEA. We invited public comments for 30 days on the DEA and additionally on the revised proposed designation. Also, on April 3, 2007, we published a notice in the **Federal Register** announcing the reopening of the public comment period for the 2003 proposed rule to revise critical habitat (68 FR 20228; April 24, 2003) for the coastal California gnatcatcher and accepted comments and information until May 3, 2007 (72 FR 15857). We were unable to provide a longer comment period given the statutory deadline for publication of this final rule.

Comment 64: One commenter cited the court case *Sierra Club* v. *U.S. Fish and Wildlife Service,* 245 F.3d 434 (5th Cir. La. 2001), and stated that the proposed rule should explicitly address the issues raised in this case.

Our Response: Due to decisions by the 5th and 9th Circuit Court of Appeals that have invalidated our definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)), we no longer rely on the regulatory definition of adverse modification of critical habitat. Instead we rely on the statutory provision of the Act to complete the analysis on critical habitat. Please see ''Effects of Critical Habitat Designation, Section 7 Consultation'' section below for additional information.

Comment 65: Several commenters stated that the proposed critical habitat for the coastal California gnatcatcher failed to make findings that individual properties require special management or protection, and thus, did not comply with the statutory definition of critical habitat as defined in section 3(5)(A) of the Act.

Our Response: The first prong of the statutory definition of critical habitat under Section 3(5)(A) of the Act requires us to identify specific areas within the geographical area occupied by the species at the time it is listed that contain physical and biological features essential to the conservation of the gnatcatcher and that may require special management considerations or protection. While we have identified the specific areas containing features essential to the conservation of the species that meet this definition through the designation of individual critical habitat units and have summarized the special management considerations or protection that apply to the PCEs within the units, we are not required to provide parcel-by-parcel findings of special management considerations or protections that may be needed. Moreover, such an effort would be impracticable. In this revised final rule, we have provided a discussion of the general special management considerations and protections that may be required throughout designated critical habitat (See ''Special Management Considerations and Protections'' section below). These management considerations and protections apply to PCEs within each unit of critical habitat designated.

Summary of Changes From the 2000 Final Rule To Designate Critical Habitat

The areas identified in this final rule constitute a revision of the areas we designated as critical habitat for coastal California gnatcatcher on October 24, 2000 (65 FR 63680). This final revision includes 197,303 ac (79,846 ha) of land in San Diego, Orange, Riverside, San Bernardino, Los Angeles, and Ventura Counties, California. Table 2 below outlines the changes in area in each Unit between the 2000 final critical habitat rule, the 2003 revised proposed critical habitat rule, and this 2007 revised final critical habitat rule for coastal California gnatcatcher. Of the area included in the 2000 final critical habitat rule, 123,891 ac (50,137 ha) overlap with areas included in this revised final critical habitat rule.

TABLE 2.—CHANGES IN AREA (ACRES (AC) AND HECTARES (HA)) BETWEEN THE 2000 FINAL CRITICAL HABITAT RULE, THE 2003 REVISED PROPOSED CRITICAL HABITAT RULE, AND THE 2007 REVISED FINAL CRITICAL HABITAT RULE FOR COASTAL CALIFORNIA GNATCATCHER

Unit	County	2000 Final rule (65 FR 63680) (ac (ha))	2003 Revised proposed rule (68 FR 20228) (ac (ha))	2007 Revised final rule (ac (ha))
1	San Diego	25,000 ac (10,120 ha)	25,100 ac (10,155 ha)	14,898 ac (6,029 ha).
2	San Diego	12,780 ac (5,170 ha)	16,075 ac (6,490 ha)	14,508 ac (5,871 ha).
3	San Diego	29,320 ac (11,865 ha)	32,465 ac (13,140 ha)	17,325 ac (7,011 ha).
4	San Diego	8,690 ac (3,515 ha)	8,690 ac (3,515 ha)	0 ac (0 ha).
5	San Diego	40,640 ac (16,450 ha)	34,705 ac (14,045 ha)	29,639 ac (11,995 ha).
6	Orange	55,880 ac (22,615 ha)	44,340 ac (17,940 ha)	6,515 ac (2,637 ha).
7	Orange	5,780 ac (2,340 ha)	5,775 ac (2,340 ha)	4,309 ac (1,744 ha).
8	Los Angeles	8,220 ac (3,225 ha)	7,160 ac (2,895 ha)	4,462 ac (1,806 ha).
9	Orange, Los Angeles, San Bernardino.	33,540 ac (13,575 ha)	22,595 ac (9,140 ha)	17,552 ac (7,103 ha).
10	San Bernardino, Riverside	199,940 ac (80,915 ha)	176,720 ac (71,505 ha)	27,529 ac (11,140 ha).
11	San Bernardino	58,800 ac (23,795 ha)	14,990 ac (6,065 ha)	0 ac (0 ha).
12	Los Angeles	10,080 ac (4,080 ha)	3,890 ac (1,570 ha)	2,829 ac (1,145 ha).
13	Ventura, Los Angeles	24,980 ac (10,110 ha)	103,290 ac (41,795 ha)	57,737 ac (23,365 ha).
Totals		513,650 ac (207,890 ha)	495,795 ac (200,595 ha)	197,303 ac (79,846 ha).

Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat

The areas identified in this revised final rule also constitute a revision of the areas we proposed to designate as critical habitat for coastal California gnatcatcher on April 24, 2003 (68 FR 20228). Of the area included in the 2003 revised proposed critical habitat rule, 298,444 ac (120,776 ha) were not included in this revised final critical habitat rule.

The reduction in total area from the 2003 proposed critical habitat designation is primarily the result of (1) additional exemptions under section 4(a)(3) of the Act or exclusions of habitat under section 4(b)(2) of the Act (described below); (2) the re-evaluation and subsequent removal of areas that either do not contain the physical and biological features essential to the conservation of the species, or specific areas that are not considered essential to the conservation of the species; and (3) the revision of the methodology used to delineate the boundaries of critical habitat. The main differences between the 2003 proposed rule and this final rule include the following:

1. In the 2003 revised proposed critical habitat rule (68 FR 20228), we considered but did not propose as critical habitat lands on MCAS Miramar pursuant to sections 3(5)(A) and 4(b)(2) of the Act based on the benefits provided by their completed INRMP. We also considered but did not propose, mission-essential training areas on MCB Camp Pendleton pursuant to section 4(b)(2) of the Act for national security reasons. Although these areas were not included in the revised proposed critical habitat, we sought public review and comment on these lands and provided maps on the Carlsbad Fish and Wildlife Office's public Web site to facilitate the public's ability to comment substantively on these lands. Through such notice and request for public comment, we alerted the public that the lands could potentially be included in the final designation. Lands considered but not proposed for designation were also analyzed for potential economic impacts in the DEA made available for public review on April 8, 2004 (69 FR 18516). In this final rule, we reaffirm our non-inclusion or exclusion of these lands on MCAS Miramar and MCB Camp Pendleton from critical habitat. However, we have revised the rationale for the exclusion of these lands from final critical habitat and are now exempting these lands under section 4(a)(3)(B) of the Act based on approved INRMPs (see ''Application of Section 4(a)(3) of the Act'' section below for a detailed discussion of these exemptions).

2. We exempted from final critical habitat all lands owned or managed by MCB Camp Pendleton (including San Onofre State Beach; a portion of Unit 6) and Naval Weapons Station Seal Beach, Detachment Fallbrook (all of Unit 4) under section 4(a)(3)(B) of the Act based on approved INRMPs (see ''Application of Section 4(a)(3)(B) of the Act'' section below for a detailed discussion of these exemptions).

3. In the 2003 proposed rule, we considered but did not propose as critical habitat, pursuant to sections 3(5)(A) and 4(b)(2) of the Act, reserve lands covered by three completed and approved regional/subregional HCPs (San Diego Multiple Species Conservation Program (MSCP), Orange County Central-Coastal NCCP/HCP, and San Diego Gas & Electric), Tribal lands of the Pala Band of Mission Indians, and lands covered by completed and approved individual HCPs: (1) Meadowlark Estates, (2) City of Carlsbad/Fieldstone/La Costa, (3) Coyote Hills East, (4) Shell Oil, (5) Ocean Trails, (6) Lake Mathews, (7) North Peak, (8) Rancho Bella Vista. Although these areas were not included in the proposed critical habitat, we sought public review and comment on these lands and provided maps on the Carlsbad Fish and Wildlife Office's public Web site to facilitate the public's ability to comment substantively on these lands. Through such notice and request for public comment, we alerted the public that the lands could potentially be included in the final designation. Lands considered but not proposed for designation were also analyzed for potential economic impacts in the DEA made available for public comment on April 8, 2004 (69 FR 18516). In this revised final rule, we reaffirm our exclusion of these lands under section 4(b)(2) of the Act (see ''Exclusions under Section 4(b)(2) of the Act'' section below for a detailed discussion of these exclusions). We are no longer relying on section 3(5)(A) as a basis to exclude these lands from the designation.

4. In the 2003 proposed rule, we also considered but did not propose as critical habitat, pursuant to sections 3(5)(A) and 4(b)(2) of the Act, lands covered by the completed and approved Bennett Property and Railroad Canyon HCPs (individual HCPs). We also excluded lands covered by these HCPs from the 2000 final critical habitat designation (65 FR 63680; October 24, 2000). However, after a re-evaluation of these lands, we have determined that these areas were not mapped as essential habitat for the coastal California gnatcatcher for the 2003 revised proposed critical habitat designation. We described the onsite lands covered by both HCPs as being of low or limited long-term conservation value for the coastal California gnatcatcher (Service 1998c, p. 5; Service 2000a, p. 11). Therefore, we have revised the rationale for non-inclusion of these lands and are now removing these lands from revised final critical habitat because they are not essential to the conservation of the species.

5. We excluded from this final designation under section 4(b)(2) of the Act non-Federal lands in San Diego, Riverside, and Orange Counties covered by the following four regional HCPs: (1) 13,313 ac (5,387 ha) within the San Diego MSCP plan area (Unit 1); (2) 5,600 ac (2,266 ha) within the San Diego MHCP plan area (Unit 3); (3), 17,022 ac (6,888 ha) within the Orange County Southern Subregion HCP plan area (Unit 6) and (4) 129,686 ac (52,478 ha) within the Western Riverside MSHCP plan area (Unit 10) and one individual HCP (O'Hill HCP) (Unit 7) (see ''Exclusions under Section 4(b)(2) of the Act'' section below for a detailed discussion of these exclusions).

6. We excluded from this final designation under section 4(b)(2) of the Act a total of 2,146 ac (868 ha) within eight CDFG-owned ecological reserves (McGinty Mountain, Otay Mountain, Rancho Jamul, Pilgrim Creek, Carlsbad Highland, Agua Hedionda Lagoon, Batiquitos Lagoon, and San Elijo Lagoon) in Unit 1 and Unit 3 based on management actions that are or will be conducted consistent with the San Diego MSCP (Unit 1) and the San Diego MHCP (Unit 3), respectively, and lands on the Irvine Ranch being conserved by the Irvine Ranch Conservancy (Unit 7) (see ''*Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act*'' section below for a detailed discussion).

7. We removed 342 ac (138 ha) on and around Defense Fuel Support Point (DFSP) San Pedro in Los Angeles County (Unit 8) from the revised final designation. Upon a re-evaluation of the information contained in the INRMP for DFSP, it appears that about 26 ac (11 ha) of habitat occurs on the installation and that few individual or breeding pairs of coastal California gnatcatchers have been observed on this installation since the 1980's. However, based on aerial imagery, it appears that habitat on DFSP is isolated from the closest patches of habitat in the Rancho Palos Verdes area. Based on these factors (not a core population or an important linkage

area), we have determined that the habitat on and around DFSP does not currently have the spatial configuration and quantity of the PCEs essential to the conservation of the species, and therefore is not included in this final designation of critical habitat for the coastal California gnatcatcher.

8. We removed all lands (14,990 ac (6,065 ha)) included in Unit 11 from this revised final designation. We stated in the proposed rule that lands in this unit contained the features essential to the conservation of the species because the vegetation mosaic of the Etiwanda fan represents a unique habitat type that may be important to the species as environmental conditions change through time. However, documented use of these areas by the coastal California gnatcatcher is sparse. We also acknowledged in the revised proposed rule that linkages between populations in Unit 11 and populations in more southerly portions of the range are unconfirmed. We have not received any additional occurrence information in this area and have, upon reevaluation of the limited occurrence data in our files, determined that since this area does not support a core population or provide an important linkage area. Further, the features in this area are not of sufficient quantity and spatial configuration to be considered essential to the conservation of the species. Therefore, it is not included in this final designation of critical habitat for the coastal California gnatcatcher.

9. We removed 45,553 ac (18,435 ha) from the eastern portion of Unit 13, in the vicinity of Santa Clarita Valley. After re-evaluating all available scientific information for this area including information from comments we received during the public comment periods (see Comment 8 in the ''Public Comments'' section above), we have determined that there is no documentation that this area has ever been occupied by nesting pairs of coastal California gnatcatchers either historically or currently. Therefore, we have determined that this area is not essential to the conservation of the species (does not support a core population) nor does it currently have the spatial configuration and quantity of the PCEs essential to the conservation of the species. Therefore, it is not included in this final designation of critical habitat for the coastal California gnatcatcher.

10. We revised our methodology to delineate critical habitat boundaries. In the 2003 proposed designation, we based the critical habitat legal descriptions on Universal Transverse Mercator (UTM) gridlines set every 328 feet (ft) (100 meters (m)). We overlaid these 100-meter-square grids on areas determined to contain the PCEs required by the species. While we removed entire grid squares that did not contain the PCEs for the coastal California gnatcatcher, portions of grid squares that did not contain PCEs were inadvertently included within the boundaries of our proposed revision of critical habitat due to mapping limitations. The use of this gridding methodology was considered the best available at the time of the 2003 proposed designation. However, we are now able to delineate critical habitat unit boundaries by screen digitizing habitat polygons using ArcMap, a computer GIS program. Using this methodology allows us to produce boundaries associated more precisely with areas that we determine contain the PCEs for the species (see ''Criteria Used To Identify Critical Habitat'' section below for a detailed discussion).

11. In the April 3, 2007, **Federal Register** notice (72 FR 15857) announcing the reopening of the public comment period for the 2003 proposed rule to revise critical habitat, we specifically requested comments on the effects of the large wildfires that occurred in October 2003, and more recently in the coastal sage scrub habitat in Ventura, Los Angeles, Riverside, San Bernardino, and San Diego Counties. We also sought information on the publication of any new biological information regarding the effects of wildfires from 2003 to the present or other relevant biological publications addressing the status and recovery of sage scrub habitat and conservation of the coastal California gnatcatcher. While we did not receive information on the publication of new biological information associated with the effects of the wildfires in 2003 or more recently on this species or its habitat during this recent comment period, we did respond to two comment letters directly related to this issue (see Comments 7 and 8 above). We also added a discussion of the potential effects of wildfires as they relate to the recovery of sage scrub and conservation of the coastal California gnatcatcher in this revised final designation (see ''Primary Constituent Elements'' section below).

12. Further, as a result of comments received, we made editorial changes to the ''Criteria Used To Identify Critical Habitat'' and ''Primary Constituent Elements'' sections of this revised final rule in order to eliminate redundancy, improve clarity, and provide a more in-depth explanation of the biological necessity of the designation for the coastal California gnatcatcher.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(i) The specific areas within the geographical 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 geographical 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, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point at which the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping and transplantation, and in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by the landowner. Where the landowner seeks or requests federal agency funding or authorization that may affect a listed species or critical habitat, the consultation requirements of Section 7 would apply, but even in the event of a destruction or adverse modification finding, the landowner's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

For inclusion in a critical habitat designation, habitat within the

geographical area occupied by the species at the time it was listed must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Areas within the geographical area occupied by the species at the time of listing that contain the features essential to the conservation of the species meet the definition of critical habitat only if those features may require special management considerations or protection.

Under the Act, we can designate as critical habitat areas outside of the geographical area occupied at the time of listing only when we determine that the best available scientific data demonstrate that the designation of the areas is essential to the conservation needs of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be proposed as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that we may eventually determine, based on scientific data not now available to the Service, are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions we implement under section 7(a)(1) of the Act. They are also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat within the geographical areas occupied by the species at the time of listing, we consider the physical and biological features (primary constituent elements (PCEs)) that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historic, geographical, and ecological distributions of a species.

We derive the specific PCEs required for the coastal California gnatcatcher from its biological needs as described below.

Space for Individual and Population Growth and Normal Behavior

Coastal California gnatcatchers typically occur in or near sage scrub habitat. Sage scrub is patchily distributed throughout the range of the species, and coastal California gnatcatchers are not uniformly distributed within the structurally and floristically variable coastal sage scrub vegetation community. Sage scrub is a broad category of vegetation that includes the following plant communities: Venturan coastal sage scrub, Diegan coastal sage scrub, Riversidean sage scrub, maritime succulent scrub, Riversidean alluvial fan (areas created when sediments from the stream are deposited) scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Kirkpatrick and Hutchinson 1977, p. 33; Westman 1983, pp. 84–86; Holland 1986, pp. 9–11). Based on dominant species, these communities have been further divided into series such as black sage, brittlebush, California buckwheat, California buckwheat-white sage, California encelia, California sagebrush, California sagebrush-black sage, California sagebrush-California buckwheat, Chamise-black sage, Chamise-white sage, and coast prickly-pear (Sawyer and Keeler-Wolf 1995, pp. 109, 114, 120–127, 133, 139, 141).

Dominant species within these plant communities include *Artemisia californica* (California sagebrush), *Eriogonum fasciculatum* (California buckwheat), *Encelia californica* (California encelia), *E. farinosa* (brittlebush), *Salvia mellifera* (black sage), *S. apiana* (white sage), and *S. leucophylla* (purple sage). Other commonly occurring plants include *Isocoma menziesii* (coast goldenbush), *Viguiera laciniata* (San Diego sunflower), *Baccharis pilularis* (coyote brush), *Baccharis sarothroides* (broom baccharis), *Mimulus aurantiacus* (bush monkeyflower), *Lotus scoparius*, *Malosma laurina* (laurel sumac), *Rhus integrifolia* (lemonadeberry), and *Rhus ovata* (sugarbush), *Lycium* spp. (box-thorn), *Euphorbia misera* (cliff spurge), *Simmondsia chinensis* (jojoba), and *Opuntia littoralis* (prickly pear), *O. prolifera* (cholla), and *Ferocactus viridescens* (coast barrel cactus), and Dudleya spp. (live-forever) (Sawyer and Keeler-Wolf 1995, pp. 109, 114, 120–127, 133, 139, 141).

While several studies have reported that coastal California gnatcatcher densities are highest in areas where *Eriogonum fasciculatum* or *Encelia californica* are co-dominant with *Artemisia californica* (e.g., Roach 1989,

p. 40; Weaver 1998, pp. 398, 401, 403; ERCE 1990, p. 24; Bontrager 1991, p. 4), others have reported occupancy at sites where the composition of shrub species varied considerably (Beyers and Wirtz 1997, p. 84) or where these shrub species were lacking (Atwood 1990, pp. 11–12). Therefore, it appears that all shrub species within coastal sage scrub are used by gnatcatchers.

Coastal California gnatcatchers are typically found in stands of coastal sage scrub that have moderate shrub canopy cover, generally greater than 50 percent (Beyers and Wirtz 1997, p. 86). Coastal California gnatcatchers will use sparsely vegetated coastal sage scrub as long as perennial shrubs are available, although there appears to be a minimum cover threshold below which the habitat becomes unsuitable (Beyers and Wirtz 1997, p. 86). The relative density of shrub cover influences gnatcatcher territory sizes, with territory sizes increasing as shrub cover decreases, probably due to limited resource availability. Beyers and Wirtz (1997, p. 86) speculate that the non-native grasses and forbs that typically occupy the gaps between shrub species do not support a sufficient insect fauna and that there are probably differences in insect availability among shrub species as well, which may explain shrub species preferences by gnatcatchers. The coastal California gnatcatcher preys upon arthropods, including insects such as leafhoppers and planthoppers (Homoptera) and spiders commonly found in sage scrub plant communities (Burger *et al.* 1999, p. 304).

The coastal California gnatcatcher tends to occur most frequently within California sagebrush-dominated stands on mesas, gently sloping areas, and along the lower slopes of the coast ranges. Atwood and Bolsinger (1992, p. 161) reported that 84 percent of all recent coastal California gnatcatcher locality records in the U.S. (324) occurred below an elevation of 820 ft (250 m) and 97 percent occurred below 1,640 ft (500 m). They further found that in locality records in areas of Los Angeles, Orange, and San Diego Counties located less than 22 miles (mi) (35 kilometers (km)) from the coast (289), 93 percent occurred at elevations below 820 ft (250 m); however, of locality records in Riverside County more than 22 mi (35 km) inland (32), 3 percent occurred below 820 ft (250 m) and 75 percent occurred below 1,640 ft (500 m). Based on a much larger sample size (781) for the same geographic area (Los Angeles, Orange, Riverside, and San Diego Counties), MBA (1991) reported that 91 percent of all coastal California gnatcatcher records occur at or below 820 ft (250 m) and that 99 percent occur at or below 984 ft (300 m) in elevation. Based on the findings in the Atwood and Bolsinger (1992) study, it is reasonable to assume that the majority of the locality records from coastal areas of Ventura County would be found at elevations similar to coastal areas in Los Angeles, Orange, and San Diego Counties (below 820 ft (250 m)) and that the majority of the locality records from San Bernardino County would be found at elevations similar to those in Riverside County (below 1,640 ft (500 m)). While Atwood and Bolsinger (1992, p. 163) speculate that coastal sage scrub above 820 ft (250 m) in Orange County and coastal areas of Los Angeles and San Diego Counties and above 1,640 ft (500 m) in Riverside County and inland portions of Los Angeles and San Diego Counties may contribute little to the long-term maintenance of viable coastal California gnatcatcher population, they also state that protection of these areas is important for other biological reasons. We believe that these areas are essential to the conservation of the species as they provide space for species dispersal (see ''Space for Dispersal'' section below).

Fire is important to southern coastal scrub communities and often sweeps through these communities during summer and fall (Holland and Keil 1995, p. 166). Therefore, fire plays an important role in regulating sage scrub distribution, density, and species composition, and consequently the extent of habitat available to coastal California gnatcatchers. While in some cases coastal California gnatcatchers have quickly repopulated burned areas, it may take several years for the vegetation to recover to a point where it again supports nesting pairs (Atwood *et al.* 1998, p. 14; Wirtz *et al.* 1997, p. 95; Beyers and Pena 1995, p. 153). Studies conducted after fires in San Diego, Riverside, and Orange Counties suggest that post-fire coastal California gnatcatcher population recovery is likely dependent on the amount of suitable vegetation remaining within the burned area and the presence of gnatcatcher source populations in close proximity to areas affected by the fire (Beyers and Pena 1995, p. 153; Wirtz *et al.* 1997, pp. 95–96; Atwood *et al.* 1998, p. 14). Furthermore, Wirtz *et al.* (1997, p. 92) found that following a fire, regrowing coastal sage scrub will not be recolonized by coastal California gnatcatchers until total shrub cover approaches 50 percent, which is expected to take a minimum of four to five years. In a post-fire recovery and succession study of chaparral and sage scrub in southern California, Keeley *et al.* (2005, p. 1518) stated that all vegetation types exhibited a high proportion of structural similarity between pre- and post-fire communities after five years. According to Atwood *et al.* (2000, p. 5), the period of habitat recovery necessary before coastal California gnatcatchers reoccupy burned areas depends on fire intensity, existence of unburned refugia within or adjacent to the burn perimeter, seasonal timing of the burn, soil type, post-fire rainfall patterns, topography, and pre-fire habitat conditions.

Depending on the scope and intensity of a fire, the areas affected are likely to take several years to fully recover to the point where they will provide suitable coastal California gnatcatcher habitat. However, fire and vegetation recovery cycles are a natural component of southern California coastal sage scrub and chaparral ecosystems. Therefore, while periodic fire eliminates sage scrub and chaparral habitat, it is a temporary disruption from which the ecosystem, under the appropriate conditions, has the ability to recover. And as burned areas proximal to source populations recover to their pre-fire structure, they are likely to be recolonized by coastal California gnatcatcher. Therefore, habitat proximal to source populations temporarily disrupted due to period fire is still essential to the conservation of the species. Also, while burned areas are recovering to their pre-fire structure, they may still provide important dispersal and foraging habitat.

In October 2003, wildfires burned approximately 64,235 ac (25,995 ha) of designated coastal California gnatcatcher critical habitat throughout southern California (Service 2004b). These fires burned coastal sage scrub habitat in three major geographical areas occupied by gnatcatcher: (1) The Moorpark area of Ventura County; (2) the northern portion of the San Bernardino Valley, including portions of the Etiwanda Fan and Lytle and Cajon Washes; and (3) eastern San Diego County, including Otay, Lake Jennings, Miramar, Ramona, and Escondido (Service 2004b). Due to the scope and intensity of the October 2003 southern California fires, the areas affected are expected to take a decade or longer to fully recover. However, as explained above, fire and vegetation recovery cycles are a natural component of southern California terrestrial ecosystems and we believe the coastal California gnatcatcher will likely re-colonize these burned areas over time. The Service and U.S. Geological Survey are currently researching the impact of

the October 2003 wildfires specifically on the coastal California gnatcatcher.

In October of this year, a series of wildfires burned as much as 500,000 ac (200,000 ha) of land across southern California, burning portions of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Santa Barbara counties. This gross acreage figure is based on the cumulative total of acreage measured within the approximate outer perimeter of each individual fire. However, because the fires were often patchy, this acreage total likely is an overestimate. Because the extent of the actual burn footprint for the 2007 fires has not yet been determined, we are unable at this time to determine the amount of coastal California gnatcatcher critical habitat impacted by the 2007 fires. Based on maps of the perimeter of the 2007 fires, it appears that some designated critical habitat in the southern and eastern parts of San Diego County burned in both the 2003 and 2007 fires. However, as stated above, we do not know the extent of the actual 2007 fire footprint at this time. In sum, the cumulative effect of the 2003 and 2007 fires on the species will not be known for several years when the vegetation recovers and affected areas are assessed as to their habitat quality and extent of coastal California gnatcatcher occupation. However, as explained above, fire is a natural part of the dynamic coastal sage scrub ecosystem and we assume that the burned areas will eventually return to their pre-fire structure.

Space for Dispersal

Juvenile coastal California gnatcatchers stay within their natal territories up to five weeks after fledging from the nest (Grishaver *et al.* 1998), then subsequently disperse to find their own foraging and nesting territories (process referred to as natal dispersal). While juvenile coastal California gnatcatchers appear to be capable of dispersing long distances (possibly up to 14 mi (22 km)) as modeled by Bailey and Mock (1998, p. 358), they generally disperse short distances, less than an average of 1.9 mi (3.0 km), from their natal site (Atwood *et al.* 1998, p. 27; Bailey and Mock 1998; Galvin 1998, p. 327; Atwood and Bontrager 2001, p. 20).

An essential feature for the dispersal of juveniles is a corridor or linkage of native vegetation providing certain foraging and shelter requisites to link larger patches of appropriate sage scrub vegetation (Soulé 1991, p. 92). These dispersal corridors facilitate the exchange of genetic material and provide a path for recolonization of areas from which the species has been extirpated (Soulé 1991, pp. 92–93; Galvin 1998, p. 323). Galvin (1998, p. 323) concluded that, ''natal dispersal [through corridors] is therefore an important aspect of the biology of [a] * * * nonmigratory, territorial bird * * * [such as] the California gnatcatcher * * *.'' While juvenile coastal California gnatcatchers appear to be capable of dispersing long distances across fragmented and highly disturbed sage scrub habitat, such as found along highway and utility corridors or remnant mosaics of habitat adjacent to developed lands, generally the species disperses short distances through contiguous undisturbed habitat (Bailey and Mock 1998, pp. 352–353; Famolaro and Newman 1998, p. 451; Galvin 1998, p. 330). However, the quality of the natal habitat may also influence dispersal distances as juveniles in more urbanized and fragmented landscapes may be forced to move greater distances, on average, to reach suitable habitat than birds fledged on territories located in a more natural vegetation matrix (Atwood *et al.* 1998, p. 34).

While the coastal California gnatcatcher is largely restricted to sage scrub, they also use non-sage scrub habitat such as chaparral (shrubby plants adapted to dry summers and moist winters), grassland, and riparian (areas near a source of water) habitats where they occur in proximity to sage scrub (Atwood *et al.* 1998, p. 34; Campbell *et al.* 1998, pp. 421–426). The use of these atypical habitats appears to be most frequent during late summer, fall, and winter, with smaller numbers of birds using non-sage scrub areas during the breeding season. However, a few breeding territories have been documented in non-coastal sage scrub habitat (Campbell *et al.* 1998, p. 422). The availability of these non-sage scrub areas may be important during certain times of the year, particularly during drought conditions, for dispersal, foraging, or nesting (Campbell *et al.* 1998, p. 432). As stated above, while studies suggest that coastal California gnatcatchers avoid nesting on very steep slopes (greater than 40 percent) (e.g., Bontrager 1991), steep slopes may still be suitable for dispersal and foraging. Based on currently available information, we believe that these non-sage scrub areas are essential to the conservation of the species to provide space for dispersal, foraging, or nesting.

Dispersal of coastal California gnatcatchers is critical to demographic and genetic soundness of the population, and to population persistence and recovery of the species in the fragmented habitat characteristic of coastal southern California. In general, corridors provide sufficient connectivity to improve the viability of populations in habitat connected by corridors (Beier and Noss 1998, p. 1249). For relatively sedentary bird species such as the coastal California gnatcatcher, connectivity of habitat patches is probably the most important landscape feature for maintaining species diversity of native biota. Corridors counteract the effects of fragmentation, and should eliminate or minimize the attrition of species over time by facilitating dispersal and recolonization (Brown and Kodric-Brown 1977, p. 445; Noss and Harris 1986, p. 304; Soule and Simberloff 1986; Diamond *et al.* 1987; Noss 1987). Corridors that support resident populations of animals are more likely to function effectively as long-distance dispersal conduits for those species (Bennett 1990, p. 119).

Sites for Breeding and Reproduction

The coastal California gnatcatcher is a nonmigratory bird that defends home ranges (total area in which a pair of gnatcatchers live including undefended area) or territories (area defended by a pair of gnatcatchers). Atwood (1990, pp. 14–15) summarized information from nine different studies on territory size of the coastal California gnatcatcher and reported that territories range from 2 to 14 ac (1 to 6 ha). However, reported home ranges for seven banded pairs studied on a site in San Diego County southeast of the City of El Cajon varied in size from 13 to 39 ac (5 to 15 ha), with an average of approximately 24 ac (8 ha) (ERCE 1990, pp. 13–14). Bontrager (1991, p. 12) reported that breeding season home ranges for 12 pairs of coastal California gnatcatchers in Orange County ranged from approximately 4 ac to 12 ac (2 ha to 5 ha) and that non-breeding season home ranges for 11 pairs ranged from approximately 5 ac to 20 ac (2 ha to 8 ha). Mock *et al.* (cited in Bontrager (1991, p. 12)) reported mean breeding season home range for 25 pairs in inland San Diego County was approximately 20 ac (8 ha) while mean non-breeding season home range for 41 pairs was approximately 35 ac (14 ha). Atwood *et al.* (1998) and Preston *et al.* (1998) report that breeding season territories range in size from less than 2.5 ac to 25 ac (1 ha to greater than 10 ha), with mean territory size generally being greater for inland populations than coastal populations, while during the non-breeding season, the area used by individual gnatcatchers may be almost twice as large as that used during the breeding season. Atwood (1990, p. 16) also speculates that breeding birds may

expand their territories during the non-breeding season to encompass areas and vegetation types not used during nesting. The size of coastal California gnatcatcher home ranges is probably determined by a combination of factors including plant species composition, shrub density, overall habitat quality and level of disturbance, and presence or absence of neighboring gnatcatchers or inappropriate adjacent habitat (Bontrager 1991, p. 12; ERCE 1990, p. 24).

Nests are generally small, open, and located near the top (about 3 ft (1 m) above the ground) of a variety of California sage scrub plants, most likely the plant species dominant at a particular site (Roach 1989, pp. 16, 35). Studies suggest that coastal California gnatcatchers avoid nesting on very steep slopes (greater than 40 percent) (e.g., Bontrager 1991). AMEC (2001) found that approximately 93 percent of the documented coastal California gnatcatcher sightings in the MSCP/MHCP study areas occur on slopes less than 40 percent. However, Grishaver *et al.* (1998, p. 314) found that coastal California gnatcatchers showed no significant preference for nesting on steeper or shallower slopes but that slope had a significant influence on nesting success. They report that nests on shallow slopes (less than about 20 percent) were more likely to be successful than those on steeper slopes. Potential nest predators are numerous, and include snakes, various small mammals, and several bird species (Braden *et al.* (1997, p. 864); Grishaver *et al.* 1998, p. 310). The coastal California gnatcatcher also is known to be affected by nest parasitism of the brown-headed cowbird (Braden *et al.* 1997, p. 861).

In summary, patches of sage scrub and chaparral habitats are essential to the conservation of the species because these areas maintain core populations of coastal California gnatcatcher by providing essential foraging habitat supporting insects for nestlings and adults; cover to escape predation during foraging and nesting; shelter from adverse environmental conditions; and space for population growth, including natural population cycling. Non-sage scrub areas adjacent to sage scrub habitat are also essential to the conservation of the species as these areas provide space for foraging or nesting, and space for dispersal. Also, sage scrub and non-sage scrub habitat proximal to source populations of coastal California gnatcatcher disrupted by period fire is considered essential to the conservation of the species because once the area returns to its pre-fire structure, these areas will again provide space for individual and population growth, normal behavior, breeding, reproduction, nesting, foraging, and/or dispersing. The presence of dispersal habitat facilitates the exchange of genetic material and provides a path for recolonization of areas from which the species has been extirpated, for example, as a result of periodic wildfire. Sage scrub and non-sage scrub plant communities are also representative of the historic geographical and ecological distribution of this species.

Primary Constituent Elements for the Coastal California Gnatcatcher

Pursuant to the Act and its implementing regulations, we are required to identify the known physical or biological features (PCEs) within the geographical area occupied at the time of listing that are essential to the conservation of the coastal California gnatcatcher, which may require special management considerations or protection.

Based on the above needs and our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined the PCEs for the coastal California gnatcatcher are:

(1) Dynamic and successional sage scrub habitats: Venturan coastal sage scrub, Diegan coastal sage scrub, Riversidean sage scrub, maritime succulent scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub in Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties that provide space for individual and population growth, normal behavior, breeding, reproduction, nesting, dispersal and foraging; and

(2) Non-sage scrub habitats such as chaparral, grassland, riparian areas, in proximity to sage scrub habitats as described for PCE 1 above that provide space for dispersal, foraging, and nesting.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas within the geographical area occupied at the time of listing contain the primary constituent elements that may require special management considerations or protection. For example, we have several regional HCPs under development, and this designation will be useful in helping applicants determine what coastal California gnatcatcher habitat areas should be accorded the highest priority for special management considerations or protection. This designation will guide them and us in ensuring that all HCP development efforts are consistent with conservation objectives for the coastal California gnatcatcher.

Once coastal California gnatcatcher habitat has been protected from direct loss, such habitat may still be rendered unsuitable for the species because of type conversion (conversion of one habitat type to another), habitat degradation, altered fire regime, or other factors. Many of the factors that limit the population size and growth rate of coastal California gnatcatcher populations can be controlled through special management actions. Examples of special management actions that may be necessary to protect essential habitat features and thus prevent further declines and loss of populations of coastal California gnatcatchers are the following:

(1) Actions to prevent the type conversion of sage scrub (PCE 1) into other unsuitable habitats. Many factors either individually or in tandem appear to result in the type-conversion of sage scrub into other vegetation types, especially nonnative grasslands. Factors such as exotic weed invasion, increased fire frequency, human disturbance, and possibly air pollution have combined to reduce sage scrub cover in southern California (Minnich and Dezzani 1998). Special management actions, such as exotic weed control and fire management and prescription, can help to retard the conversion of shrublands to grasslands.

(2) Actions to reduce human degradation of sage scrub (PCE 1). Many otherwise productive coastal California gnatcatcher habitats have been compromised by human actions including unauthorized trail use, off-road vehicle use, and illegal dumping. Special management actions such as fencing, trail building, posting signs, and increased law enforcement attention can help to reduce these destructive activities.

(3) Actions to restore degraded habitat areas. Coastal sage scrub and related plant communities (PCEs 1 and 2) have been successfully restored to support breeding coastal California gnatcatchers. Restoration of degraded habitats can increase local population sizes and facilitate movement between populations (e.g., Miner *et al.* 1998).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific data

available in determining areas that contain the features essential to the conservation of the coastal California gnatcatcher. We considered several qualitative criteria in the delineation of specific areas for inclusion in our revised final designation of critical habitat for the coastal California gnatcatcher. Such criteria focused on designating areas: (1) Throughout the geographical and elevational range of the species; (2) within various occupied plant communities, such as Venturan coastal sage scrub, Diegan coastal sage scrub, Riversidean sage scrub, maritime succulent scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub; and (3) in documented areas of large, contiguous blocks of occupied habitat; or in areas that link essential populations areas (i.e., linkage areas). These criteria are similar to criteria used to identify reserve or preserve lands in approved regional HCPs covering the coastal California gnatcatcher.

At the time of listing in 1993, the species was known to occur from Los Angeles, Orange, Riverside, and San Diego Counties and was thought to be extirpated from Ventura and San Bernardino Counties (58 FR 15742). As stated in the listing rule (58 FR 15742), coastal California gnatcatchers were not known to occur in San Bernardino County at that time except from historic museum records. Subsequent to the publication of the final listing rule, Davis *et al.* (1998, pp. 362–364) summarized survey efforts in San Bernardino County, documenting species occurrences, including some breeding pairs, from several different locations in 1990, 1993, 1994, and 1995. Also subsequent to the publication of the final listing rule, survey efforts in Ventura County (Leverett 1998, p. 1; Jones 2004, p. 2) revealed the species in several locations. Based on pre-listing occupancy data and museum records, we consider San Bernardino County to have been occupied at the time of listing. While we do not currently have pre-listing occupancy data for Ventura County, based on recent documented occupancy, the species' non-migratory nature, and generally limited dispersal distances are usually limited, we believe that Ventura County was occupied by coastal California gnatcatcher at the time of listing. All areas included in this final designation are within the geographical area occupied by the species at the time of listing, and likely used by the species for breeding, feeding, sheltering, or dispersing during some point in their lifecycle.

In all counties within the range of the species, including the counties for which we have modeled habitat, we first examined those lands identified for conservation under approved individual and regional HCPs covering the coastal California gnatcatcher. These planning efforts utilized habitat evaluation models, coastal California gnatcatcher occurrence data, and reserve design criteria to identify reserve systems of essential (core) coastal California gnatcatcher populations and linkage areas that are essential for the conservation of the species. We considered lands within existing designated reserves, preserves, or other conservation areas to be important to the species at the time we issued the permits for the HCPs. We reevaluated those areas at the time of the 2003 revised proposed rule and again in this revised final determination, and we adhere to our earlier conclusion that such lands contain the physical and biological features in a spatial arrangement and quantity essential to the conservation of the coastal California gnatcatcher.

Those conservation lands considered for critical habitat designation include: (1) Designated reserve system lands within the Orange County NCCP for the Central-Coastal Subregions; (2) designated preserve lands within the County of San Diego Subarea within the San Diego MSCP; (3) designated preserve lands within the City of San Diego Subarea within the San Diego MSCP; and (4) designated preserve lands within the Poway Subarea within the San Diego MSCP. In addition, we considered conservation lands established through other approved HCPs covering the coastal California gnatcatcher (e.g., East Coyote Hills HCP, Shell/Metropolitan Water District HCP, Lake Mathews MSHCP and NCCP, Sycamore Canyon HCP, the HCP for the Southeast Quadrant of the City of Carlsbad (Villages of La Costa) and others).

The boundaries of these designated reserves, preserves, and other conservation lands were mapped following the most current approved boundaries. Lands outside of designated reserves, preserves, or other lands where incidental take has been authorized for the coastal California gnatcatcher under section 10(a)(1)(B) of the Act were not included in critical habitat. As stated in the 2003 revised proposed designation, we concluded that these lands do not contain the physical and biological features in the spatial arrangement or quantity essential to the conservation of the species. We have reviewed those conclusions in developing this revised final rule and determined that these conclusions are still valid. As such, these areas are not included in this revised final rule.

We then evaluated those areas where ongoing regional HCP efforts have resulted in the preparation of biological analyses that identify habitat important for the conservation of the coastal California gnatcatcher. These efforts include the Rancho Palos Verdes MSHCP, San Diego County MHCP in the northern portion of the County, and North County Subarea of the MSCP for unincorporated San Diego County. We utilized those biological analyses in concert with data regarding current coastal California gnatcatcher occurrences, sage scrub, elevation, and connectivity to identify those lands that are essential for the conservation of the species within the respective planning area boundaries.

Finally, we evaluated other lands for their conservation value for the coastal California gnatcatcher. We delimited a study area by selecting geographic boundaries based on the following: (1) Coastal California gnatcatcher occurrences, (2) sage scrub distribution, (3) elevation, and (4) connectivity to other coastal California gnatcatcher occurrences. We determined conservation value based on the presence of, or proximity to, significant (core) populations and/or sage scrub, sage scrub habitat quality, parcel or habitat patch size, surrounding land-uses, and potential to support resident coastal California gnatcatchers and/or facilitate movement of birds between known habitat areas.

To help predict the presence of coastal California gnatcatcher occurrences throughout the range of the species, especially in areas with limited survey information, we commissioned a spatial habitat evaluation model incorporating habitat parameters used by the coastal California gnatcatcher during the breeding season. We began with a GIS layer identifying California sagebrush habitats (e.g., Venturan, Diegan, and Riversidean sage scrub). We recognize that other habitats are used by coastal California gnatcatchers at various points in their life history, such as chaparral, grassland, and riparian habitats during foraging or dispersal. However, few breeding territories have been documented in habitats devoid of California sagebrush. Once the vegetation layer was created, ''core'' patches of sagebrush were selected using a minimum patch size of 25 ac (10 ha) in a coastal climate zone, and 50 ac (20 ha) in an inland climate zone. Coastal climate zone is defined as having an average January minimum temperature above 41 degrees Fahrenheit (F) (5 degrees Celsius (C)),

whereas an inland climate zone is defined as having an average January minimum temperature below 41 degrees F (5 degrees C).

For coastal California gnatcatcher habitat within the maritime and coastal climate zones, a patch size equal to or greater than 25 ac (10 ha) was considered suitable coastal California gnatcatcher habitat. For coastal California gnatcatcher habitat east of the maritime and coastal climate zones, a patch size of equal to or greater than 50 ac (20 ha) was used because the density of coastal California gnatcatchers generally is lower farther from the coast. Research on home range and territory size indicates that territory size is generally greater for inland populations than coastal populations and that during the non-breeding season, the area used by individual gnatcatchers may be almost twice as large as that used during the breeding season (e.g., Atwood 1990; ERCE 1990; Preston et al. 1998) (see ''Primary Constituent Elements'' section above for a detailed discussion); therefore, the model reflects this patch size difference between climate zones. Then, ''satellite'' patches less than 25 ac (10 ha) within 1600 ft (488 m) of core areas were identified. The 1,600 ft (488 m) distance is the distance a bird would have to travel across the landscape to reach a core area while avoiding developed areas (as established by Mock 1992). The vegetation was then expanded beyond the 1,600 ft (488 m) search distance by including sagebrush habitat contiguous to the satellite. A layer called ''high quality habitat'' was then created by combining core and satellite areas. This high quality habitat was then given a value of one, while all other areas were given a value of zero.

The second step used a digital elevation model to classify the sagebrush layer by slope. As discussed in the ''Primary Constituent Elements'' section above, studies have suggested that coastal California gnatcatchers avoid nesting on very steep slopes, greater than 40 percent (Bontrager 1991; AMEC 2001). Consequently, sagebrush areas with slopes above 40 percent received a value of zero, while areas with slopes less than 40 percent received a value of one.

Finally, the sagebrush layer was overlaid with a climate layer to delimit areas above and below a mean minimum January temperature of 41 degrees F (5 degrees C), and an average rainfall of 13.25 inches (in) (33.66 centimeters (cm)). Forty-one degrees F (5 degrees C) was determined to be the threshold where the effects of temperature had an impact on coastal California gnatcatcher energetics (Mock 1998). The threshold for precipitation was determined by identifying the precipitation contour that captured 95 percent of the known occurrences. Sagebrush areas that are cold (i.e., below 5 degrees C (41 degrees F)) and wet (i.e., above 33.66 cm rainfall) received a value of zero. Areas that are warm and wet, or cold and dry, received a value of one. Areas that are warm and dry received a value of two.

To create the final model, the values for each area were totaled, with possible scores ranging from zero to four. Areas with a value of 0 (zero) or one are considered to be of low quality, areas with a value of two of moderate quality, areas with a value of three of high quality, and areas with a value of four of very high quality. This model was run using the vegetation coverage data available from the three southern California Counties that have digital vegetation maps: San Diego, Orange, and Riverside Counties.

After generating the model across the three Counties, we tested it to see if it accurately predicted coastal California gnatcatcher occurrences. We used an independently derived data set of coastal California gnatcatcher occurrences across Orange and San Diego Counties (Service unpublished GIS data). This data set was collected in the summer of 2002 using systematic point counts with a random start, incorporating distance sampling. Over a GIS data layer depicting vegetation types in the two Counties, points were randomly placed over all habitats incorporating coastal sagebrush, including coastal sage scrub vegetation types and coastal sage scrub/chaparral ecotone. The sampling protocol included recording weather, vegetation, and coastal California gnatcatcher observations at each point. Coastal California gnatcatcher observations were recorded for a 10-minute data collection period followed by a 2.5-minute period during which a coastal California gnatcatcher taped call was played twice. A total of 436 points were surveyed during this effort, each between 1 and 4 times.

To test the predictive power of the model, we compared the independent data set of coastal California gnatcatcher points with the model to see what percentage of coastal California gnatcatcher points were found to be occupied in each of the four different zones of habitat quality. The test found that 48 percent of the points located in habitat modeled as very high quality were occupied, 28 percent of the points in high quality were occupied, 8 percent of the points in medium quality were occupied, and none of the points in low quality were occupied. The model was also tested and accepted under the Akaike's Information Criterion (AIC). This statistic is widely used as a measure for comparing the predictive power of constructed models (Burnham and Anderson 1998). Our independent study only sampled coastal California gnatcatcher abundance in San Diego and Orange Counties, so we could not test the predictive power of the model in Riverside County. Therefore, the model was used as a guide for determining high-quality breeding habitat only in San Diego and Orange Counties. Also, as the model helped to identify breeding habitat only, it was not used to determine linkage areas or other aspects of critical habitat.

After determining those specific areas that are essential to the conservation of the species based on areas that: (1) Contain at least one of the PCEs required by the species and either (2) contain core populations of the species; or (3) provide linkage areas between core populations, we delineated the unit boundaries by screen digitizing habitat polygons using ArcMap (Environmental Systems Research, Inc.), a computer GIS program. The ArcMap program also calculates the area of each polygon and produces the legal descriptions for each polygon included in this revised final designation. When determining the revised final critical habitat boundaries, we made every effort to avoid lands occupied by development such as buildings, paved areas, and other structures that lack PCEs for the coastal California gnatcatcher. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of all such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in this rule and are not designated as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they may affect the species or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

The approximate area of revised final critical habitat and land ownership is shown in Table 3 below. Critical habitat includes coastal California gnatcatcher habitat throughout the species' range in the U.S. (i.e., Ventura, Los Angeles, Orange, San Bernardino, and San Diego Counties, California) in a variety of climatic zones and vegetation types to preserve the genetic and behavioral diversity that currently exists within the

species. The designated lands are under Federal, State, local, and private ownership (see Table 3 below). Lands designated as revised critical habitat include the PCEs for the coastal California gnatcatcher that provide for foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering. Known movement corridors are also included to allow for demographic and genetic interchange between populations. Lands designated as final critical habitat have been divided into 11 critical habitat units (as discussed in the ''Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat'' section above, Units 4 and 11 have been exempted or removed from this revised final rule). A brief description of each unit and reasons for designating it as critical habitat are presented below.

Table 3.—County and land ownership of final critical habitat (acres (ac), hectares (ha)) for the coastal California gnatcatcher. [Area estimates reflect all land within the revised critical habitat unit boundaries.]

Unit	County	Land ownership * ac (ha)		Total area ac (ha).
1	San Diego	Federal (Service, BLM)	7,211 ac (2,918 ha).	14,898 ac (6,029 ha).
		Local (city/county park)	191 ac (77 ha).	
		Private	7,496 ac (3,034 ha).	
2	San Diego	Federal (USFS)	8,787 ac (3,556 ha)	14,508 ac (5,871 ha).
		Local (city/county park)	3 ac (1 ha).	
		Private	5,718 ac (2,314 ha).	
3	San Diego	Federal (BLM)	122 ac (49) ha	17,325 ac (7,011 ha).
		Private	17,203 ac (6,962 ha).	
4	San Diego			0 ac** (0 ha).
5	San Diego	Federal (BLM)	282 ac (114 ha)	29,639 ac (11,995 ha).
		State (CDFG, CSLC)	135 ac (55 ha).	
		Private	29,222 ac (11,826 ha).	
6	Orange	Federal (USFS)	10 ac (4 ha)	6,515 ac (2,637 ha).
		Local (city/county park)	160 ac (65 ha).	
		Private	6,345 ac (2,568 ha).	
7	Orange	Federal	0 ac (0 ha)	4,309 ac (1,744 ha).
		State (CDPR)	643 ac (260 ha).	
		Local (county reuse authority)	1,000 (405 ha).	
		Private	2,666 ac (1,079 ha).	
8	Los Angeles	Federal	0 ac (0) ha	4,462 ac (1,806 ha).
		Private	4,462 ac (1,806 ha).	
9	Orange, Los Angeles, San Bernardino.	State (CDPR)	2,700 ac (1,093 ha)	17,552 ac (7,103 ha).
	Private	14,854 ac (6,011 ha).		
10	San Bernardino, Riverside	Federal (USFS, BLM)	11,113 ac (4,497) ha	27,529 ac ha(11,140 ha).
		Private	16,416 ac (6,643 ha).	
11	San Bernardino			0 ac*** (0 ha)
12	Los Angeles	Local (city/county park)	1,287 ac (521 ha)	2,829 ac (1,145 ha).
		Private	1,542 ac (624 ha).	
13	Ventura, Los Angeles	Federal (BLM, USFS)	1,223 ac (495 ha)	57,737 ac (23,365 ha).
		State (CDPR)	347 ac (140 ha).	
		Local (city/county park or open space).	279 ac (113 ha).	
		Private	55,888 ac (22,617).	
Total				197,303 ac (79,846 ha).

* BLM = Bureau of Land Management; CDFG = California Department of Fish and Game; CSLC = California State Lands Commission; CDPR = California Department of Parks and Recreation; DOD = Department of Defense; USFS = U.S. Forest Service.
** All lands in Unit 4 were exempted from this revised final designation under section 4(a)(3)(B) of the Act.
*** All lands in Unit 11 were removed from this revised final designation.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the coastal California gnatcatcher, below.

Unit 1: South San Diego County

Unit 1 encompasses approximately 14,898 ac (6,029 ha) within the MSCP planning area of which about half is under Federal ownership (San Diego National Wildlife Refuge and Bureau of Land Management (BLM)) and the other half is under private ownership (see Table 3 above). Lands essential to the conservation of the coastal California gnatcatcher within the cities of El Cajon, and Santee; major amendment areas within the San Diego County MSCP Subarea Plan; and water district lands owned by Sweetwater Authority, Helix Water District, Otay Water District, the San Diego National Wildlife Refuge, and BLM lands on Otay Mountain are included in this unit. Lands designated as critical habitat contain core populations of the species, sage scrub, and non-sage scrub habitats (PCEs 1 and 2), and areas providing connectivity between core populations and sage scrub. Populations in this unit occur in high-quality coastal sage scrub and persist in high densities. Lands in the eastern section of this unit are also some of the least fragmented within this portion of the range in the U.S. and, therefore, are less subject to edge effects which negatively influence habitat quality. Lands in this unit are also located adjacent to the U.S./Mexico border, and populations located there serve to promote demographic and genetic interchange with populations in Mexico.

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic

interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 2: Upper San Diego River and El Capitan Linkage

Unit 2 encompasses approximately 14,508 ac (5,871 ha) in the upper San Diego River drainage area of which the majority are under Federal (USFS) and private ownership (see Table 3 above). This unit includes an essential population of coastal California gnatcatchers on the Cleveland National Forest south of State Route 78 near the upper reaches of the San Diego River, as well as canyons and corridors that provide linkages to MSCP Multiple Habitat Preserve Area (MHPA) lands adjacent to this unit. This population is the easternmost within the species' range and occurs at one of the highest elevations known. Individuals within this population likely contain unique genetic or behavioral adaptations that allow them to persist, which is essential to the species survival and recovery as environmental conditions change through time.

Therefore, habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion especially in light of the October 2003 wildfires and degradation occurring in conjunction with urban and agricultural development.

Unit 3: North San Diego County Multiple Habitat Conservation Plan (MHCP)

Unit 3 encompasses approximately 17,325 ac (7,011 ha) of which the majority are under private ownership (see Table 3 above) within the MHCP planning area in northwestern San Diego County. Included are lands within the cities of Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista. Lands designated as critical habitat contain the last significant coastal California gnatcatcher populations remaining south of MCB Camp Pendleton abutting the coast. Coastal populations of the coastal California gnatcatcher have been found to be denser than inland locales (Preston *et al.* 1998), and are essential to support more inland populations through emigration (e.g., Unit 4). This unit also provides connectivity between significant populations at MCB Camp Pendleton (adjacent to Unit 5), MSCP reserve areas in Unit 1, and populations in northern San Diego County (Unit 4).

Lands within this unit are being designated as critical habitat because they were occupied at the time of listing, are currently occupied, and contain all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 4: Fallbrook Naval Weapons Station

All lands in Unit 4 (8,690 ac (3,515 ha)) included in the 2003 revised proposed designation have been exempted from this revised final designation under section 4(a)(3)(B) of the Act (see ''Application of Section 4(a)(3)(B) of the Act'' section below for a detailed discussion of this exemption).

Unit 5: North County Subarea of the MSCP for Unincorporated San Diego County

Unit 5 encompasses approximately 29,639 ac (11,995 ha) within the planning area for the North County Subarea of the MSCP for San Diego County. The majority of the lands is under private ownership (see Table 3 above). Lands designated within this unit contain several core coastal California gnatcatcher populations and intervening linkage areas of sage scrub. This unit constitutes the primary inland linkage along the I–15 corridor between San Diego populations and those in southwestern Riverside County. Habitat quality in this area was also classified as high to very high by the habitat model. This population is located adjacent to a north-south corridor connecting Riverside and San Diego Counties, and likely provides a significant number of dispersing juveniles into this corridor.

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 6: Southern NCCP Subregion of Orange County

Unit 6 encompasses approximately 6,515 ac (2,637 ha) the majority of which is under private ownership (see Table 3 above). While these lands are within the approximately 131,000 ac (53,014 ha) study area for the Orange County Southern Subregion HCP, they are not included in the approximately 86,076 ac (34,834 ha) permit area covered under the HCP (Service 2007a, p. 24). Areas not covered by the HCP include land in the cities of Lake Forest and Dana Point, portions of San Juan Capistrano, an ''Existing Use'' Girl Scout Camp, Ladera Ranch, Las Flores, Tesoro High School, the Foothill Transportation Corridor-North, the Nichols Institute bounded by Caspers Wilderness Park, the sewage treatment facility in Chiquita Canyon and other areas that are in the Southern Subregion but are defined as ''Not a Part'' of the HCP (Service 2007a, p. 24).

As stated in the 2003 revised proposed rule, lands within the study area for the Orange County Southern Subregion HCP contain some of the largest, most robust populations known (e.g., Chiquita ridge), as well as essential regional populations (e.g., Prima Deshecha Canada, Talega Canyon) and linkages in Cristianitos Canyon, Arroyo Trabuco, and Saddle Creek/Live Oak Canyon, and provide for connectivity and genetic interchange among core populations and contain large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. This

area also provides the primary linkage for significant populations in North San Diego MHCP (Unit 3), and the Fallbrook Naval Weapons Station, to those further north in Orange County (Unit 7).

Of the 44,340 ac (17,940 ha) included in the 2003 revised proposed critical habitat designation, approximately 17,022 ac (6,888 ha) within the Orange County Southern Subregional HCP area are being excluded from this revised final designation under section 4(b)(2) of the Act (see ''Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion of this exclusion). The remaining approximately 7,576 ac (3,066 ha) included in this revised final designation were occupied at the time of listing, are currently occupied, and contain all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). These 7,576 ac (3,066 ha) are within modeled habitat for the coastal California gnatcatcher identified as containing core populations or providing important linkage areas within the Orange County Southern Subregion HCP study area. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 7: Central-Coastal NCCP Subregions of Orange County (Central-Coastal NCCP)

Unit 7 encompasses approximately 4,309 ac (1,744 ha) under private ownership (see Table 3 above). The areas included in this revised final designation include core coastal California gnatcatcher populations and sage scrub within select areas defined in the NCCP/HCP as Existing Use Areas (areas not included in the Central-Coastal NCCP/HCP), the designated reserve (panhandle portion) of the El Toro Reuse Area, approximately 210 ac (85 ha) owned by the Boy Scouts of America within the area formerly referred to as the North Ranch Policy Planning Area, and the most southern portion of Chino Hills State Park (CDPR) in Orange County.

While these lands are within the approximately 208,000 ac (84,175 ha) planning area for the Orange County Central-Coastal NCCP/HCP, they are not included in the permit area covered under the NCCP/HCP (Service 1996b, pp. 15–16) and, therefore, there is no requirement to manage for coastal California gnatcatcher or its habitat in these areas. As discussed in the 2003 revised proposed critical habitat rule, lands identified for preservation under the Orange County Central-Coastal NCCP/HCP were considered but not included in the proposed designation (see ''Exclusions under Section 4(b)(2) of the Act'' section below for a re-affirmation of our exclusion of these areas). Additionally in this revised final rule, we have excluded lands covered by the O'Hill HCP and lands within the area formerly referred to as the North Ranch Policy Planning Area on The Irvine Ranch under section 4(b)(2) of the Act (see the ''Exclusions under Section 4(b)(2) of the Act'' and ''Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act'' sections below for detailed discussions of these exclusions).

Habitat within this unit was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). These areas contain high-quality habitat and dense populations of coastal California gnatcatchers and also serve to link populations located in southern Orange County (Unit 6) with those in northern Orange and Riverside Counties. These lands are within modeled habitat for the coastal California gnatcatcher identified as containing core populations and/or providing important linkage areas within the NCCP/HCP study area. Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 8: Palos Verdes Peninsula Subregion, Los Angeles County

Unit 8 encompasses approximately 4,462 ac (1,806 ha) under private ownership (see Table 3 above) on the Palos Verdes Peninsula, the majority of which is within the City of Rancho Palos Verdes' draft NCCP/MSHCP subregional planning area. This unit includes a core population of coastal California gnatcatchers and high-quality sage scrub habitat in Portuguese Bend, Agua Amarga Canyon, San Pedro, and adjacent canyons, as well as connecting linkages. The former landfill adjacent to the South Coast Botanic Garden does not currently contain habitat and is not designated as critical habitat, yet it will continue to be evaluated as it represents a significant potential restoration area for the recovery of this population of the species.

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 9: East Los Angeles County-Matrix NCCP Subregion of Orange County

Unit 9 encompasses approximately 17,552 ac (7,103 ha) the majority of which is under private ownership (see Table 3 above) within the Montebello Hills, Puente-Chino Hills, and West Coyote Hills areas. Core populations are known from the Montebello Hills, south slopes of the Puente-Chino Hills from Whittier east to Yorba Linda, and the East and West Coyote Hills. The Brea Canyon Landfill is not designated as critical habitat, but represents a significant potential restoration area to support these remaining populations and aid in recovery of the species. The unit also provides the primary connectivity between significant coastal California gnatcatcher populations and sage scrub habitat within the Orange County Central-Coastal NCCP (Unit 6), the Western Riverside County MSHCP (Unit 10) and the Bonelli Regional Park population within East Los Angeles (Unit 12).

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion

and degradation occurring in conjunction with urban and agricultural development.

Unit 10: Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

Unit 10 encompasses a total of approximately 27,529 ac (11,140 ha) the majority of which is under private and Federal (USFS, BLM) ownership (see Table 3 above). Of this total, 21,776 ac (8,812 ha) are in the Western Riverside County MSHCP plan area and approximately 5,757 ac (2,330 ha) are within southern San Bernardino County adjacent to the planning area for the Western Riverside County MSHCP. Of the 21,776 ac (8,812 ha) in the Western Riverside County MSHCP plan area being designated as critical habitat, 10,176 ac (4,118 ha) are owned by the Metropolitan Water District who is not a permittee to the MSHCP and therefore not being excluded from this final designation. An additional 199 ac (81 ha) of private land in the Western Riverside County MSHCP plan area are also not being excluded from this final designation. These 199 ac (81 ha) are covered under a settlement agreement and Memorandum of Understanding (MOU) signed on February 24, 2004, by the County of Riverside and several property owners, including Murdock Alberhill, the owner of these 199 ac (81 ha), which specifically exempts and excludes these landowners' properties from the Western Riverside County MSHCP (Riverside County 2004, p. 5). Therefore, the 199 ac (81 ha) owned by Murdock Alberhill are not required to be managed for coastal California gnatcatcher consistent with the Western Riverside County MSHCP. The remaining 11,401 ac (xx ha) being designated in the Western Riverside County MSHCP plan area are under Federal ownership (BLM and USFS). Since these lands contain the features essential to the conservation of the species and may require special management considerations and protection, they are being included in this revised final designation.

This unit also encompasses contiguous habitats in southern San Bernardino County, including essential coastal California gnatcatcher populations in the Jurupa Hills, and the Blue Mountain/Reche Canyon region. Though not included, the Santa Ana River may be an important movement corridor in this area, connecting the Jurupa and La Loma Hills to populations in the Box Springs Mountains, as well as to the few pairs known from the Pedley Hills and Norco Hills. Though a few coastal California gnatcatchers have been observed from the upper Santa Ana River wash in the vicinity of Highland, we do not yet have evidence that this area constitutes a core population. Further survey work in this area may help clarify its use by coastal California gnatcatchers.

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 11: San Bernardino Valley MSHCP, San Bernardino County

All lands proposed as critical habitat in Unit 11 (14,990 ac (6,065 ha)) have been removed from this revised final designation (see ''Summary of Changes From the 2003 Proposed Rule To Revise Critical Habitat'' section above for a detailed discussion).

Unit 12: East Los Angeles County

Unit 12 encompasses approximately 2,829 ac (1,145 ha) all of which is under private and local ownership (see Table 3 above) in eastern Los Angeles County in Bonelli Regional Park and along the San Jose Hills to the west. This unit functions as an archipelago of persistent populations toward the northern end of the range of the species, and is a likely source population for the nesting pairs that are reported from the foothills of the San Gabriel Mountains north of the Los Angeles basin. Disturbed and vacant areas within Bonelli Regional Park and the BKK landfill at the western end of the San Jose Hills represent the last available vacant land for restoration of habitat to recover the species in this unit. Isolated habitat patches between this unit and the East Los Angeles County-Matrix NCCP Subregion of Orange County (Unit 9), are not included, but serve to maintain connectivity. This unit does not include a potential movement corridor along the foothills of the San Gabriel Mountains towards the Etiwanda Fan (former Unit 11) as we do not currently have evidence of coastal California gnatcatcher movement through this area.

Habitat within this unit is being designated because it was occupied at the time of listing, is currently occupied, and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). Additionally, this unit provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion and degradation occurring in conjunction with urban and agricultural development.

Unit 13: Western Los Angeles and Ventura Counties

Unit 13 encompasses approximately 57,737 ac (23,365 ha) of which the majority is under private ownership (see Table 3 above) in eastern Ventura and western Los Angeles Counties along the southern and eastern slopes of the Santa Susana Mountains and a portion of the interior foothills of the San Gabriel Mountains. It includes the only known breeding population of coastal California gnatcatchers in Ventura County and includes high-quality coastal sage scrub. Habitat between the San Gabriel and Santa Susana Mountains contains the PCEs required by this species and serves as an essential linkage between the two isolated populations: the core population in the Moorpark area in Ventura County and the pairs documented in the foothills of the San Gabriel Mountains in Los Angeles County. Without this linkage, the population located in Ventura County has no other natural area connecting them with populations located east and south of Ventura County. Also, without the natural areas and habitat located on the south-facing slopes of the Santa Susana and San Gabriel Mountains, these two populations of coastal California gnatcatchers would be completely isolated and prone to extirpation.

This unit encompasses the northern and western distributional extreme of the coastal California gnatcatcher's current range, and as such acts as a source population for future recovery of coastal California gnatcatcher populations to the north and west. Peripheral populations also likely contain essential genetic or behavioral adaptations that are important to the

species as environmental conditions change through time (Lesica and Allendorf 1995).

Habitat within this unit is being designated because it is currently occupied and contains all of the features essential to the conservation of the coastal California gnatcatcher (PCEs 1 and 2). As discussed in the ''Criteria Used To Identify Critical Habitat'' section above, while we do not currently have pre-listing occupancy data for Ventura County, we do have records of the species occurrence in that County as early as 1998 (Leverett 1998, p. 1). Based on the species' non-migratory nature and the fact that dispersal distances are usually limited (see ''Primary Constituent Elements'' section above), we believe that Ventura County was occupied by coastal California gnatcatcher at the time of listing. Habitat within this unit is also essential to the conservation of the species because it provides for connectivity and genetic interchange among core populations and contains large blocks of high-quality habitat capable of supporting persistent populations of coastal California gnatcatchers. The PCEs contained within this unit may require special management considerations or protection to minimize impacts associated with habitat type conversion especially in light of the 2003 wildfires and degradation occurring in conjunction with urban and agricultural development.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the 5th and 9th Circuit Court of Appeals have invalidated our definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve its intended conservation role for the species.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the 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 (action agency) must enter into consultation with us. As a result of this consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. We define ''Reasonable and prudent alternatives'' 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,
- Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
- Are economically and technologically feasible, and
- Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying 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 on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect the coastal California gnatcatcher or its designated critical habitat require consultation under section 7 of the Act. Activities on State, Tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from us under section 10 of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are also subject to the section 7(a)(2) consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Adverse Modification Standard for Actions Involving Effects to the Critical Habitat

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species, or would retain its current ability for the primary constituent elements to be functionally established. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that appreciably reduces the conservation value of critical habitat for the coastal California gnatcatcher. Generally, the conservation role of coastal California gnatcatcher critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and, therefore, should result in consultation for the coastal California gnatcatcher include, but are not limited to:

(1) Removing, thinning, or destroying gnatcatcher habitat (as defined in the primary constituent elements (PCE) discussion above), whether by burning

or mechanical, chemical, or other means (e.g., woodcutting, grubbing, grading, overgrazing, construction, road building, mining, herbicide application, etc.); and

(2) Activities that cause indirect effects that appreciably decrease habitat value or quality (e.g., activities that create or foster permanent noise, edge effects, invasion of exotic plants or animals, or fragmentation such that it appreciably decreases habitat value or quality). These activities result in the loss of foraging and nesting habitat, as well as the potential abandonment of active nests, which preclude the survival and recovery of the species.

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resource management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

- An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;
- A statement of goals and priorities;
- A detailed description of management actions to be implemented to provide for these ecological needs; and
- A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.'' We consult with the military on the development and implementation of INRMPs for installations with federally listed species. INRMPs developed by military installations located within the range of the coastal California gnatcatcher and which contain those features essential to the species' conservation were analyzed for exemption under the authority of section 4(a)(3)(B) of the Act.

In the 2003 proposed rule to revise critical habitat (68 FR 20228), we considered but did not propose lands on MCAS Miramar pursuant to sections 3(5)(A) and 4(b)(2) of the Act, based on the benefits provided by their completed INRMP. We also considered but did not propose mission-essential training areas on MCB Camp Pendleton pursuant to section 4(b)(2) of the Act for national security reasons. However, nontraining areas on MCB Camp Pendleton and Naval Weapons Station Seal Beach, Detachment Fallbrook were included in the 2003 proposed critical habitat designation.

We cannot designate critical habitat on lands owned or controlled by the Department of Defense pursuant to section 4(a)(3)(B) of the Act if the lands are covered by an approved INRMP that provides a benefit to the coastal California gnatcatcher. In accordance with section 4(a)(3)(B) of the Act, we have determined that the INRMPs for MCAS Miramar, MCB Camp Pendleton, and Naval Weapons Station Seal Beach, Detachment Fallbrook provide benefits to the coastal California gnatcatcher and its habitat occurring on these installations. Therefore, we have exempted essential habitat lands on MCAS Miramar, and mission-essential training areas on MCB Camp Pendleton and all remaining lands covered by MCB Camp Pendleton's INRMP (including San Onofre State Beach), and all lands on Naval Weapons Station Seal Beach, Detachment Fallbrook under section 4(a)(3)(B) of the Act. A detailed analysis of our exemption of these lands under section 4(a)(3)(B) of the Act is provided in the paragraphs that follow.

Approved IN RMPs

Marine Corps Air Station (MCAS), Miramar

MCAS Miramar occupies approximately 23,015 acres (9,314 ha) in San Diego County. Major vegetation types on MCAS Miramar include chaparral, coastal sage scrub, and grasslands. This installation also contains the largest and most contiguous vernal pool habitat remaining in southern California. The entire eastern portion of MCAS Miramar (i.e., east of I–15) functions as an essential habitat linkage with adjacent open space areas (MCAS Miramar 2006, p. ES–4).

Since the publication of the 2003 revised proposed critical habitat designation for the coastal California gnatcatcher, MCAS Miramar has revised its 2000 INRMP to address conservation and management recommendations within the scope of the installation's military mission. According to the 2006 INRMP (MCAS Miramar 2006, pp. 7–14, 7–15), this revised plan continues the protection and benefits afforded to all threatened and endangered species present on MCAS Miramar. Management actions that benefit the federally listed species generally include: (1) Development and use of Management Areas focused on differing resource types and sensitivities to guide management and planning afford protection to high concentrations of listed species and their habitats; (2) limiting activities, minimizing development, and mitigating actions in areas supporting high densities of listed species and managing activities and development in areas with low densities, or no special status species and sensitive habitat; (3) restoring degraded sites; (4) restricting access to sensitive areas through fencing/signage; (5) training military personnel to recognize and avoid sensitive areas via incorporated natural resources instructions in the MCAS Miramar training order; (6) distributing sensitive resources maps and brochures to MCAS Miramar personnel; (7) invasive/exotic species removal; (8) surveys to identify areas suitable for habitat restoration/enhancement; (9) habitat compensation for unavoidable impacts from MCAS Miramar projects to ensure no net loss of habitat value; (10) plant and animal surveys for listed and rare species; and (11) long-term ecosystem monitoring of both plant communities and selected wildlife.

Conservation measures that have been completed, are being conducted, and are planned for 2006 to 2010 for the coastal California gnatcatcher include: (1) A Habitat Evaluation, Home Range Determination and Dispersal Study (1993–1996); (2) coastal sage scrub restoration site survey; (3) study for effects of helicopter noise on the coastal California gnatcatcher (final report in preparation); (4) station-wide population surveys (conducted 1998–2001, 2004, planned for funding 2006 and 2008); and (5) completion of field work meeting BRAC (Base Realignment and Closure) 1995 commitments to restore 87 ac (35 ha) of coastal sage

scrub habitat (MCAS Miramar 2006, pp. 7–14, 7–15).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)(B) of the Act, we have determined that conservation efforts on MCAS Miramar identified in the Revised 2006 INRMP provide benefits to the coastal California gnatcatcher and the features essential to its conservation. Therefore, MCAS Miramar is exempt from inclusion in this revised designation of critical habitat for the coastal California gnatcatcher pursuant to section 4(a)(3)(B) of the Act.

Marine Corps Base (MCB) Camp Pendleton

MCB Camp Pendelton occupies over 125,000 ac (50,586 ha) of land in the northwest corner of San Diego County. Among the plant communities that characterize MCB Camp Pendleton are oak woodlands, a range of chaparral and sage scrub communities (including the largest remaining contiguous Diegan coastal sage scrub, coastal bluff scrub), native and nonnative grasslands, coastal dunes, riparian communities, and wetlands (including isolated ephemeral wetlands or vernal pools unique to this region) (MCBCP 2007, p. ES–3). As stated in the 2003 revised proposed rule, MCB Camp Pendleton contains a coastal corridor of coastal California gnatcatcher-occupied sage scrub that provides the primary linkage between San Diego populations and those in southern Orange County.

Since the publication of the 2003 revised proposed critical habitat designation for the coastal California gnatcatcher, MCB Camp Pendleton has revised and updated its 2001 INRMP to address conservation and management recommendations within the scope of the installation's military mission. The coastal California gnatcatcher benefits from current management practices under the 2007 INRMP through: (1) Nonnative vegetation control; (2) brown-headed cowbird management; (3) investigative research (e.g., to determine effects of wildfire on coastal California gnatcatcher habitat quality and distribution); (4) the establishment and management of coastal sage scrub mitigation areas, and (5) habitat enhancement by using native seed stock in restoration and recovery measures (MCBCP 2007, p. F–25). Also, according to the 2007 INRMP, California State Parks is required to conduct its natural resources management consistent with the philosophies and supportive of the objectives of the revised 2007 INRMP (MCBCP 2007, p. 2–31).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the revised 2007 INRMP will provide benefits to the coastal California gnatcatcher and the features essential to the species' conservation occurring on MCB Camp Pendleton and lands leased to California State Parks (San Onofre State Beach). As discussed above, these conservation measures include managing habitat for the coastal California gnatcatcher on MCAS Pendleton; conducting baseline surveys; and monitoring and management activities to enhance and or create coastal sage scrub and minimize threats to the PCEs required by the species. Therefore, MCB Camp Pendleton (including San Onofre State Beach) is exempt from the revised final designation of critical habitat for the coastal California gnatcatcher.

Naval Weapons Station Seal Beach, Detachment Fallbrook

Naval Weapons Station Seal Beach, Detachment Fallbrook (Detachment Fallbrook) occupies approximately 8,852 ac (3,582 ha) in San Diego County and is bound to the north, west, and much of the south by MCB Camp Pendleton. Among the plant communities that characterize Detachment Fallbrook are coastal sage scrub, mixed chaparral, chamise chaparral, valley foothill riparian, annual grasslands, fresh emergent wetlands, and eucalyptus (Navy 2006, p. 3–37).

Since the publication of the 2003 proposed rule to revise critical habitat for the coastal California gnatcatcher, Detachment Fallbrook has revised its 1996 INRMP to address conservation and management recommendations within the scope of the installation's military mission. According to the 2006 revised INRMP (Navy 2006, pp. 3–124 to 3–126), conservation measures for the coastal California gnatcatcher include: (1) Avoidance and minimization measures to protect the species as part of normal project site approval process (NEPA); (2) maintenance of a minimum of 2,000 ac (809 ha) of coastal sage scrub suitable for the species; (3) establishment of three coastal sage scrub priority management areas, each with specific fire suppression and prescribed fire guidelines based on level of occupation, proximity to MCB Camp Pendleton coastal California gnatcatcher populations, and habitat type; (4) monitoring coastal California gnatcatcher populations every 5 years; (5) establishment of a ledger system to provide for net gains in coastal California gnatcatcher habitat to protect against future encroachment on the military mission; (6) monitoring and managing of grazing livestock to avoid or minimize impacts to the species' habitat; (7) conducting weed eradication in coastal sage scrub; and (8) monitoring different coastal sage types in relation to fire, grazing, and site factors to improve understanding of how to manage for a range of conditions over time using fire and grazing.

The conservation measures listed above provide management and protection of the features essential to the conservation of the coastal California gnatcatcher. Based on the above considerations, and consistent with the direction provided in section 4(a)(3)(B) of the Act, we have determined that conservation efforts identified in the Revised 2006 INRMP provide benefits to the coastal California gnatcatcher and the features essential to the species' conservation. As discussed above, these conservation measures include managing habitat for the coastal California gnatcatcher on Detachment Fallbrook; conducting baseline surveys; and monitoring and management activities to enhance and/or create coastal sage scrub and minimize threats to the PCEs required by the species. Therefore, Detachment Fallbrook is exempt from inclusion in this designation of critical habitat for the coastal California gnatcatcher pursuant to section 4(a)(3)(B) of the Act.

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the legislative history is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the

designation, and determine whether the benefits of exclusion outweigh the benefits of inclusion. If we consider excluding an area, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we have considered. In addition, we conducted a draft economic analysis (DEA) of the impacts of the proposed revised critical habitat designation and completed an addendum to the DEA dated September 14, 2007, which identifies the incremental impacts of designation (see ''Economic Analysis'' section below for more details about the addendum). The DEA (dated February 24, 2004) was made available for public review and comment from April 8, 2004, to May 10, 2004 (69 FR 18516) and April 3, 2007, to May 3, 2007 (72 FR 15857). Substantive comments and information received on the DEA are summarized above in the Public Comment section. After considering the DEA and public comment thereon, the addendum to the DEA, the proposed revision to critical habitat, and the information in this revised final designation of critical habitat, we have excluded areas from critical habitat under the provisions of section 4(b)(2) of the Act. This is provided for in the Act and in our implementing regulations at 50 CFR 424.19.

Benefits of Designating Critical Habitat

The process of designating critical habitat as described in the Act requires that the Service identify those lands on which are found the physical or biological features essential to the conservation of the species that may require special management considerations or protection, and those areas outside the geographical area occupied by the species at the time of listing that are essential to the conservation of the species. In identifying those lands, the Service must consider the recovery needs of the species, such that, on the basis of the best scientific and commercial data available at the time of designation, the habitat that is identified, if managed, could provide for the survival and recovery of the species.

The identification of those areas that are essential for the conservation of the species and can, if managed, provide for the recovery of a species is beneficial. The process of proposing and finalizing a critical habitat rule provides the Service with the opportunity to determine the features or PCEs essential for conservation of the species within the geographical area occupied by the species at the time of listing, as well as to determine other areas essential to the conservation of the species. The designation process includes peer review and public comment on the identified features and areas. This process is valuable to land owners and managers in developing conservation management plans for identified areas, as well as any other occupied habitat or suitable habitat that may not have been included in the Service's determination of essential habitat.

The consultation provisions under section 7(a) of the Act constitute the regulatory benefits of critical habitat. As discussed above, Federal agencies must consult with us on actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species, and in some locations, the outcome of these analyses will be similar, because effects on habitat will often result in effects on the species. However, the regulatory standard is different: the jeopardy analysis looks at the action's impact on survival and recovery of the species, while the adverse modification analysis looks at the action's effects on the designated habitat's contribution to the species' conservation. This will, in many instances, lead to different results and different regulatory requirements.

For 30 years prior to the Ninth Circuit's decision in *Gifford Pinchot*, consistent with the 1986 regulations, we essentially combined the jeopardy standard with the standard for destruction or adverse modification of critical habitat when evaluating Federal actions that affected currently occupied critical habitat. However, the court of appeals ruled that the two standards are distinct and that adverse modification evaluations require consideration of impacts on species recovery. Thus, critical habitat designations may provide greater regulatory benefits to the recovery of a species than would listing alone.

There are two limitations to the regulatory effect of critical habitat. First, a section 7(a)(2) consultation is required only where there is a Federal nexus (an action authorized, funded, or carried out by any Federal agency)—if there is no Federal nexus, the critical habitat designation of private lands itself does not restrict any actions that destroy or adversely modify critical habitat. Second, the designation only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure that the conservation role and function of those areas that contain the physical and biological features essential to the conservation of the species or of unoccupied areas that are essential to the conservation of the species is not appreciably reduced. Critical habitat designation alone, however, does not require property owners to undertake specific steps toward recovery of the species.

Once an agency determines that consultation under section 7(a)(2) of the Act is necessary, the process may conclude informally when we concur in writing that the proposed Federal action is not likely to adversely affect critical habitat. However, if we determine through informal consultation that adverse impacts are likely to occur, then we would initiate formal consultation, which would conclude when we issue a biological opinion on whether the proposed Federal action is likely to result in destruction or adverse modification of critical habitat.

For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not suggest the implementation of any reasonable and prudent alternative. We suggest reasonable and prudent alternatives to the proposed Federal action only when our biological opinion results in an adverse modification conclusion.

As stated above, the designation of critical habitat does not require that any management or recovery actions take place on the lands included in the designation. Even in cases where consultation has been initiated under section 7(a)(2) of the Act, the end result of consultation is to avoid jeopardy to the species and/or adverse modification of its critical habitat, but not specifically to manage remaining lands or institute recovery actions on remaining lands. Conversely, voluntary conservation efforts implemented through management plans institute proactive actions over the lands they encompass and are put in place to remove or reduce known threats to a species or its habitat; therefore, implementing recovery actions. We believe that in many instances the benefit to a species and/or its habitat realized through the

designation of critical habitat is low when compared to the conservation benefit that can be achieved through conservation efforts or management plans. The conservation achieved through implementing HCPs or other habitat management plans can be greater than what we achieve through multiple site-by-site, project-by-project, section 7(a)(2) consultations involving consideration of critical habitat. Management plans may commit resources to implement long-term management and protection to particular habitat for at least one and possibly additional listed or sensitive species. Section 7(a)(2) consultations commit Federal agencies to preventing adverse modification of critical habitat caused by the particular project only, and not to providing conservation or long-term benefits to areas not affected by the proposed project. Thus, implementation of any HCP or management plan that considers enhancement or recovery as the management standard may often provide as much or more benefit than a consultation for critical habitat designation.

Another benefit of including lands in critical habitat is that designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the coastal California gnatcatcher. In general, critical habitat designation always has educational benefits; however, in some cases, they may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefits of a critical habitat designation. Including lands in critical habitat also would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without the cooperation of non-Federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995), and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse *et al.* 2002, p. 720). Stein *et al.* (1995, p. 400) found that only about 12 percent of listed species were found almost exclusively on Federal lands (90 to 100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998; Crouse *et al.* 2002; James 2002). Building partnerships and promoting voluntary cooperation of landowners are essential to our understanding the status of species on non-Federal lands, and necessary for us to implement recovery actions such as reintroducing listed species and restoring and protecting habitat.

Many non-Federal landowners derive satisfaction from contributing to endangered species recovery. We promote these private-sector efforts through the Department of the Interior's Cooperative Conservation philosophy. Conservation agreements with non-Federal landowners (HCPs, safe harbor agreements, other conservation agreements, easements, and State and local regulations) enhance species conservation by extending species protections beyond those available through section 7(a)(2) consultations. In the past decade, we have encouraged non-Federal landowners to enter into conservation agreements, based on the view that we can achieve greater species conservation on non-Federal land through such partnerships than we can through regulatory methods (61 FR 63854; December 2, 1996).

Many private landowners, however, are wary of the possible consequences of attracting endangered species to their property. Mounting evidence suggests that some regulatory actions by the Federal Government, while well-intentioned and required by law, can (under certain circumstances) have unintended negative consequences for the conservation of species on private lands (Wilcove *et al.* 1996; Bean 2002; Conner and Mathews 2002; James 2002; Koch 2002; Brook *et al.* 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003).

According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). The magnitude of this outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002). We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7(a)(2) of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. Thus the benefits of excluding areas that are covered by effective partnerships or other conservation commitments can often be high.

Benefits of Excluding Lands With HCPs

The benefits of excluding lands with approved HCPs from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by critical habitat. Many HCPs take years to develop, and upon completion, are consistent with recovery objectives for listed species that are covered within the plan area. Many conservation plans also provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review as a result of the designation of critical habitat may undermine conservation efforts and partnerships designed to proactively protect species to ensure that listing under the Act will not be necessary. Our experience in implementing the Act has found that designation of critical habitat within the boundaries of management plans that provide conservation measures for a species is a disincentive to many entities which are either currently developing such plans, or contemplating doing so in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species will

be affected. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning. In fact, designating critical habitat in areas covered by a pending HCP or conservation plan could result in the loss of some species' benefits if participants abandon the planning process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as an additional Federal regulatory burden sufficient to discourage continued participation in developing plans targeting listed species' conservation.

A related benefit of excluding lands covered by approved HCPs from critical habitat designation is the unhindered, continued ability it gives us to seek new partnerships with future plan participants, including States, Counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. We have found that potential participants are not inclined to participate in such management plans when we designate critical habitat within the area that would be covered by such a management plan, thus having a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

Furthermore, HCP applications require consultation, which would review the effects of all HCP-covered activities that might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), even without the critical habitat designation. In addition, all other Federal actions that may affect the listed species would still require consultation under section 7(a)(2) of the Act, and we would review these actions for possibly significant habitat modification in accordance with the definition of harm referenced above.

The information provided in the previous section applies to all the following discussions of benefits of inclusion or exclusion of critical habitat.

Areas Considered for Exclusion Under Section 4(b)(2) of the Act

At the request of the USFS we evaluated the appropriateness of excluding National Forest lands in Units 2, 6, 10, and 13 (see Table 3 above) from this revised final designation under section 4(b)(2) of the Act based on management provided for federally-listed species including the coastal California gnatcatcher under the USFS Land Management Plan. As discussed in more detail in our response to Comment 25 in the ''Public Comments'' section above, we have concluded that exclusion of National Forest lands is not appropriate in light of the USFS' independent obligation under section 7(a)(1) of the Act to utilize the agency's authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of the coastal California gnatcatcher. Further, the intent of section 7(a)(2) of the Act is to require Federal Agencies to consult on any action authorized, funded, or carried out by such agency to insure that the action will not jeopardize a listed species or destroy or adversely modify its critical habitat. Therefore the benefit of consultation under section 7(a)(2) of the Act is greatest on Federal lands. In light of the USFS's independent statutory obligations under the Act we do not believe exclusion of USFS lands from critical habitat designation under section 4(b)(2) is appropriate. Nor, because of the agency's statutory obligations, should the additional analysis under section 7(a)(2) of the Act as a result of designation of critical habitat on National Forest lands be considered a relevant impact under Section 4(b)(2) or constitute an undue burden for USFS.

Exclusions Under Section 4(b)(2) of the Act

In the 2003 revised proposed critical habitat rule (68 FR 20228), we considered but did not propose as critical habitat for the coastal California gnatcatcher, pursuant to sections 3(5)(A) and 4(b)(2) of the Act, lands covered by three completed and approved regional/subregional HCPs (San Diego MSCP, Orange County Central-Coastal NCCP/HCP, and San Diego Gas & Electric NCCP/HCP), Tribal lands of the Pala Band of Mission Indians, and lands covered by eight completed and approved individual HCPs ((1) Meadowlark Estates; (2) City of Carlsbad/Fieldstone/La Costa; (3) Coyote Hills East; (4) Shell Oil; (5) Ocean Trails (now referred to as the Trump National Golf Club HCP); (6) Lake Mathews; (7) North Peak; (8) Rancho Bella Vista). In this revised final rule, we reaffirm our exclusion of these lands under section 4(b)(2) of the Act and are no longer relying on section 3(5)(A) of the Act as a basis to exclude these lands from the designation.

We are also excluding from this revised final designation lands in San Diego, Riverside, and Orange Counties covered by the following four completed and approved regional HCPs: (1) San Diego MSCP plan area (Unit 1); (2) San Diego MHCP plan area (Unit 3); (3) Orange County Southern Subregion HCP plan area (Unit 6); and (4) Western Riverside MSHCP plan area (Unit 10) and one individual HCP (O'Hill HCP) (Unit 7) and lands on the Irvine Ranch being conserved by the Irvine Ranch Conservancy (Unit 7). These lands are being excluded pursuant to section 4(b)(2) of the Act.

We are excluding these areas because we believe that:

(1) Their value for conservation will be preserved for the foreseeable future by existing protective actions, or

(2) They are appropriate for exclusion under the ''other relevant factor'' provisions of section 4(b)(2) of the Act.

A detailed analysis of our exclusion of these lands under section 4(b)(2) of the Act is provided in the paragraphs that follow.

Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act

In reviewing approved HCPs for potential exclusion under section 4(b)(2) of the Act we consider, in addition to the general partnership relationships identified above, whether the plan provides for protection and appropriate management, if necessary, of essential habitat within the plan area and incorporates conservation management strategies and actions consistent with currently accepted principles of conservation biology.

We believe that the plans discussed in the paragraphs below fulfill these criteria and have, therefore, excluded lands covered by these plans that provide for the conservation of the coastal California gnatcatcher from the final designation of critical habitat.

Regional HCPs

San Diego MSCP (San Diego County)

In southwestern San Diego County, the San Diego Multiple Species Conservation Program (MSCP) effort encompasses more than 582,000 ac (236,000 ha) and anticipates the participation of 12 jurisdictions. Under the broad umbrella of the MSCP, each of the 12 participating jurisdictions

prepares a subarea plan that implements the goals of the MSCP within that particular jurisdiction. Five of the 12 jurisdictions cover lands that support coastal California gnatcatcher: City of Poway; City of San Diego; County of San Diego; City of La Mesa; and City of Chula Vista.

We conduct a consultation on each subarea plan and associated permit under section 7 of the Act to ensure they are not likely to result in jeopardy or adversely modify or destroy the designated critical habitat of any covered species. We also review the subarea plans under section 10 of the Act to ensure they meet the criteria for issuance of an incidental take permit and are consistent with the terms and goals of the MSCP. We completed these analyses and issued incidental take permits to the following jurisdictions based on their completed subarea plans: City of Poway (July 19, 1996); City of San Diego (July 18, 1997); County of San Diego (March 17, 1998); City of La Mesa (January 31, 2000); and City of Chula Vista (January 12, 2005) (see below for a discussion of each subarea plan). The regional MSCP is also a regional subarea plan under the State of California's NCCP program and was developed in cooperation with CDFG.

Over the 50-year term of the permit, the MSCP provides for the establishment of approximately 171,000 ac (69,573 ha) of preserve lands within the Multi-Habitat Planning Area (MHPA) (City of San Diego) and Pre-Approved Mitigation Areas (PAMA) (County of San Diego) to benefit the 85 federally listed and sensitive species, including coastal California gnatcatcher, covered under the plan. Of this, approximately, 57,874 ac (23,421 ha) (68 percent) of the core scrub habitat supporting coastal California gnatcatcher populations will be conserved within the MSCP planning area (Service 1997, p. 67).

Private lands within the MHPA and PAMA lands are subject to special restrictions on development and, as they are committed to the preserve, must be legally protected and permanently managed to conserve the covered species. Public lands owned by the City of Poway, City of San Diego, County of San Diego, City of La Mesa, and City of Chula Vista that are identified for conservation under the MSCP must also be protected and permanently managed to protect the covered species. The Service and CDFG also commit to manage, maintain, and monitor all lands they contribute to the MSCP (whether owned or administered by them as of the effective date of the MSCP or later acquired) consistent with the MSCP (Service 1998a, p. 40). State and Federal lands considered part of the MSCP reserve system include State Ecological Reserves and San Diego National Wildlife Refuge lands. We have excluded three ecological reserves (McGinty Mountain, Otay Mountain and Rancho Jamul) in Unit 1 that are or will be managed consistent with the MSCP from this final designation (see ''Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act'' section below for a detailed discussion).

Habitat for the coastal California gnatcatcher also occurs on lands owned and managed by the BLM. While not a signatory to the MSCP, the BLM signed a Memorandum of Understanding (MOU) with the County and City of San Diego, the Service, the CDFG and the San Diego Association of Governments in 1994 establishing a partnership among these entities to cooperate in planning and managing publicly owned lands within the San Diego region for the purpose of conserving the area's rich and unique biological diversity and maintaining its economic viability (BLM 1994, p. 2). Under the MOU, approximately 180,000 ac (72,843 ha) in the San Diego region managed by the BLM will be managed consistent with the MSCP.

The MSCP requires the participating jurisdictions to develop broad framework and site-specific management plans, subject to the review and approval of the Service and CDFG, to guide the management of all preserve lands under the jurisdictions' control. The plans incorporate requirements to monitor and adaptively manage coastal California gnatcatcher habitats over time. Under the MSCP, the CDFG and Service have also committed to provide similar management for their preserve lands and have agreed to conserve approximately 36,510 ac (14,775 ha) in the MSCP preserve for biological resource protection (Service 1997, p. 9).

As discussed above, each take authorization holder prepares a framework management plan as a condition of its implementing agreement. The framework management plan provides general direction for all preserve management issues within the subarea plan's boundaries. Area-specific management directives are developed for managing lands that are conserved as part of the reserves. The framework and area-specific management plans are comprehensive and address a broad range of management needs at the preserve and species levels. These plans include the following general provisions: (1) Fire management; (2) public access control; (3) fencing and gates; (4) ranger patrol; (5) trail maintenance; (6) visitor/interpretive and volunteer services; (7) hydrological management; (8) signage and lighting; (9) trash and litter removal; (10) access road maintenance; (11) enforcement of property and/or homeowner requirements; (12) removal of invasive species; (13) nonnative predator control; (14) species monitoring; (15) habitat restoration; (16) management for diverse vegetation age classes; (17) restricted use of herbicides and rodenticides; (18) biological surveys; (19) research; and (20) species management conditions (Final MSCP Plan 1998). These management measures benefit coastal California gnatcatcher and its PCEs and reduce the threats to this species and its habitat. The MSCP also provides for a biological monitoring program for coastal California gnatcatcher. A discussion of each subarea plan is provided in the paragraphs that follow.

City of Poway MSCP Subarea Plan

The City of Poway's MSCP Subarea Plan, covering 25,000 ac (10,117 ha) under the City's jurisdiction, was approved by the Service through an incidental take permit issued on July 19, 1996. This subarea plan covers 43 federally listed and non-listed species. The City of Poway MSCP Subarea Plan serves two general functions: (1) To create a sustainable, interconnected network of habitat preserves throughout (and ultimately beyond) the city and thus maintain functioning ecosystems and viable populations of biological resources; and (2) to mitigate adverse impacts to biological resources from city development activities (Ogden Environmental and Energy Services 1996, p. 1–3).

A total of 10,800 ac (4,371 ha) of natural habitats will be conserved as open-space in a mitigation area under the City of Poway MSCP Subarea Plan that is intended to remain a viable component of the regional preserve system (Service 1996a, p. 4). To further compensate for unavoidable biological impacts to covered species, including the coastal California gnatcatcher, the City has committed to: (1) Preserve 95 to 100 percent of habitats on each cornerstone land (protected public land) as biological open space; (2) minimize development in costal sage scrub habitat in the mitigation area, ensuring at least 90 percent preservation outside of cornerstone lands; (3) preserve 98 percent of existing riparian and oak woodland habitat; (4) preserve key linkages and corridors within and beyond the mitigation area; and(5) provide mitigation for impacts to sensitive habitats through either onsite dedications or offsite mitigation or fees

for acquisition of crucial preserve lands (Service 1996a, p. 5).

When the City of Poway MSCP Subarea Plan was approved in 1996, approximately 7,300 ac (2,954 ha) of coastal sage scrub existed within the planning area (Service 1996a, p. 16). The subarea plan will conserve approximately 5,567 ac (2,253 ha), or 76 percent, of coastal sage scrub habitat for the coastal California gnatcatcher in an ecologically viable preserve (Service 1996a, p. 21). This area includes approximately 170 of the estimated 220 pairs of this species within the Poway planning area (Service 1996a, p.21). The location of these coastal sage scrub areas is crucial in the north-south and east-west biological linkage of the region (Service 1996a, p. 17). Thus habitat conserved through the City of Poway MSCP Subarea Plan will protect coastal sage scrub habitat which will link sage scrub and non-sage scrub habitats (PCEs 1 and 2) required by the coastal California gnatcatcher within the larger regional area.

City of San Diego MSCP Subarea Plan

The City of San Diego's MSCP Subarea Plan, covering approximately 206,000 ac (83,365 ha) under the City's jurisdiction, was approved by the Service through an incidental take permit issued on July 18, 1997. The subarea plan proposes 90 percent conservation of 56,831 ac (22,999 ha) within the Multiple Habitat Planning Area (MHPA) for a total of 51,148 ac (20,699 ha).

The management objectives for the City of San Diego's MHPA lands are to: (1) Ensure the long-term viability and sustainability of native ecosystem function and natural processes throughout the MHPA; (2) protect the existing and restored biological resources from intense or disturbing activities within and adjacent to the MHPA while accommodating compatible public recreational uses; (3) enhance and restore, where feasible, the full range of native plant associations in strategic locations and functional wildlife connections to adjoining habitat in order to provide viable wildlife and sensitive species habitat; (4) facilitate monitoring of selected target species, habitats, and linkages in order to ensure long-term persistence of viable populations of priority plant and animal species and to ensure functional habitats and linkages; and (5) provide for flexible management of the preserve that can adapt to changing circumstances to achieve the above objectives (City of San Diego 1997, pp. 49–50).

Specific to the coastal California gnatcatcher, the City of San Diego's MSCP Subarea Plan will conserve approximately 19,862 ac (8,038 ha) of scrub habitat including 18,951 ac (7,669 ha) (70 percent) the 27,073 ac (10,956 ha) of coastal sage scrub, 95 ac (38 ha) (63 percent) coastal sage scrub/chaparral, 681 ac (276 ha) (60 percent) of the maritime succulent scrub, and 135 ac (55 ha) (88 percent) of southern coastal bluff scrub (Service 1997, pp. 66–67) (PCEs 1 and 2). Also, the City of San Diego MSCP Subarea Plan includes 77 percent of its biological cores and linkage habitat (PCEs 1 and 2) within the MHPA which is anticipated to conserve the majority of the 5 major populations identified in the coastal California gnatcatcher population viability analysis for MSCP (Lake Hodges, Otay/San Ysidro, and San Miguel/Lower Sweetwater) occurring within the MSCP plan area (Service 1997, p. 68).

County of San Diego MSCP Subarea Plan

The County of San Diego's MSCP Subarea Plan, covering approximately 252,000 ac (101,980 ha) under the County's jurisdiction, was approved by the Service through an incidental take permit issued on March 17, 1998. The objectives of this subarea plan are to: (1) Acknowledge the no-net-loss-of-wetlands standard to satisfy State and Federal wetland goals, policies, and standards; (2) include measures to maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features; (3) provide for the conservation of spatially representative examples of habitat types ranked as having high and very high biological value by the MSCP; (4) create significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats; (5) provide incentives for development in the least sensitive habitat areas; (6) provide for the conservation of key regional populations of the covered species, and representation of sensitive habitats and their geographic sub-associations in biologically functioning units; and (7) conserve large interconnected blocks of habitat that contribute to the preservation of wide-ranging species (County of San Diego 1996, p. 1–11).

This subarea plan is expected to result in preservation of approximately 45,737 ac (18,509 ha) of coastal California gnatcatcher habitat including 44, 254 ac (17,909 ha) of coastal sage scrub, 158 ac (64 ha) maritime succulent scrub, and 1,325 ac (536 ha) of coastal sage scrub/chaparral (PCEs 1 and 2) within the preserve planning area, which is roughly 62 percent of the existing coastal California gnatcatcher habitat in the County (Service 1998b, p. 25). Also, the preserve will provide connectivity of occupied habitat through non-sage scrub habitats (PCE 2) (Service 1998b, p. 56). Three of the five major gnatcatcher populations identified in the coastal California gnatcatcher population viability analysis for MSCP (Lake Hodges, Otay/San Ysidro, and San Miguel/Lower Sweetwater) occur wholly or partially within the subarea plan area. We anticipate that the majority of these populations will be conserved because the subarea plan will preserve 65 percent of coastal California gnatcatcher occurrences in the planning area (Service 1998b, p. 25). Furthermore, habitat fragmentation and edge effects will be minimized through implementation of design criteria on each development and area-specific management directives to: (1) Reduce edge effects; (2) minimize disturbance during the nesting season; (3) develop fire protection measures to reduce the potential for habitat degradations due to unplanned fire; and (4) implement management measures to maintain or improve habitat quality including vegetation structure (Service 1998b, p. 26).

City of La Mesa MSCP Subarea Plan

The City of La Mesa's MSCP Subarea Plan, covering approximately 6,200 ac (2,509 ha) under the City's jurisdiction, was approved by the Service through an incidental take permit issued on January 31, 2000. At the time of plan approval, approximately 172 ac (70 ha) of undeveloped land existed within the subarea plan area (Service 1999, p. 7). To carry out the MSCP and the subarea plan, the City of La Mesa commits to: (1) Preserve in perpetuity approximately 55 ac (22 ha) consisting of natural open space; (2) offset impacts to southern maritime chaparral, native grassland, and oak woodlands through in-kind mitigation at a 2:1 ratio; and (3) offset impacts to coastal sage scrub and other significant sensitive vegetation communities and associated species within the subarea plan area by mitigation through the acquisition of offsite, in-kind, habitat at a 1:1 ratio for all other upland habitats (Service 1999, p. 7).

The 55 ac (22 ha) of natural open space consists of approximately 38 ac (15 ha) of coastal sage scrub, 15 ac (6 ha) of disturbed open land, and 2 ac (0.8 ha) of chaparral (PCEs 1 and 2) and was preserved as permanent open space and habitat area through the granting of an

open space easement to the City of La Mesa (Service 1999, p. 20). The subarea plan preserves lands with features essential to the conservation of the gnatcatcher. The preserved lands link surrounding large, interconnected blocks of occupied coastal California gnatcatcher sage scrub and non-sage scrub habitat (PCEs 1 and 2) preserved under other approved MSCP subarea plans.

City of Chula Vista MSCP Subarea Plan

The City of Chula Vista's MSCP Subarea Plan, covering approximately 58,000 ac (23,472 ha) under the City's jurisdiction, was approved by the Service through an incidental take permit issued on January 12, 2005. This subarea plan's goals are to: (1) Conserve Covered Species, including the coastal California gnatcatcher, and their habitats through the conservation of interconnected significant habitat cores and linkages; (2) delineate and assemble a preserve using a variety of techniques including public acquisition, onsite and offsite mitigation, and land use regulations; (3) provide a preserve management program that, together with Federal and State management activities, will be carried out over the long-term, further ensuring the conservation of covered species; (4) provide necessary funding for a preserve management program and biological monitoring of the preserve; and (5) reduce or eliminate redundant Federal, State, and local natural resource regulatory and environmental review of individual projects by obtaining Federal and State take authorizations for 86 species (City of Chula Vista 2003, p. 1–2).

This subarea plan provides for the conservation of 65 percent of coastal sage scrub habitat and 65 percent of maritime succulent scrub habitat (PCE 1) within the subarea (Service 2003, p. 99). The coastal California gnatcatcher will benefit from the system of large, interconnected blocks of sage scrub and non-sage scrub habitat (PCEs 1 and 2) that the City of Chula Vista, in conjunction with other approved MSCP subarea plans and other resource management plans, will establish and preserve in perpetuity (Service 2003, p. 101). Land and the features thereon within the habitat preserve will be managed and maintained in accordance with specific management objectives as follows: (1) To ensure the long-term viability and sustainability of native ecosystem function and natural processes throughout the preserve; (2) to protect existing and restored biological resources from intense or disturbing activities within the preserve while accommodating compatible uses; (3) to enhance and restore, where feasible, appropriate native plant associations and wildlife connections to adjoining habitat to provide viable wildlife and sensitive species habitat; and (4) to facilitate monitoring of selected target species, habitats, and linkages to ensure long-term persistence of viable populations of priority and animal species and to ensure functional habitats and linkages for those species (Service 2003, p.18). The preserve will be adaptively managed, according to the measures included in the subarea plan and the MSCP, which will further reduce indirect effects and benefit the coastal California gnatcatcher and the features essential to its conservation (Service 2003, p. 101).

In the 1993 final rule listing this species as threatened (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. As described above, the MSCP and associated approved subarea plans for the cities of Poway, San Diego, La Mesa, Chula Vista and the County of San Diego provide protection for essential coastal sage scrub habitat (PCE 1) and features through the permanent protection, enhancement, and management of large, interconnected habitat preserves, including sage scrub and non-sage scrub habitats (PCEs 1 and 2) that support core populations of coastal California gnatcatchers. The approved MSCP and subarea plans remove or reduce threats to this species through protection and management of the features essential to the species' conservation within the plan areas.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section above, we believe that the regulatory benefit of critical habitat is low when compared to conservation efforts or management plans, such as in place for the MSCP. The MSCP and associated approved subarea plans for the Cities of Poway, San Diego, La Mesa, and Chula Vista and the County of San Diego address conservation issues from a coordinated, integrated perspective rather than a piecemeal project-by-project approach and will achieve more coastal California gnatcatcher conservation than we would achieve through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. This regional HCP and its associated approved subarea plans provide for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. Conservation and management of coastal California gnatcatcher habitat is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The MSCP and its associated approved subarea plans provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this regional HCP and its associated approved subarea plans.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-federal lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed close partnerships with the cities of Poway, San Diego, La Mesa, and Chula Vista, the County of San Diego, and CDFG through the development of the MSCP and associated subarea plans. We believe the MSCP and associated subarea plans incorporate appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition

by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the regional HCP and associated subarea plans and helping to preserve our ongoing partnerships with the permittees and other plan participants (e.g., CDFG) and to encourage new partnerships with other landowners and jurisdictions. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

We have reviewed and evaluated the exclusion of non-Federal essential habitat within approved MSCP subarea plans from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Unit 1 outweigh the benefits of including these lands. As discussed above, the MSCP subarea plans will provide for significant preservation and management of essential habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat within the plan areas of the approved MSCP subarea plans from the final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the MSCP subarea plans for the cities of Poway, San Diego, La Mesa, and Chula Visa and the County of San Diego provide protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher within Unit 1. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

San Diego MHCP (San Diego County)

The northwestern San Diego Multiple Habitat Conservation Program (MHCP) encompasses approximately 112,000 ac (45,325 ha) and proposes to establish 19,928 ac (8,064 ha) of preserve lands covering Federal or State listed, unlisted, and sensitive species, including the coastal California gnatcatcher. The MHCP is a plan to minimize and mitigate for the potential loss of covered species, including the coastal California gnatcatcher, and their habitat due to the direct, indirect and cumulative impacts of future development of both public and private lands within the MHCP area. The overall goal of the MHCP is to maintain biodiversity and ecosystem health in the region while maintaining quality of life and economic growth opportunities (AMEC *et al.* 2003, p. 1–1). The biological goals of the MHCP are to maintain the range of natural biological communities and species native to the region, and contribute to regional viability of endangered, threatened, and key sensitive species and their habitats, thereby preventing local extirpation or species extinction (AMEC *et al.* 2003, p. 1–1).

There are approximately 9,152 acres (3,704 ha) of sage scrub habitat within the MHCP area of which approximately 61 percent is proposed for conservation under the MHCP (AMEC *et al.* 2003, p. 3–16). Specific to the coastal California gnatcatcher, the MHCP projects the following minimum conservation estimates: (1) Conserve at least 5,580 ac (2,258 ha) (61 percent) of the extant coastal scrub (including coastal sage scrub, maritime succulent scrub, coastal bluff scrub, and mixed coastal sage scrub/chaparral vegetation communities) within the MHCP plan area; (2) conserve at least 2,780 ac (1,125 ha) (55 percent) of the remaining high-value breeding habitat and 963 ac (xx ha) (60 percent) of the remaining moderate-value breeding habitat in the MHCP plan area, as determined using the MHCP habitat suitability model; (3) conserve at least 5,185 ac (2,098 ha) (68 percent) of the coastal scrub that lies within the biological core and linkage area (BCLA), and conserve at least 2,551 ac (1,032 ha) (64 percent) of the high-value breeding habitat and 891 ac (360 ha) (78 percent) of the moderate-value breeding habitat that lies within the BCLA; (4) conserve at least 62 percent of known localities (333 of 539 points), including 69 percent of the locations within the BCLA (295 of 431 points); (5) restore and enhance at least 338 ac (137 ha) of coastal sage scrub in critical locations to increase breeding habitat and improve functionality of a ''stepping-stone'' linkage through the MHCP plan area; and (6) conserve 400 to 500 ac (162 to 202 ha) of core breeding habitat capable of supporting at least 16 to 23 pairs of breeding birds during good years in the unincorporated area southeast of the MHCP plan area, but contiguous with and contributing to the stepping-stone corridor across the plan area (AMEC *et al.* 2003, p. 4–333 and 4–334).

Under the MHCP, the Federal and State governments will contribute to the preserve 1,944 ac (787 ha) of natural habitat lands that they currently administer in the MHCP area (AMEC *et al.* 2003, p. 4–2). Federal and State lands that will be managed consistent with the MHCP include lands administered by the BLM and the CDFG (e.g., ecological reserves) (AMEC *et al.* 2003, p. 4–8). We have excluded from this final designation five CDFG ecological reserves (Pilgrim Creek, Carlsbad Highland, Agua Hedionda Lagoon, Batiquitos Lagoon, and San Elijo Lagoon) in Unit 3 that will be managed consistent with the MHCP (see ''*Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act*'' section below for a detailed discussion).

Seven incorporated cities, including Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista are participants in this regional NCCP/HCP. Under the broad umbrella of the MHCP, each participating jurisdiction prepares a subarea plan that complements the goals of the MHCP. We consult on each subarea plan under section 7 of the Act to ensure they are consistent with the aims of the MHCP. The City of Carlsbad Habitat Management Plan (HMP), a subarea plan of the MHCP, covering approximately 24,500 ac (9,915 ha), was approved by the Service through an incidental take permit issued on November 12, 2004. The coastal California gnatcatcher is one of the species covered under the City of Carlsbad HMP.

The City of Carlsbad HMP area includes approximately 3,315 ac (1,342 ha) of coastal sage scrub and 3,790 ac (1,534 ha) of other habitat that may be used by coastal California gnatcatchers for biological needs such as breeding, foraging, dispersal, or drought refugia (Service 2004a, p. 199). Conservation under the City of Carlsbad HMP is focused primarily on the maintenance and enhancement of functional regional linkages that would ensure long-term connectivity between large coastal California gnatcatcher populations that exist to the north and south of the city (City of Carlsbad 1999, Appendix C–42). Under the HMP, the City of Carlsbad will protect, in perpetuity, approximately 3,315 ac (1,342 ha) of coastal sage scrub (PCE 1) and

approximately 3,790 ac (1,534 ha) non-sage scrub (PCE 2) habitat (Service 2004a, p. 209). These lands will be actively managed and monitored to minimize detrimental effects from the adjacent development. Also, approximately 189 ac (76 ha) will be acquired with the coastal California gnatcatcher core area 30 ac (12 ha) of which have already been acquired, and approximately 104 ac (42 ha) of habitat will be restored and enhanced to improve linkages (PCEs 1 and 2) (Service 2004a, p. 209).

In the 1993 final rule listing this species as threatened (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. As described above, the City of Carlsbad HMP provides protection for essential coastal sage scrub habitat (PCE 1) within the plan area through the permanent protection, enhancement, and management of functional regional linkages (PCEs 1 and 2) that will ensure long-term connectivity between large core coastal California gnatcatcher populations that exist to the north and south of the city habitat. The City of Carlsbad HMP removes or reduces threats to this species through protection and management of the features essential to the species' conservation within the plan area.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section, we believe that the regulatory benefit of critical habitat is low when compared to conservation efforts or management plans, such as those in place for the City of Carlsbad HMP. The MHCP and associated City of Carlsbad HMP address conservation issues from a coordinated, integrated perspective rather than a piece-meal project-by-project approach and will achieve more coastal California gnatcatcher conservation than we would achieve through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. The MHCP and associated City of Carlsbad HMP provide for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. Conservation and management of coastal California gnatcatcher habitat is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The MHCP and associated City of Carlsbad HMP provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this regional HCP and its associated approved subarea plan.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-Federal lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed close partnerships with the County of San Diego, the City of Carlsbad, CDFG and BLM, through the development of the MHCP as implemented in the City of Carlsbad through the HMP. These plans incorporate appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with section 7's statutory mandate to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the approved Carlsbad HMP and helping to preserve our ongoing partnerships with the permittee and other regional plan participants (e.g., CDFG) to encourage new partnerships with other landowners and jurisdictions. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat within the approved MHCP and City of Carlsbad HMP plan areas from the final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the MHCP and the City of Carlsbad HMP provide protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher in Unit 3. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Western Riverside County MSHCP (Riverside County)

We are excluding all non-Federal lands (approximately 132,587 ac (53,656 ha)); within proposed Unit 10 [or proposed as critical habitat] that are covered by the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) under Section 4(b)(2) of the Act. The MSHCP is a large-scale, multi-jurisdictional HCP encompassing 1.26-million ac (510,000 ha) in western Riverside County. The MSHCP addresses 146 listed and unlisted ''covered species,'' including the coastal California gnatcatcher. Participants in the Western Riverside County MSHCP include 14 cities in western Riverside County; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency (County Flood Control), Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department; California Department of Parks and Recreation; and the California Department of Transportation (Caltrans). The Western Riverside County MSHCP was designed to establish a multi-species conservation program that minimizes and mitigates the expected

loss of habitat and the incidental take of covered species. On June 22, 2004, the Service issued an incidental take permit (TE–088609–0) under section 10(a)(1)(B) of the Act to 22 permittees under the MSHCP for a period of 75 years.

The Western Riverside County MSHCP will establish approximately 153,000 ac (61,916 ha) of new conservation lands (Additional Reserve Lands) to complement the approximate 347,000 ac (140,426 ha) of existing natural and open space areas designated by the MSHCP as Public/Quasi-Public (PQP) lands. These PQP lands include those under Federal ownership, primarily managed by the USFS and BLM, and also permittee-owned open-space areas (e.g., State Parks, County Flood Control, and County Park lands). Federally owned PQP lands have been designated as critical habitat herein. Collectively, the Additional Reserve Lands and PQP lands form the overall MSHCP Conservation Area. The precise configuration of the 153,000 ac (61,916 ha) of Additional Reserve Lands is not mapped or precisely identified in the MSHCP, but rather is based on textual descriptions of a Conceptual Reserve Design within the bounds of a 310,000 ac (125,453 ha) ''Criteria Area'' that is interpreted as implementation of the MSHCP proceeds.

As analyzed in our biological opinion for the MSHCP (Service 2004b pp.192–205), the primary constituent elements for this species are provided in undeveloped areas that support, through natural successional processes (e.g., post-fire recovery), various types of habitats (e.g., sage scrub, chaparral, grassland, riparian) used by gnatcatchers for biological needs such as breeding, foraging, or dispersal. Primary constituent elements associated with the biological needs of dispersal are also found in undeveloped areas that provide connectivity or linkage between larger core areas. The long-term conservation of the coastal California gnatcatcher requires the conservation and adaptive management of interlinked habitat blocks or core populations. Conservation of core populations will require securing large patches of suitable habitat to minimize edge effects to allow for effective management of coastal sage scrub with the appropriate structure for the gnatcatcher.

As analyzed in our biological opinion for the MSHCP (Service 2004b pp.192–205), at least 13 of the identified 16 core gnatcatcher areas and interconnecting linkages are to be included in the MSHCP Conservation Area, including large blocks of habitat in the southeastern portion of the plan area, such as Wilson Valley, Vail Lake, Hogbacks, and Lake Skinner. Significant portions of these acres include sage scrub with sizeable gnatcatcher populations. The northern core areas conserved by the MSHCP include Lake Mathews and Estelle Mountain totaling 23,710 acres within the MSHCP Conservation Area. These geographical regions include the habitats with the highest densities of gnatcatchers in the plan area.

The MSHCP includes ongoing management and monitoring for the coastal California gnatcatcher. Reserve Managers will evaluate the condition of the sage scrub within the 13 core area and maintain a program to enhance and/or create coastal sage scrub within the core areas to keep the percent cover of coastal sage scrub vegetation within 10 percent of the baseline value within 77,070 acres (30,828 ha) of suitable habitat in Riverside Lowland and San Jacinto Foothill Bioregions. Occupancy of at least 80 percent of the occupied gnatcatcher habitat within each core area, as determined using existing information and baseline surveys, will be maintained.

The potential impacts associated with loss of this species' habitat when viewed in conjunction with the protection and management of the MSHCP Conservation Area is not anticipated to result in an appreciable reduction in the numbers, reproduction, or distribution of this species throughout its range, and will provide for its long term recovery and conservation. As described above regarding critical habitat, the effects of implementing the Western Riverside MSHCP (i.e., impacts to proposed and designated critical habitat together with the offsetting land conservation and management prescriptions) do not appreciably diminish the value of the primary constituent elements essential to the species' conservation, nor do the effects preclude the ecological role of that designated critical habitat in both the survival and recovery of the species, both at the local Plan level or at the level of the listed entity.

In summary, although the total amount of habitat that will be protected under the Plan is less than what was originally designated as critical habitat in 2000 and reproposed in 2003, it is our conclusion that the Western Riverside County MSHCP will conserve and manage gnatcatcher habitat and associated PCEs in sufficient quantity and distribution to provide for the long term conservation and recovery of this species. We reached this conclusion because:

1. An adequate amount of suitable and essential habitat will be conserved in the Plan area as follows.

a. 21,776 ac (8,812 ha) of Federal and some private lands in the Plan area are now designated as critical habitat.

b. 24,599 ac (9,955 ha) are conserved within pre-existing non-federal PQP lands, or have already been acquired for conservation and management under the MSHCP.

c. 46,307 ac (18,740 ha) are anticipated to be conserved within the Criteria Area as Additional Reserve Lands.

d. 25,989 ac (10,517 ha) of lands are within the Criteria Area and therefore may still be conserved under the MSHCP. Within the Criteria Area, the MSHCP allows for adjustments to be made in the final configuration of the Additional Reserve Lands. Thus, some areas of critical habitat within the Criteria Area but currently outside the Conceptual Reserve Design may still be included as Additional Reserve Lands at a later date under the Plan. It is unknown at this time how much of this area will eventually be conserved.

e. 35,692 ac (14,444 ha) of privately-owned land will not be conserved under the MSHCP, however, these areas are all peripheral to ''core'' coastal California gnatcatcher areas identified by the MSHCP. Of these 35,692 acres approximately 12,247 ac (4,956 ha) are designated as Rural Mountainous under the MSHCP. Rural Mountainous development zones have a minimum lot size restriction of 10 ac (4 ha), and we anticipate that much of this area will not be developed and will still provide a dispersal function for gnatcatchers.

2. Although the total amount of conserved areas is less than that originally designated as critical habitat in 2000, and reproposed in 2003, a minimum of approximately 93,000 ac (37,200 ha) will be conserved in the Plan area for gnatcatcher, with the possibility of additional conservation in Rural Mountainous zones and Criteria Areas. Therefore, we believe these conservation areas are sufficient in size and distribution to provide for the long term conservation and recovery of the gnatcatcher in the Plan area.

3. The reserve lands will be adaptively managed for the gnatcatcher under the Plan.

4. The Plan provides protection for essential sage scrub habitats (PCE 1) within the plan area through the permanent protection, enhancement, and management of functional regional linkages for species dispersal (PCEs 1 and 2) that will ensure long-term connectivity between large core coastal

California gnatcatcher populations in and adjacent to the plan area.

5. At a regional level, the 1993 final rule listing this species as threatened (58 FR 15742) identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. Concurrent completion and implementation of other HCPs/NCCPs, section 7 consultations, and other gnatcatcher management actions throughout the listed range have significantly reduced these threats (see Service Response to Comment 23). Therefore, as explained in (1) and (2), above, the Western Riverside MSHCP conservation areas will provide for a well-distributed gnatcatcher population in the Plan area, which in turn will contribute to a well-distributed gnatcatcher population throughout the listed range.

6. Although there will still be some loss of suitable habitat in the Western Riverside County MSHCP, including areas previously designated or proposed as critical in this Plan area in 2000, we believe the areas managed for conservation under this HCP and other HCPs/NCCPs and other management actions provide for a comprehensive recovery strategy for the gnatcatcher (see Service Response to Comment 23).

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section and in the Service Response to Comment 23, we believe that the regulatory benefit of designating critical habitat on private lands covered by the Western Riverside County MSHCP and other HCPs/NCCPs would be low and may hinder the effective implementation of the Plan. Section 7 consultation typically addresses impacts to critical habitat through piecemeal, project-by-project review. In contrast, the Western Riverside County MSCHP currently provides for protection of essential gnatcatcher habitat within the plan area from a coordinated, integrated perspective designed to achieve conservation on a regional scale. Given that the Federal lands within the Plan boundary were not excluded from critical habitat, the regulatory benefits of additional section 7 review for Federal actions occurring on the non-Federal lands addressed by the MSHCP would be minimal and rare because such actions would be subject to Plan restrictions and provisions. The MSHCP also provides for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher and its habitat in these conserved areas. Therefore, there is little added regulatory benefit to designating coastal California gnatcatcher habitat on non-federal lands within the MSHCP boundary. Finally, any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this regional HCP.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-Federal lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed close partnerships with the 22 MSHCP permittees through the development of this regional HCP that incorporates appropriate protections and management of this species' PCEs in a quantity and spatial distribution essential for the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating a largely redundant layer of regulatory review for limited set of projects on non-Federal lands that are addressed by the MSHCP and we are helping to preserve our ongoing partnerships with the permittees and to encourage new partnerships with other landowners and jurisdictions. Those partnerships, and the landscape level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher. Designating critical habitat on non-Federal lands within the Western Riverside County MSHCP could have a detrimental effect to our partnerships with the 22 MSHCP permittees and could be a significant disincentive to the establishment of future partnerships and HCPs with other partners.

We have reviewed and evaluated the exclusion of 132,587 ac (53,656 ha) of non-Federal lands that meet the definition of critical habitat within the Western Riverside County MSHCP plan area from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Unit 10 outweigh the benefits of including them. As discussed above, the MSHCP will provide for significant preservation and management of habitat for and features essential to the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

In keeping with our analysis and conclusion detailed in our biological opinion for the MSHCP (Service 2004b pp. 192–205), we do not believe that the exclusion of non-Federal lands that meet the definition of critical habitat within the Western Riverside County MSHCP plan area from the revised final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the MSHCP provides protection and management in perpetuity of, lands that meet the definition of critical habitat, including PCEs, for the coastal California gnatcatcher within Unit 10. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Orange County Central-Coastal NCCP/HCP

The Orange County Central-Coastal NCCP/HCP (Central-Coastal NCCP/HCP) was developed in cooperation with numerous State and local jurisdictions, agencies, and participating landowners including the cities of Anaheim, Costa Mesa, Irvine, Orange, and San Juan Capistrano; Southern California Edison; the Transportation Corridor Agencies; The Irvine Company; CDPR; Metropolitan Water District of Southern California; and the County of Orange. The Central-Coastal NCCP/HCP is also a regional subarea plan under the State of California's NCCP program and was developed in cooperation with the CDFG.

Approved through an incidental take permit issued on July 10, 1996, the Central-Coastal NCCP/HCP planning area encompasses 209,000 ac (84,579 ha) and provides for the establishment of approximately 38,738 ac (15,677 ha) of reserve lands for 39 Federal or State listed, unlisted, and sensitive species including the coastal California gnatcatcher. The Central-Coastal NCCP/HCP incorporates the basic conservation planning tenets of the NCCP Conservation Guidelines in establishing its reserve system. This is accomplished by protecting large blocks of core habitat and habitat linkages, supplementing the basic reserve design with other important habitat connections within and outside of the subregion, and adopting an adaptive management program to maintain the net long-term habitat value of the reserve system (Service 1996b, p. 48).

There are approximately 34,392 ac (13,918 ha) of coastal sage scrub habitat in the Central-Coastal NCCP/HCP planning area (Service 1996b, p. 23). The reserve system, consisting of two subarea reserves (central and coastal), protects a total of approximately 18,015 ac (7,290 ha) of coastal sage scrub habitat (PCE 1) and 370 coastal California gnatcatcher sites (Service 1996b, pp. 43, 46). Acknowledging the importance of maintaining linkages between habitat patches for species dispersal (PCEs 1 and 2) within each subarea of the reserve system, the Central-Coastal NCCP/HCP protects the functionally contiguous habitat in the reserve system and Special Linkage Areas that contain all but one of the substantial concentrations of coastal California gnatcatcher found in the coastal subarea. While not directly connected via reserve lands, the coastal subarea reserve provides for an inter-subregion linkage to the central subarea reserve through the Salt Creek corridor (Service 1996b, p. 46).

The adaptive management program of the Central-Coastal NCCP/HCP is intended to address adverse edge effects to the coastal California gnatcatcher and coastal sage scrub habitat through its biological monitoring and habitat enhancement activities, which include pest/invasive species control efforts (Service 1996b, p. 48). Active management activities initiated under the adaptive management program, such as brown-headed cowbird trapping, prescribed burns, grazing, or other habitat manipulations, are monitored to directly assess the efficacy of management activities in meeting the goal of the Central-Coastal NCCP/HCP (Service 1996b, p. 48). Enhancement and restoration measures, designed to improve the biological productivity and diversity within the reserve system, include: (1) The control of invasive and exotic plant and animal species such as artichoke thistle, black mustard, brown-headed cowbirds, bull frogs, or red foxes; (2) reseeding with native plant species; (3) fire management; (4) controlling public access; and (5) managing agricultural practices (Service 1996b, p. 48).

In the 1993 final listing rule (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the coastal California gnatcatcher. As described above, the Central-Coastal NCCP/HCP provides protection for essential coastal sage scrub features (PCE 1) and habitat through the permanent protection, enhancement, and management of large, interconnected habitat preserves (PCEs 1 and 2) that support core populations of coastal California gnatcatchers. The approved Central-Coastal NCCP/HCP removes or reduces threats to this species and essential features through protection and management of the features essential to the species' conservation within the plan area.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section, we believe that the regulatory benefit of critical habitat is low when compared to conservation efforts or management plans, such as those in place for the Central-Coastal NCCP/HCP. The Central-Coastal NCCP/HCP addresses conservation issues from a coordinated, integrated perspective rather than a piece-meal project-by-project approach and will achieve more coastal California gnatcatcher conservation than we would achieve through multiple site-by-site, project-by-project, consultations under section 7 of the Act involving consideration of critical habitat. The Central-Coastal NCCP/HCP provides for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. Conservation and management of coastal California gnatcatcher habitat is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The Central-Coastal NCCP/HCP provides as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this regional HCP plan.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-Federal lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed close partnerships with State and local jurisdictions, agencies, and participating landowners including the cities of Anaheim, Costa Mesa, Irvine, Orange, and San Juan Capistrano; Southern California Edison; the Transportation Corridor Agencies; The Irvine Company; CDPR; Metropolitan Water District of Southern California; and the County of Orange through the development of this regional HCP. We believe this plan incorporates appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the regional HCP and helping to preserve our ongoing partnerships with the permittees and other plan participants and to encourage new partnerships with other landowners and jurisdictions. Addition of a new regulatory requirement would

remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape-level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

We have reviewed and evaluated the exclusion of non-Federal essential habitat within the Central-Coastal NCCP/HCP plan area from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Unit 7 outweigh the benefits of including these lands. As discussed above, the Central-Coastal NCCP/HCP will provide for significant preservation and management of habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat within the Central-Coastal NCCP/HCP plan area from the revised final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the Central-Coastal NCCP/HCP provides protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher within Unit 7. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Orange County Southern Subregion HCP

The Orange County Southern Subregion HCP (Southern Subregion HCP) is a large-scale regional HCP developed by the County of Orange, Rancho Mission Viejo, and the Santa Margarita Water District to address impacts to 32 species, including the coastal California gnatcatcher, resulting from residential and associated infrastructure development in southern Orange County. The Service issued an incidental take permit for covered species, including the coastal California gnatcatcher, on January 10, 2007. The final HCP has not been approved by the State of California as an NCCP; therefore, take of coastal California gnatcatcher under the HCP is not exempted under the 4(d) Special Rule for the Coastal California Gnatcatcher. (See ''Relationship to the 4(d) Special Rule for the Coastal California Gnatcatcher'' section below).

The Southern Subregion HCP action area encompasses approximately 86,076 ac (34,834 ha) (Service 2007a, p. 24) and provides for the conservation of covered species, including the coastal California gnatcatcher, with the establishment of an approximately 30,426 ac (12,313 ha) habitat reserve and 4,456 ac (1,803 ha) of supplemental open space areas (Service 2007a, p. 19). The HCP provides for a large, biologically diverse and permanent subregional habitat reserve that will protect: (1) Large blocks of natural vegetation communities that provide habitat for the covered species; (2) ''important'' and ''major'' populations of the covered species in key locations; (3) wildlife corridors and habitat linkages that connect the large habitat blocks and covered species populations to each other; the Cleveland National Forest, and the adjacent Orange County Central-Coastal NCCP/HCP; and (4) the underlying hydrogeomorphic processes that support the major vegetation communities providing habitat for the covered species (Service 2007a, p. 10).

The action area for the Southern Subregion HCP contains 20,716 ac (8,390 ha) of suitable coastal California gnatcatcher nesting and foraging habitat (coastal sage scrub) and 722 coastal California gnatcatcher locations (Service 2007a, p. 75). To offset the impacts of covered activities on the coastal California gnatcatcher, a total of 406 or 56 percent of the coastal California gnatcatcher locations and 12,376 ac (5,008 ha) or 60 percent of the coastal sage scrub required by the species for nesting and foraging (PCE 1) within the action area will be included in the habitat reserve and supplemental open space (Service 2007a, p. 84). An additional 2,061 ac (843 ha) of nesting and foraging habitat, including 21 coastal California gnatcatcher locations, will remain conserved at the National Audubon Society's (NAS) Starr Ranch bringing the total of conserved coastal sage scrub habitat to 14,437 ac (5,842 ha) or 70 percent within the action area (Service 2007a, p. 93).

A detailed monitoring plan will be developed in coordination with the wildlife agencies to monitor both changes in the coastal sage scrub community and coastal California gnatcatcher population size, with the goal of maintaining the approximate coastal sage scrub (PCE 1) acreage in the habitat reserve (Service 2007a, p. 88). Furthermore, habitat connectivity for dispersal within the action area will be maintained through conservation and adaptive management of several linkage areas that contain suitable dispersal habitat (PCEs 1 and 2) (Service 2007a, p. 86). The Southern Subregion HCP also contains a grazing management plan which manages grazing activities and restoration of upland habitat with native grasses and coastal sage scrub to help ensure that the habitat remains suitable for the coastal California gnatcatcher and other species (Service 2007a, p. 88).

At a general landscape habitat level, adaptive management goals and objectives for coastal sage scrub habitat include monitoring coastal California gnatcatcher population levels, maintaining the physiographic diversity of coastal sage scrub and associated focal species in the habitat reserve, restoring coastal sage scrub and enhancing the quality of existing sage scrub in the habitat reserve, managing fire regimes to maintain a natural diversity of age-stands throughout the habitat reserve, and controlling of exotic plant and animal invasions of coastal sage scrub along the habitat reserve-urban development interface (Draft NCCP 2006, p. 13–69).

The 1993 final listing (58 FR 15742) identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the coastal California gnatcatcher. As described above, the Southern Subregion HCP provides protection for the features essential to the coastal California gnatcatcher (i.e., coastal sage scrub habitat (PCE 1) through the permanent protection, enhancement, and management of large, interconnected habitat preserves that support core populations of coastal California gnatcatcher and wildlife corridors and habitat linkages (PCEs 1 and 2) that connect the large habitat blocks and coastal California gnatcatcher populations to each other, the Cleveland National Forest, and the adjacent Central-Coastal NCCP/HCPs. The approved Southern Subregion HCP removes or reduces threats to this species through protection and management of the features essential to the species' conservation within the plan area.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section, we believe that the regulatory benefit of critical habitat is low when compared to voluntary conservation efforts or management plans, such as those in place for the Southern Subregion HCP. The Southern Subregion HCP addresses

conservation issues from a coordinated, integrated perspective rather than a piece-meal project-by-project approach and will achieve more coastal California gnatcatcher conservation than we would achieve through multiple site-by-site, project-by-project, consultations under section 7 of the Act involving consideration of critical habitat. This regional HCP provides for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. Conservation and management of coastal California gnatcatcher habitat and PCEs is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The Southern Subregion HCP provides as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this HCP.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs or Other Approved Management Plans sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed close partnerships with Orange County, Rancho Mission Viejo, and the Santa Margarita Water District through the development of the Southern Subregion HCP, a plan that incorporates appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the HCP and helping to preserve our ongoing partnerships with the permittees and other plan participants and to encourage new partnerships with other landowners and jurisdictions. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher and its PCEs.

We have reviewed and evaluated the exclusion of non-Federal essential habitat within the Southern Subregion HCP area from the designation of final critical habitat for the coastal California gnatcatcher. Included within the area being excluded are lands described as ''additional conservation lands'' in the biological opinion on the Implementing Agreement for this HCP that have already been purchased and placed in conservation, such as the Starr Ranch property. We have determined that the benefits of excluding these lands in Unit 6 outweigh the benefits of including these lands. As discussed above, the Southern Subregion HCP will provide for significant preservation and management of habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat within the Southern Subregion HCP plan area from the final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the Southern Subregion HCP provides protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher within Unit 6. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

SDG&E Subregional NCCP/HCP

The San Diego Gas and Electric (SDG&E) Subregional NCCP/HCP encompasses lands in San Diego County west of the desert, the portion of Orange County within the existing SDG&E's service territory, and the SDG&E's Moreno Compressor Station in Riverside County. The NCCP/HCP covers biological impacts to 18 federally listed species, including the coastal California gnatcatcher, from use, maintenance, and repair of existing gas and electric facilities and, with limited exception, includes the typical expansions to those systems (as described in the HCP and Implementing Agreement) (Service 1995a, p. 4). According to the Service's biological opinion, under the NCCP/HCP, SDG&E is authorized to impact through habitat modification a maximum of 400 ac (162 ha) of natural land over a 55-year permit period (Service 1995a, p. 5). SDG&E will follow operational protocols to avoid and minimize impacts to covered species while conducting covered activities in occupied habitat (Service 1995a, p. 32). To compensate for unavoidable impacts to covered species, SDG&E agreed to: (1) Dedicate certain fee-owned rights-of-way as corridors (for species dispersal; PCEs 1 and 2) for wildlife (totaling approximately 5,300 ac (2,145 ha)); (2) establish a conservation bank of approximately 240 ac (97 ha) to offset permanent impacts to upland habitats, including coastal sage scrub (PCE 1) and areas of unsuccessful revegetation; (3) develop restoration protocols for temporary impacts; and (4) enhance through vegetation restoration and/or habitat reclamation disturbed areas which do not need to be continuously cleared. The 240 ac (97 ha) conservation bank, dominated by coastal sage scrub habitat, has been transferred to the Service's San Diego National Wildlife Refuge and is currently being managed for listed and sensitive species, including the coastal California gnatcatcher, by the Service.

The 1993 final listing (58 FR 15742) identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the coastal California gnatcatcher. As described above, the SDG&E Subregional NCCP/HCP provides protection for the features essential to the coastal California gnatcatcher through the protection coastal sage scrub habitat (PCE 1), provides for the maintenance of

corridors that will serve as dispersal linkages (PCEs 1 and 2) for the species, and provides for enhancement of the habitat by removing or reducing threats to this species.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section, we believe that the regulatory benefit of critical habitat is low when compared to voluntary conservation efforts or management plans, such as those in place for the Southern Subregion HCP. The SDG&E Subregional NCCP/HCP addresses conservation issues from a coordinated, integrated perspective rather than a piece-meal project-by-project approach and will achieve more coastal California gnatcatcher conservation than we would achieve through multiple site-by-site, project-by-project, consultations under section 7 of the Act involving consideration of critical habitat. This regional HCP provides for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. Conservation and management of coastal California gnatcatcher habitat and PCEs is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat. The SDG&E Subregional NCCP/HCP provides as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of this HCP.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed a close partnership with SDG&E through the development of the Subregional NCCP/HCP, a plan that incorporates appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the HCP and helping to preserve our ongoing partnerships with the permittee and to encourage new partnerships with other landowners and jurisdictions. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape-level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

We have reviewed and evaluated the exclusion of non-Federal essential habitat owned by SDG&E and covered under the Subregional NCCP/HCP area from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Unit 1 outweigh the benefits of including these lands. As discussed above, the SDG&E Subregional NCCP/HCP will provide for significant preservation and management of habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat owned by SDG&E and covered under the Subregional NCCP/HCP from the final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because the SDG&E Subregional NCCP/HCP provides protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher within Unit 1. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Individual HCPs

As described in the 2003 revised proposed critical habitat rule (68 FR 20228), we considered but did not propose as critical habitat essential coastal California gnatcatcher habitat lands covered by eight completed and approved individual HCPs (Meadowlark Estates, City of Carlsbad/Fieldstone/La Costa, Coyote Hills East, Shell Oil/Metropolitan Water District, Ocean Trails (now referred to as the Trump National Golf Club HCP), Lake Mathews, North Peak, and Rancho Bella Vista) pursuant to sections 3(5)(A) and 4(b)(2). We are reaffirming our exclusion of these lands under section 4(b)(2) of the Act. In addition, we are excluding lands covered by the approved HCP for the Tentative Parcel Map 93–129 in Orange County (referred to as the O'Hill Project HCP) from this final revised designation under section 4(b)(2) of the Act. The benefits to the coastal California gnatcatcher and its habitat provided by these individual HCPs are discussed in the paragraphs that follow.

(1) Meadowlark Estates HCP (San Diego County—Unit 3)

The Meadowlark Estates HCP was prepared pursuant to an incidental take permit (TE–839428) for the coastal California gnatcatcher issued on February 13, 1998, to the Sun Cal Company for residential development on approximately 198 ac (80 ha) in the City of San Marcos, San Diego County. The Meadowlark Estates HCP provides for the conservation of the coastal California gnatcatcher, with the establishment of an approximately 85 ac (34 ha) onsite habitat reserve and acquisition of approximately 16 ac (6 ha) offsite within a regional open space corridor which connects natural lands near Palomar Airport Road to those near Lake Hodges (Service 1998d, p. 2). The 85-ac (34 ha) onsite reserve consists of sage scrub and non-sage scrub habitats (PCEs 1 and 2) including approximately 2 ac (0.8 ha) of Diegan coastal sage scrub 24 ac (10 ha) of southern mixed chaparral, 1 ac (0.4 ha) of southern

willow scrub, 7 ac (3 ha) of *Baccharis* scrub, and 51 ac (21 ha) of agricultural lands 12 ac (5 ha) of which will be restored to Diegan coastal sage scrub (Service 1998d, p. 6). These onsite lands have been placed under a conservation easement dedicated to the City of San Marcos and are managed by the homeowners association (Service 1998d, p. 2). Reserve management activities benefiting the coastal California gnatcatcher and its habitat include: (1) Minimization and avoidance measures; (2) habitat restoration and enhancement; and (3) establishment of a wildlife corridor (PCEs 1 and 2) between Meadowlark Estates and the Rancho Carrillo property (Service 1998d, p. 4).

(2) City of Carlsbad/Fieldstone/La Costa HCP (San Diego County—Unit 3)

The City of Carlsbad/Fieldstone/La Costa HCP was prepared pursuant to an incidental take permit (TE–818041) for covered species, including the coastal California gnatcatcher, issued on June 7, 1995, to the City of Carlsbad, Fieldstone, and La Costa Associates for residential development on approximately 1,955 ac (791 ha) in the southeast quadrant of the City of Carlsbad in San Diego County. The HCP offset impacts to the coastal California gnatcatcher and its habitat through the permanent conservation of approximately 942 ac (381 ha) of sage scrub and non sage scrub habitats (PCEs 1 and 2), including coastal sage scrub, southern maritime chaparral, and riparian scrub and woodland (Service 1995b, p. 10). This total includes the approximately 240 ac (97 ha) of coastal sage scrub that will be mitigated offsite, in a habitat corridor that provides for species dispersal (PCEs 1 and 2) between Carlsbad and the San Dieguito River Valley (Service 1995b, p. 2). Long-term management of these conserved areas benefitting coastal California gnatcatcher and its habitat includes: (1) Species monitoring; (2) habitat restoration and enhancement; (3) cowbird trapping; (4) control of nonnative invasive plant species; (5) implementation of a fire management program; (6) access control measures; and (7) public education (Service 1995b, p. 3).

(3) Coyote Hills East HCP (Orange County—Unit 9)

The Coyote Hills East HCP was prepared pursuant to an incidental take permit (TE–768184) for covered species, including the coastal California gnatcatcher, issued on October 22, 1993, to Unocal Land and Development Company for residential development on approximately 391 ac (158 ha) in the City of Fullerton, Orange County. As described in the HCP and the subsequent amendment, the following measures that provide special management considerations and protections for the PCEs required by the coastal California gnatcatcher have been and/or are being implemented: (1) Conservation of 120 ac (49 ha) of existing and restored coastal sage scrub habitat on the project site and the restoration and conservation of an additional 5 ac (2 ha) of offsite coastal sage scrub habitat (PCE 1); (2) coastal sage scrub habitat quality surveys; (2) trash removal; (3) access control; and (4) weed abatement (Sweetwater Environmental and Michael Brandman Associates 1993, pp. 1, 20, 52; Natural Resource Consultants 2003, p. 3, 5). Conserved habitat within the project site has been zoned as Natural Open Space by the City of Fullerton and is protected from development in perpetuity by a conservation easement over conserved habitat (Sweetwater Environmental and Michael Brandman Associates 1993, p. 20, 52).

(4) Shell Oil/Metropolitan Water District HCP (Orange County—Unit 9)

The Shell/Metropolitan Water District HCP was prepared pursuant to an incidental take permit (TE–027246–1 and TE–027848–1) for covered species, including the coastal California gnatcatcher, issued on November 7, 1996, to Shell Western E&P and the Metropolitan Water District of Southern California for residential and commercial development on approximately 1,055 ac (427 ha) immediately adjacent to the City of Yorba Linda and Chino Hills State Park in Orange County. The HCP includes the following measures that provide special management considerations and protection for the PCEs required by the coastal California gnatcatcher: (1) The sale of 979 ac (396 ha) of multi-species habitat consisting of coastal sage scrub, chaparral, oak and walnut woodland habitat (PCEs 1 and 2) to Chino Hills State Park for habitat protection and passive recreational purposes; (2) the establishment of a 228-ac (92-ha) mitigation bank that provides a critical linkage (PCEs 1 and 2) between open space/habitat systems within northern Orange County and eastern Los Angeles (Service 1996c, p. 3); (3) the restoration of 48 ac (19 ha) of coastal sage scrub onsite; and (4) funding for an ecologist to conduct brown-headed cowbird trapping, monitor vegetation restoration, assist in instituting fire suppression policies, assist in patrolling habitat areas to control unauthorized access, conduct baseline population estimates, and conduct short- and long-term habitat monitoring activities (Service 1996c, pp. 3–5, 13–14).

(5) Ocean Trails Habitat Conservation Plan (Now Referred to as the Trump National Golf Club HCP) (Los Angeles County—Unit 8)

The Ocean Trails HCP was prepared pursuant to an incidental take permit (TE–799348) for covered species, including the coastal California gnatcatcher, to address golf course and residential development on approximately 270 ac (109 ha) in the City of Rancho Palos Verdes in Los Angeles County. The incidental take permit was issued on February 4, 1997 to the Palos Verdes Land Holdings Company and Zuckerman Building Company. The permit is in the process of being transferred to the current owner of the Trump National Golf Club, V.H. Properties Corporation, and the HCP has been renamed and is now known as the Trump National Golf Club HCP. The following HCP measures that provide special management considerations and protection for the PCEs required by the coastal California gnatcatcher have been implemented: (1) Onsite preservation of approximately 92 ac (37 ha) of successfully enhanced natural open space consisting of coastal sage scrub habitat (PCE 1); and (2) acquisition of two conservation easements on two offsite parcels: Approximately 95 ac (38 ha) in the City of Rancho Palos Verdes ''Switchback'' area and approximately 20 ac (8 ha) of Los Angeles County's Shoreline Park property, both consisting of coastal sage scrub habitat (Service 1996d, p. 4). Other ongoing conservation measures that will benefit the PCEs required by this species include weed abatement, habitat restoration activities, and species monitoring and management (Service 1996d, pp. 5–6).

(6) Lake Mathews MSHCP/NCCP (Riverside County—Unit 10)

On December 5, 1995, the Metropolitan Water District of Southern California (Metropolitan) was issued an incidental take permit (TE–805839) for 65 covered species, including the coastal California gnatcatcher, pursuant to the Lake Mathews MSHCP/NCCP. The MSHCP/NCCP identified an 882 ac (357 ha) operations/project area and established a 5,110 ac (2,068 ha) Multiple Species Reserve (MSR). The MSR is comprised of the CDFG's 2,565 ac (1,038 ha) Lake Mathews Ecological Reserve and a 2,544 ac (1,030 ha) mitigation bank for exclusive use by the Metropolitan Water District and its partner agencies (Service 1995c, p. 3). In accordance with the MSHCP/NCCP, the

entire 5,110 ac (2,068 ha) MSR is managed as a single reserve for the benefit of all 65 species.

The MSHCP/NCCP addressed direct and indirect impacts resulting from ongoing operations and maintenance at the Lake Mathews water storage facility, including the loss of 344 ac (139 ha) of Riversidean sage scrub (Service 1995c. p. 35). As described in the MSHCP/NCCP, the following measures that provide special management considerations and protection for the PCEs required by the coastal California gnatcatcher have been and are being implemented: (1) Conservation and management of a total of 1,649 ac (667 ha) of habitat consisting primarily of Riversidean sage scrub and non-native grassland habitats (PCEs 1 and 2) within the MSR, including 728 ac (295 ha) in the Lake Mathews Ecological Reserve and 922 ac (373 ha) in the mitigation bank area (Service 1995c, pp. 35, 58); (2) fencing and patrolling to control access of people, vehicles, livestock, and domestic pets; (3) periodic species monitoring; (4) weed abatement through prescribed burns; and (5) working with fire response agencies to limit impacts from wildfires and fire suppression activities.

(7) North Peak MSHCP (Riverside County—Unit 10)

The North Peak MSHCP was prepared pursuant to an incidental take permit (TE–012768) for covered species, including the coastal California gnatcatcher, issued on June 7, 1999, to North Peak Partners for residential development on approximately 1,019 ac (412 ha) in the City of Lake Elsinore in western Riverside County. As described in the MSHCP, the following measures that provide special management considerations and protection for PCEs 1 and 2 required by the coastal California gnatcatcher have been or are being implemented: (1) Conservation of approximately 511 ac (207 ha) on and offsite, of which approximately 340 ac (138 ha) is Riversidean sage scrub; (2) offsite dedication of approximately 100 ac (40 ha) consisting primarily of Riversidean sage scrub and grassland habitats to the reserve system in western Riverside County with fee title being transferred to the Riverside County Habitat Conservation Agency; (3) maintenance of wildlife corridors and habitat connections onsite; (4) impact avoidance and reduction measures; (5) construction of barriers to control access to conserved lands; (6) control of nonnative invasive species; and (7) adaptive management and monitoring of conserved lands (North Peak Partners 1999, pp. 47–64).

(8) Rancho Bella Vista HCP (Riverside County—Unit 10)

The Rancho Bella Vista Habitat Conservation Plan (HCP) was prepared pursuant to an incidental take permit (TE–024042) for covered species, including the coastal California gnatcatcher, issued on May 8, 2000, to Pacific Bay Homes for residential development on approximately 798 ac (323 ha) in western Riverside County. As described in the HCP, the following measures that provide special management considerations and protection for the PCEs required by the coastal California gnatcatcher have been or are being implemented: (1) Onsite conservation of approximately 115 ac (46 ha) of Riversidean sage scrub habitat (PCE 1) configured to allow for connection to several other open space areas; (2) measures to avoid and/or minimize impacts to the species and its habitat; (3) control of nonnative invasive vegetation; (4) access control; and (5) preparation of a fire management plan (Service 2000b, p. 34).

(9) O'Hill Project HCP (Orange County—Unit 7)

The HCP for Tentative Parcel Map 93–129 (referred to as the O'Hill HCP) was prepared pursuant to an incidental take permit (TE–154024) for covered species, including the coastal California gnatcatcher, issued on June 25, 2007, to Bear Brand Ranch for site-preparation activities associated with residential development on approximately 50 ac (20 ha) in the City of Laguna Niguel in Orange County. As described in the HCP, the following measures that provide special management considerations and protection for the PCEs required by the coastal California gnatcatcher will be implemented (Service 2007b, pp. 2–5): (1) Measures to avoid and/or minimize impacts to coastal California gnatcatchers during construction; (2) development of an educational brochure to advise residents of the benefits and responsibilities associated with living near a wildland area; (3) the creation and/or restoration/enhancement of approximately 10 ac (4 ha) of coastal sage scrub habitat onsite (PCE 1); and (4) permanent conservation and management of a total of approximately 13 ac (5 ha) of coastal sage scrub habitat onsite (PCE 1). According to the Service's biological opinion on the project, following project completion, the amount and quality of coastal sage scrub habitat on the property will increase substantially over pre-project conditions (Service 2007b, p. 13). Also, following restoration, the habitat on the property should be able to support two to three pairs of nesting gnatcatchers as opposed to the one to two pairs currently on the property (Service 2007b, p. 13).

In the 1993 final rule listing this species as threatened (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. As described above, these nine HCPs (Meadowlark Estates, City of Carlsbad/Fieldstone/La Costa, Coyote Hills East, Shell Oil/Metropolitan Water District, Ocean Trails (now referred to as the Trump National Golf Club HCP), Lake Mathews, North Peak, Rancho Bella Vista, and O'Hill) reduce threats to the coastal California gnatcatcher by providing for the protection and enhancement of habitat and PCEs essential to the conservation of the species. These HCPs preserve habitat that supports identified core populations of this species and therefore provide for recovery.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section, we believe that the regulatory benefit of critical habitat is low when compared to conservation efforts or management plans, such as those in place for the nine individual HCPs discussed above. These individual HCPs provide for the proactive monitoring and management of conserved lands (as previously described), which will remove or reduce known threats to the coastal California gnatcatcher and its habitat. Conservation and management of coastal California gnatcatcher habitat is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition against adverse modification or destruction of critical habitat under section 7 of the Act. These individual HCPs provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of these HCPs.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to

real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed a close partnership with the permittees through the development of these nine individual HCPs. We believe these HCPs incorporate appropriate protection and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by the HCP and helping to preserve our ongoing partnerships with the permittees and to encourage new partnerships with other landowners. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop these plans. Those partnerships, and the conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

We have reviewed and evaluated the exclusion of non-Federal essential habitat covered under these nine individual HCPs (Meadowlark Estates, City of Carlsbad/Fieldstone/La Costa, Coyote Hills East, Shell Oil/Metropolitan Water District, Ocean Trails (now referred to as the Trump National Golf Club HCP), Lake Mathews, North Peak, Rancho Bella Vista, and O'Hill) from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Units 1, 3, 7, 8, 9, and 10 outweigh the benefits of including these lands. As discussed above, these individual HCPs will provide for significant preservation and management of habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of non-Federal essential habitat covered under these nine individual HCPs (Meadowlark Estates, City of Carlsbad/Fieldstone/La Costa, Coyote Hills East, Shell Oil/Metropolitan Water District, Ocean Trails (now referred to as the Trump National Golf Club HCP), Lake Mathews, North Peak, Rancho Bella Vista, and O'Hill,) from the revised final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because these HCPs provide protection and management in perpetuity of essential habitat, including its PCEs, for the coastal California gnatcatcher within Units 1, 3, 7, 8, 9, and 10. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Other Conservation Partnerships—Exclusions Under Section 4(b)(2) of the Act

CDFG Lands

In the 2003 proposed rule to revise critical habitat, we proposed to designate lands owned and managed by CDFG. At the request of the CDFG, we evaluated the appropriateness of excluding their lands from this revised final designation under section 4(b)(2) of the Act. As discussed in our response to Comment 12 in the ''Public Comments'' section above, we have concluded that exclusion of CDFG-owned ecological reserves within the MSCP and MHCP plan areas is appropriate. The CDFG has committed to manage, maintain, and monitor all lands they contribute to the MSCP (whether owned or administered by them as of the effective date of the MSCP or later acquired) consistent with the MSCP (Service 1998a, p. 40). CDFG lands considered part of the MSCP reserve system include McGinty Mountain, Otay Mountain, and Rancho Jamul ecological reserves in Unit 1. Under the MHCP, the CDFG has also committed to contribute natural habitat lands that they currently administer in the MHCP area (AMEC *et al.* 2003, p.–4–2). CDFG lands that are and will be managed consistent with the MHCP include five ecological reserves (Pilgrim Creek, Carlsbad Highland, Agua Hedionda Lagoon, Batiquitos Lagoon, and San Elijo Lagoon) in Unit 3.

The State of California establishes ecological reserves to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools (Fish and Game Code section 1580). They are to ''be preserved in a natural condition, or which are to be provided some level of protection as determined by the commission, for the benefit of the general public to observe native flora and fauna and for scientific study or research'' (Fish and Game Code section 1584). Wildlife areas are for the purposes of propagating, feeding and protecting birds, mammals, and fish (Fish and Game Code section 1525); however, they too provide habitat for and are also managed for the benefit of listed and sensitive species (CDFG in litt. 2003).

Take of species, except as authorized under the State Fish and Game Code, is prohibited on both State ecological reserves and wildlife areas (section 1530 and section 1583). While public uses are permitted on most wildlife areas and ecological reserves, such uses are only allowed at times and in areas where listed and sensitive species are not adversely affected (CDFG 2003). The management objectives for these State lands include: to specifically manage for targeted listed and sensitive species to provide protection that is equivalent to that provided by designation of critical habitat; to provide a net benefit to the species through protection and management of the land; to ensure adequate information, resources, and funds are available to properly manage the habitat; and to establish conservation objectives, adaptive management, monitoring and reporting processes to assure an effective management program, monitoring and reporting processes to assure an effective management program'' (CDFG 2003).

In the 1993 final rule listing this species as threatened (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. As described above, the conservation measures and protections for habitat owned and managed by the CDFG provide protection and enhancement of the habitat by removing or reducing threats to this species and the PCEs. Under the MSCP and MHCP plan, the CDFG has committed to reduce threats

to the coastal California gnatcatcher by providing for the protection and management of habitat and PCEs essential to the conservation of the species. The preservation and management of CDFG lands protects habitat that supports identified core populations of this species and therefore provides for recovery.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section above, we believe that the regulatory benefit of critical habitat is low considering the conservation already in place or assured on CDFG reserve lands under state law and pursuant to the agency's commitments under the MSCP and MHCP. CDFG has committed to the proactive monitoring and management of the agency's reserve lands (as previously described) under these regional plans, which will remove or reduce known threats to the coastal California gnatcatcher or its habitat. CDFG's participation in the implementation of the MSCP and MHCP addresses conservation of essential gnatcatcher habitat from a coordinated, integrated, regional perspective rather than the piece meal project-by-project approach typically achieved under Section 7. In addition, given the conservation mission of CDFG, we do not anticipate that future activities on their reserve lands would likely result in potential adverse modification to essential gnatcatcher habitat that would be addressed through Section 7 consultation. We, therefore, believe that the regulatory benefits of critical habitat designation would be low on CDFG reserve lands. Furthermore any educational benefits that may be derived from a critical habitat designation are redundant to other educational effects that were met through significant public, State, and local government input during the development and ongoing implementation of the HCPs or that are otherwise provided for under CDFG's own governing statutes.

As discussed in our response to Comment 12 in the ''Public Comments'' section above, CDFG commented that designating critical habitat on State lands within the CDFG's jurisdiction would provide no added conservation benefit and would be detrimental to State conservation efforts, as critical resources would be diverted from substantive resource protection to procedural regulatory efforts. We agree that the designation of critical habitat on CDFG-owned ecological reserves that are and will be managed for the conservation of the coastal California gnatcatcher consistent with the approved MSCP and MHCP plans would provide little additional conservation benefit and believe that the judicious use of excluding specific areas of non-federal lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed a close partnership CDFG through the development of the MSCP and MHCP and through other conservation efforts for rare and listed species. As previously discussed above, we believe the MSCP and MHCP incorporate appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with the mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding CDFG lands from designation, we are eliminating an essentially redundant layer of regulatory review for projects covered by these regional HCPs and helping to preserve our ongoing partnership with the CDFG.

We have reviewed and evaluated the exclusion of a total of approximately 958 ac (388 ha) of CDFG-owned ecological reserves (McGinty Mountain, Rancho Jamul, and Otay Mountain) within the approved MSCP plan area and a total of approximately 1,188 ac (481 ha) of CDFG-owned ecological reserves (Pilgrim Creek, Carlsbad Highland, Agua Hedionda Lagoon, Batiquitos Lagoon, and San Elijo Lagoon) in Unit 3 within the approved MHCP plan area from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Units 1 and 3 outweigh the benefits of including these lands. As discussed above, the CDFG has committed to implement species-specific management under the MSCP and MHCP which will provide for significant preservation and management of essential habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of approximately 2,146 ac (868 ha) of CDFG lands within the MSCP and MHCP plan areas from the final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because these essential habitat areas and their PCEs are protected as ecological reserves and wildlife areas and will be managed by CDFG for the benefit of the coastal California gnatcatcher within Units 1 and 3. In addition, the jeopardy standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

The Irvine Ranch (Formerly Known as the Irvine Ranch Land Reserve)

In the 2003 proposed rule to revise critical habitat (68 FR 20228; April 24, 2003), we proposed to designate approximately 1,549 ac (627 ha) of essential habitat for the coastal California gnatcatcher on The Irvine Ranch (formerly known as the Irvine Ranch Land Reserve (Irvine Ranch 2007a)), owned by the Irvine Company. These 1,549 ac (627 ha) are within an area previously identified as the North Ranch Policy Planning Area. This area was excluded from take authorization provided for the Central Coastal NCCP/HCP due to a lack of detailed biological information and specific conservation commitments at the time of adoption of the NCCP/HCP in 1996. We subsequently determined that lands containing features essential to the conservation of the coastal California gnatcatcher occur within this area and as a result, included these lands in the 2003 proposed rule to revise critical habitat.

In 1992, the Irvine Company initiated a partnership with the Nature Conservancy to develop and implement a stewardship plan for 35,000 ac (14,164 ha) of what is presently called The Irvine Ranch to address compatible public access, habitat management and restoration. An additional 11,500 ac (4,654 ha) was donated by the Irvine Company in 2001 (TNC 2007, p. 1). In 2005, all 50,000 ac (20,234 ha) of The Irvine Ranch's permanently protected open space were placed under the responsibility of the Irvine Ranch Conservancy (formerly referred to as the Irvine Ranch Land Reserve Trust), a non-profit organization created to protect the wildlands and parks of The Irvine Ranch with a financial commitment of $50 million to help protect, restore and enhance the resources of these lands (Irvine Ranch 2007b).

The mission of the Irvine Ranch Conservancy is to help protect, restore and enhance the natural resources of The Irvine Ranch in perpetuity and to encourage the creation of new and diverse opportunities for public

enjoyment and education (IRC 2007a). The reserve consists of various natural communities including coastal sage scrub, chaparral, and coast live oak woodlands and is occupied by a variety of native animals including the coastal California gnatcatcher (TNC 2007, p. 1). Effective land stewardship includes (1) strategies for habitat protection, restoration and public access in a way that ensures the long-term well-being of the native habitat and wildlife; (2) hands-on field work to maintain trails, restore habitat, and remove invasive weeds; (3) ongoing biological monitoring to assess the health of native plants and wildlife; and (4) a group of committed volunteers to serve as naturalist-guides for public hikes, mountain-bike rides, and horse rides, and to assist with other activities (IRC 2007b). The Irvine Ranch Conservancy is currently working on a conservation strategy for the Irvine Ranch wildlands that will formalize their conservation vision, strategy, and approach for all the wildlands they directly manage (Olson 2007).

In the 1993 final rule listing this species as threatened (58 FR 15742), we identified habitat loss and fragmentation occurring in conjunction with urban and agricultural development as the primary threat to the species. As described above, the conservation measures and protections for habitat owned and managed by The Irvine Company provide enhancement of the habitat by removing or reducing threats to this species and the PCEs. The Irvine Ranch reduces threats to the coastal California gnatcatcher by providing for the protection and management of habitat and PCEs essential to the conservation of the species. The Irvine Ranch protects habitat that supports identified core populations of this species and therefore provides for recovery.

Benefits of Exclusion Outweigh the Benefits of Inclusion

As discussed in the Benefits of Designating Critical Habitat section above, we believe that the regulatory benefit of critical habitat is low when compared to voluntary conservation efforts or management plans, such as the one in place for habitat owned by The Irvine Company and managed by the Irvine Ranch Conservancy. This conservation effort addresses conservation issues from a coordinated, integrated perspective and provides for the proactive monitoring and management of conserved lands, which will remove or reduce known threats to the coastal California gnatcatcher and its habitat. Conservation and management of coastal California gnatcatcher habitat is essential to survival and recovery of this species. Such conservation needs are typically not addressed through the application of the statutory prohibition on adverse modification or destruction of critical habitat under section 7 of the Act. The Irvine Ranch will provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision. Additionally, the potential for educational benefits arising from designating this area as critical habitat has already been met through the Irvine Ranch Conservancy's commitment to ongoing environmental education programs to promote public understanding and appreciation of the natural resources on The Irvine Ranch.

As discussed in the Conservation Partnerships on Non-Federal Lands and Benefits of Excluding Lands with HCPs sections, many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999; Brook *et al.* 2003). The designation of critical habitat on private lands may significantly reduce the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999; Bean 2002; Brook *et al.* 2003). We believe that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone.

We have developed a close partnership with the Irvine Ranch Conservancy through the development and implementation of the stewardship plan for the Irvine Ranch. We believe the conservation measures that are and will be conducted on the Irvine Ranch incorporate appropriate protections and management for sage scrub habitat areas, and their constituent PCEs, essential for the conservation of this species. Those protections are consistent with mandates under section 7 of the Act to avoid adverse modification or destruction of critical habitat, and go beyond that prohibition by including active management and protection of essential habitat areas. By excluding these lands from designation, we are helping to preserve our ongoing partnership with the Irvine Conservancy and encouraging new partnerships with other landowners. Addition of a new regulatory requirement would remove a significant incentive for undertaking the time and expense of management planning and would likely have a negative effect on our ability to establish new partnerships to develop conservation measures and strategies, particularly plans that address landscape-level conservation of species and habitats. Those partnerships, and the landscape-level, multiple-species conservation planning efforts they promote, are critical for the conservation of the coastal California gnatcatcher.

In 2003, when we proposed designating lands within the area formerly referred to as the North Ranch Policy Planning Area as critical habitat, we had incomplete information about the extent to which the area would be managed for the conservation of sensitive species, including the coastal California gnatcatcher. As discussed above, we are now aware that the majority of the area included in the 2003 revised proposed critical habitat designation is within The Irvine Ranch and is permanently protected by the Irvine Ranch Conservancy. We have reviewed and evaluated the exclusion of 1,339 ac (542 ha) of essential habitat within the area formerly known as the North Ranch Policy Plan from the designation of final critical habitat for the coastal California gnatcatcher and have determined that the benefits of excluding these lands in Unit 7 outweigh the benefits of including these lands. As discussed above, the conservation efforts being conducted on habitat owned and managed by Irvine Ranch Conservancy on The Irvine Ranch will provide for significant preservation and management of habitat for the coastal California gnatcatcher and will help reach the recovery goals for this species. By excluding these lands from critical habitat designation, we are also acknowledging our role as a partner with the Irvine Ranch Conservancy in preserving the whole of The Irvine Ranch for future generations.

Exclusion Will Not Result in Extinction of the Species

We do not believe that the exclusion of 1,339 ac (542 ha) of essential habitat from the revised final designation of critical habitat for the coastal California gnatcatcher will result in the extinction of the species because these lands are permanently protected through a conservation agreement and being managed by the Irvine Ranch Conservancy for the conservation of this species and its PCEs on occupied areas in Unit 7. In addition, the jeopardy

standard of section 7 of the Act and routine implementation of conservation measures through the section 7 process also provide assurances that the species will not go extinct.

Exclusion of Pala Band of Mission Indians Tribal Lands Under Section 4(b)(2) of the Act—American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act

In accordance with the Secretarial Order 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); Executive Order 13175; and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2), we believe that fish, wildlife, and other natural resources on Tribal lands are better managed under Tribal authorities, policies, and programs than through Federal regulation wherever possible and practicable. Based on this philosophy, we believe that, in most cases, designation of Tribal lands as critical habitat provides very little additional benefit to threatened and endangered species. Conversely, such designation is often viewed by Tribes as unwarranted and an unwanted intrusion into Tribal self governance, thus compromising the government-to-government relationship essential to achieving our mutual goals of managing for healthy ecosystems upon which the viability of threatened and endangered species populations depend.

As stated in the 2003 proposed critical habitat rule (68 FR 20228), we determined that habitat essential to the coastal California gnatcatcher exists on the Pala Band of Mission Indian lands. However, in accordance with Executive Order 13175, which states that the U.S. Government will establish regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications in order to strengthen the United States government-to-government relationships with Indian Tribes, and reduce the imposition of unfunded mandates upon Indian Tribes, these lands were considered but not proposed as critical habitat. In this final rule, we reaffirm our exclusion of 7,534 ac (3,049 ha) of essential habitat on Pala Band of Mission Indian lands under section 4(b)(2) of the Act.

The Pala Band of Mission Indians highly values its wildlife and natural resources and is charged to preserve and protect these resources under the Tribal Constitution. Consequently, the Tribe has long worked to manage the habitat of wildlife on its lands, including the habitat of endangered and threatened species. During the public comment period, the Pala Band of Mission Indians expressed support for and concurred with the exclusion of these Tribal lands from the 2003 revised proposed critical habitat designation (see Comment 16 in the ''Public Comments'' section above). We are committed to maintaining a positive working relationship with the Tribes and will continue our attempts to work with them on conservation measures benefiting the coastal California gnatcatcher.

Benefits of Exclusion Outweigh the Benefits of Inclusion

The general benefits of critical habitat described in the ''Benefits of Critical Habitat Designation'' section would apply to habitat designated on Tribal lands. Activities occurring on Tribal lands will generally involve a Federal nexus. However, as discussed above, the Tribe is aware of the value of Tribal lands to the conservation of the coastal California gnatcatcher and currently implements management measures that contribute to the conservation of the subspecies and protect its essential habitat. Conservation measures will continue to be implemented by the Tribe regardless of whether the areas are designated as critical habitat. In light of this continued commitment by the Tribe to manage its lands in a manner that promotes the conservation of the coastal California gnatcatcher, the designation of critical habitat would provide minimal additional benefit to the subspecies on these Tribal lands.

The designation of critical habitat would be expected to adversely impact our working relationship with the Tribe, and we believe that Federal regulation through critical habitat designation would be viewed as an unwarranted and unwanted intrusion into tribal natural resource programs. Our working relationship with the Tribe has been extremely beneficial in implementing natural resource programs of mutual interest. The benefits of excluding Pala Band of Mission Indians Tribal lands from critical habitat include: (1) The advancement of our Federal Indian Trust obligations and our deference to Tribal conservation and natural resource management plans for their lands and resources, which includes the coastal California gnatcatcher and other Federal trust species; (2) the maintenance of effective working relationships to promote the conservation of the coastal California gnatcatcher, its PCEs, and its habitat; (3) the allowance for continued meaningful collaboration and cooperation on coastal California gnatcatcher management and other resources of interest to the Federal Government; and (4) the provision of conservation benefits to scrub ecosystems and a host of species, including the coastal California gnatcatcher, its PCEs, and its habitat, that might not otherwise occur.

We believe that the Tribe should be the governmental entity to manage and promote the conservation of the coastal California gnatcatcher on its lands. We recognize and endorse the Tribe's fundamental right to provide for Tribal resource management activities, including those relating to coastal California gnatcatcher. We have determined that the identified benefits of excluding the Tribal lands from the critical habitat designation outweigh the minimal benefits of inclusion, and are re-affirming our exclusion of approximately 7,534 ac (3,049 ha) of essential habitat on Pala Band of Mission Indian lands from the final designation under section 4(b)(2) of the Act.

Exclusion Will Not Result in Extinction of the Species

We have determined that the exclusion of 7,534 ac (3,049 ha) owned by the Pala Tribe from the final designation of critical habitat for the coastal California gnatcatcher will not result in the extinction of the species. Under section 7(a)(2) of the Act, the Bureau of Indian Affairs is required to consult with us for any project on trust lands that may adversely affect the gnatcatcher, regardless of whether critical habitat is designated. Application of the jeopardy standard under section 7 provides additional assurances the species will not go extinct.

Relationship to the 4(d) Special Rule for the Coastal California Gnatcatcher

On December 10, 1993, we published a final Special Rule concerning take of the coastal California gnatcatcher pursuant to section 4(d) of the Act (58 FR 63088). Under the 4(d) Special Rule, incidental take of the species is not considered to be a violation of section 9 of the Act if: (1) Take results from activities conducted pursuant to the NCCP and in accordance with an approved NCCP plan for the protection of coastal sage scrub, prepared consistent with the State of California's Conservation and Process Guidelines (Guidelines) updated January 1998 and

(2) the Service issues written concurrence that the plan meets the standards for issuance of an incidental take permit under 50 CFR 17.32(b)(2). Within enrolled subregions actively engaged in the preparation of an NCCP plan, the take of coastal California gnatcatchers will not be a violation of section 9 of the Act if such take results from activities conducted in accordance with the Guidelines. The Guidelines limit habitat loss during the interim planning period to no more than five percent of coastal sage scrub with lower long-term conservation potential in existence at the time of adoption of the 4(d) Special Rule.

The Guidelines specify criteria to evaluate the long-term conservation potential of sage scrub that is proposed for loss during the period that NCCP plans are being developed to assist participating jurisdictions in providing interim protection for areas that support habitat that is likely to be important to conservation of the coastal California gnatcatcher. Approved NCCP plans in Southern California currently include the following: (1) Orange County Central-Coastal Subregional Plan; (2) Western Riverside County MSHCP; (3) San Diego MSCP and MSCP subarea plans for the cities of Poway, San Diego La Mesa, Chula Vista, and the County of San Diego; (4) San Diego MHCP and the MHCP subarea plan for the City of Carlsbad (MHCP); and (5) San Diego Gas and Electric Company subregional plan. Draft or pending NCCP plans in Southern California currently include the following: (1) Palos Verdes Peninsula subregional plan; (2) San Diego MSCP subarea plans for the cities of Coronado, Del Mar, El Cajon, and Santee, the East and North San Diego County MSCP subarea plans, and the Otay Water District MSCP subarea plan; (3) San Diego MHCP subarea plans for the cities of Encinitas, Escondido, Oceanside, San Marcos, and Vista; (4) San Diego County Water Authority; and (5) San Diego Joint Water Agencies subregional plan.

We intend that participating jurisdictions will be able to continue to apply the 4(d) Special Rule within designated critical habitat and to issue Habitat Loss Permits, with the joint concurrence of us and the CDFG, provided the jurisdictions are actively working to complete their subarea plans and adhere to the Guidelines. To be consistent with the Guidelines, the jurisdictions must find, and we and CDFG must concur, that:

(1) The proposed habitat loss is consistent with the interim loss criteria in the Guidelines and with any subregional process if established by the subregion:

(a) The habitat loss does not cumulatively exceed the five percent guideline;

(b) The habitat loss will not preclude connectivity between areas of high habitat values;

(c) The habitat loss will not preclude or prevent the preparation of the subregional NCCP; and

(d) The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with section 4.3 of the Guidelines.

(2) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild.

(3) The habitat loss is incidental to otherwise lawful activities.

Because, in addition to avoiding jeopardy to the coastal California gnatcatcher, the Guidelines restrict interim habitat loss allowed under the 4(d) rule to areas with low long-term conservation potential that will not preclude development of adequate NCCP plans and that will not adversely impact connectivity between areas of high habitat value, we believe that allowing a small percentage of habitat loss that could potentially occur pursuant to the 4(d) rule is not likely to impair the ability of a particular critical habitat unit to serve its intended conservation function.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific information available and to consider the economic impact on national security and other relevant impacts of designating a particular area as critical habitat. The Secretary may exclude areas from critical habitat if it is determined that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the revised proposed critical habitat designation, we conducted an economic analysis to estimate the potential economic effect of the designation. We made the draft economic analysis (DEA) of the impacts of the proposed revised critical habitat designation (dated February 24, 2004) available for public review and comment from April 8, 2004, to May 10, 2004 (69 FR 18516) and April 3, 2007, to May 3, 2007 (72 FR 15857).

The primary purpose of the draft economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for the coastal California gnatcatcher. This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. This economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. This information can be used by the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector.

This draft analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land use activities can exist in the absence of critical habitat. These impacts may result from, for example, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies. Economic impacts that result from these types of protections are not included in the analysis as they are considered to be part of the regulatory and policy baseline.

The draft analysis examines activities taking place both within and adjacent to the designation. It estimates impacts based on activities that are ''reasonably foreseeable'' including, but not limited to, activities that are currently authorized, permitted, or funded, or for which proposed plans are currently available to the public. Accordingly, the analysis bases estimates on activities that are likely to occur within a 23-year time frame, from when the proposed rule became available to the public (April 24, 2003, 68 FR 20228). The 23-year time frame (2003 to 2025) was chosen for the analysis because, as the time horizon for an economic analysis is expanded, the assumptions on which the projected number of projects and cost impacts associated with those projects become increasingly speculative.

We developed a final addendum of the potential economic effects of the proposed designation (dated September 14, 2007). The addendum relies on the boundaries outlined in the 2003 revised proposed critical habitat designation and assesses the potential implications on the key findings of the DEA: (1)

Changes in type of economic impacts reported; (2) changes in legal parameters; (3) changes in baseline regulations; and (4) changes in key economic and demographic data. The addendum does not recreate the analysis provided in the DEA or re-calculate all the results but rather is designed to assess the primary implications of the changes to the DEA. Therefore, in many cases, the discussion is qualitative, indicating whether a factor is likely to significantly increase or decrease the economic costs reported in the DEA. Also, the addendum does not address information, data, or issues raised in the public comment periods for the DEA. Those issues are addressed in the ''Public Comments'' section above.

The addendum recognizes that the original draft economic analysis was done in 2002 dollars and that all costs are in real 2002 dollars so as to be directly comparable to the draft analysis. Of the approximately $915 million in total economic costs estimated in the draft analysis for areas included in the proposed revised designation over the next 23 years or approximately $40 million annually, the final addendum estimates that about 62 percent or approximately $565 million is attributable to the critical habitat designation only over the next 23 years. The final addendum further estimates that the *Gifford Pinchot* decision could have either negligible impact or could increase the economic impacts reported in the draft analysis based on the extent that the court decision results in additional ''within critical habitat'' conservation above that required by existing HCPs that provide baseline protection. However, the final addendum states that the implications of this relatively recent court decision are difficult to quantify at this time. The addendum also estimates that the total cost attributable to the critical habitat designation (approximately $565 million) could be approximately $75 million higher based on updated market data. Most of the impact results from private land development avoiding coastal sage scrub habitat.

According to the final addendum, on a cost per unit basis, the largest portion of forecast costs is expected to occur in Units 6 and 10. The total cost estimate associated with the 2003 revised proposed designation in Unit 6 was estimated as $89.0 million in the DEA. The final addendum assumes that 90 percent of Unit 6 falls with the Southern Subregion HCP, a new baseline regulation, and that based on this assumption the cost estimate reduction is $80.1 million, with a remaining cost estimate of $8.9 million. The total cost estimate associated with the 2003 revised proposed designation in Unit 10 was estimated as $459.9 million in the DEA. The final addendum assumes that 95 percent of Unit 10 falls with the Western Riverside County MSHCP, a new baseline regulation, and that based on this assumption the cost estimate reduction is $413.9 million, with a remaining cost estimate of $46 million. Although we do not find the economic costs to be disproportionate, they were considered in balancing the benefits of including and excluding areas from critical habitat.

A copy of the February 24, 2004, DEA, associated 2007 final addendum, and supporting documents are included in our supporting record and may be obtained by contacting U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section) or for downloading from our Web site at *http://www.fws.gov/carlsbad.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (E.O.) 12866, this document is a significant rule in that it may raise novel legal and policy issues, but this rule will not have an annual effect on the economy of $100 million or more or affect the economy in a material way. To determine the economic consequences of designating the specific area as critical habitat, we prepared a draft economic analysis of the 2003 proposed rule, which was made available for public comment during two comment periods: April 8, to May 10, 2004 (69 FR 18516) and April 3, to May 3, 2007 (72 FR 15857). We considered those comments during the preparation of this final rule. The economic analysis indicates that this rule will not have an annual economic effect of $100 million or more or adversely affect any economic sector, productivity, competition, jobs, the environment, or other units of government. Our detailed assessment of the economic effects of the proposed designation is described in the Final Economic Analysis of Critical Habitat Designation for the Coastal California Gnatcatcher. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule.

Further, E.O. 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (OMB Circular A–4, September 17, 2003). Under Circular A–4, once an agency determines that the Federal regulatory action is appropriate, the agency must consider alternative regulatory approaches. Because the determination of critical habitat is a statutory requirement under the Act, we must evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts under section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or a combination of both, constitutes our regulatory alternative analysis for designations.

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

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a statement of factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. In this final rule, we are certifying that the critical habitat designation for the coastal California gnatcatcher will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Administration, small entities include small organizations, such as

independent nonprofit organizations and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result.

SBREFA does not explicitly define either ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in the area. Similarly, the analysis considers the relative cost of compliance on the revenues/profit margins of small entities in determining whether or not entities incur a ''significant economic impact.'' Only small entities that are expected to be directly affected by the designation are considered in this portion of the analysis. This approach is consistent with several judicial opinions related to the scope of the RFA. (*Mid-Tex Electric Co-Op, Inc.* v. *F.E.R.C.* and *American Trucking Associations, Inc.* v. *EPA*).

To determine if a rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the ''substantial number'' test individually to determine if certification is appropriate. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial.

In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect the coastal California gnatcatcher. Federal agencies must also consult with us if their activities may affect designated critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities.

In compliance with section 4(b)(2) of the Act, we prepared an analysis of this critical habitat designation to evaluate the potential economic impacts that may result from its promulgation. This analysis provides an estimate of the number of small entities potentially affected by the designation of critical habitat for the coastal California gnatcatcher. The analysis conservatively examines total estimated section 7 costs. According to the analysis, section 7 implementation for the coastal California gnatcatcher is likely to affect small businesses in the land development and real estate industry and small governments. Approximately 12 small businesses in the land development and real estate industry are affected annually, which represents less than one percent of the total number of small businesses in the industry within the proposed critical habitat boundary. These small businesses are likely to experience impacts equivalent to about 4 percent of their per-business annual gross revenue. For the small governments in the study area, less than one agency is likely to be affected annually, which represents about two percent of the total number of small governments in the study area. Affected small governments are likely to experience impacts equivalent to less than one percent of the median revenue of small governments in the study area.

In summary, we have concluded that this rule would not result in a significant economic impact on a substantial number of small entities. Therefore, we are certifying that the designation of critical habitat for the coastal California gnatcatcher will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Under SBREFA, this rule is not a major rule. Our detailed assessment of the economic effects of this designation is described in the economic analysis. Based on the effects identified in the economic analysis, we believe that this rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Energy Supply, Distribution, or Use

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action in that it may raise novel legal and policy issues, under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Based on the 2004 DEA (p. 155–157), research conducted during the course of the analysis did not reveal any instances in which the revised proposed designation was anticipated to affect the construction of any new power-generating facilities, or the operation of any existing facilities. Furthermore, the revised proposed designation is not expected to affect crude oil supply or increases in energy use. However, the DEA concludes that the revised proposed designation will affect the cost of delivering energy to end users due to additional costs incurred through the section 7 consultation process. To estimate the section 7 effect on energy distribution costs, the DEA evaluates whether the estimated section 7 administrative and project modification costs that will be borne by the energy industry represent greater than one percent of current energy distribution costs. Based on the annual distribution costs described in the DEA, section 7 regulation following the revised proposed designation would have to result in costs to the energy industry greater than $7.54 million per year for the impact to be considered a ''significant adverse effect''. As described in the DEA, the estimated cost of the revised proposed designation on the energy industry is approximately $1.5 million per year or 14 percent of the significance threshold based on distribution costs. Therefore, this action will not result in a significant adverse effect on the energy industry and no Statement of Energy Effects is required.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the coastal California gnatcatcher in Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California, in a takings implications assessment. The takings implications assessment concludes that this final designation of critical habitat for the coastal California gnatcatcher does not pose significant takings implications for lands within or affected by the designation.

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.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or [T]ribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and [T]ribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(b) Based on the 2004 DEA, for the small governments in the study area, approximately 1.5 agencies are likely to be affected annually, which represents about six percent of the total number of small governments in the study area. Affected small governments are likely to experience impacts equivalent to less than one percent of the median revenue of small governments in the study area. The DEA (p. 152–153) estimates the annual effects on small governments, based on median revenue of all affected small governments, to be $16,800,428 and the per-government annual cost to be $3,500. Since this revised final rule will not produce a Federal mandate of $100 million or greater in any year, we do not believe it will significantly or uniquely affect small governments and therefore, 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. As such, Small Government Agency Plan is not required.

Federalism

In accordance with E.O. 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this critical habitat designation with appropriate State resource agencies in California. We received comments from California Department of Fish and Game (CDFG); those comments and our responses are included in the Summary of Comments and Recommendations section of this final rule. 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 PCEs of the habitat essential to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, 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 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat for the coastal California gnatcatcher in accordance with the provisions of section 4 of the Act. This final rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the coastal California gnatcatcher.

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA)

It is our position that, outside the jurisdiction of the Circuit Court of the United States for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld by the Circuit Court of the United States for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d

1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that there are Tribal lands essential for the conservation of the coastal California gnatcatcher because they do support significant coastal California gnatcatcher populations and provide high-quality habitat that has been determined to be essential to the conservation of this species. However, Tribal lands were considered but not proposed as critical habitat in the 2003 revised proposed designation and we re-affirmed our exclusion of these lands in this revised final rule (see ''*Exclusion of Pala Band of Mission Indians Tribal Lands Under Section 4(b)(2) of the Act—American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act*'' section above for a detailed discussion).

References Cited

A complete list of all references cited in this final rule is available upon request from the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section above).

Author

The primary author of this notice is staff of the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations 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 § 17.95(b), revise the entry for ''Coastal California Gnatcatcher (Polioptila californica californica)'' as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

Coastal California Gnatcatcher (*Polioptila californica californica*)

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

(2) The primary constituent elements (PCEs) of critical habitat for coastal California gnatcatcher are:

(i) Dynamic and successional sage scrub habitats: Venturan coastal sage scrub, Diegan coastal sage scrub, Riversidean sage scrub, maritime succulent scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub in Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties that provide space for individual and population growth, normal behavior, breeding, reproduction, nesting, dispersal and foraging; and

(ii) Non-sage scrub habitats such as chaparral, grassland, riparian areas, in proximity to sage scrub habitats as described for PCE 1 above that provide space for dispersal, foraging, and nesting.

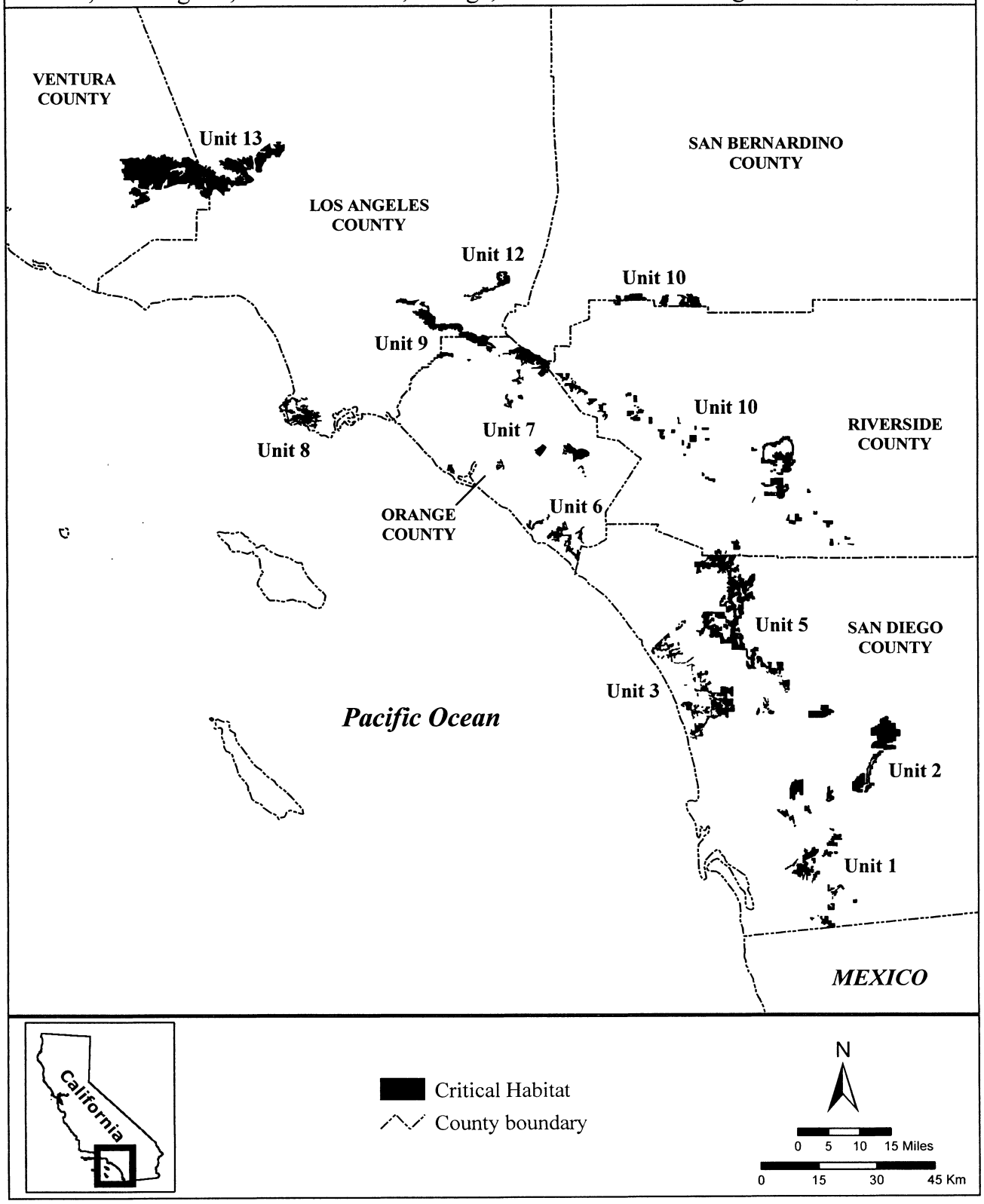
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, roads, and other paved areas) and the land on which they are located existing on the effective date of this rule and not containing one or more of the PCEs.

(4) *Critical habitat map units.* Data layers defining map units were created on a base of USGS 1:24,0000 maps, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) Note: Index map of critical habitat units for the coastal California gnatcatcher (Map 1) follows:

BILLING CODE 4310–55–P

Map 1: Index
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Ventura, Los Angeles, San Bernardino, Orange, Riverside and San Diego Counties, California



BILLING CODE 4310–55–C

(6) Unit 1: South San Diego County, San Diego County, California.

(i) From USGS 1:24,000 quadrangle maps Alpine, Dulzura, El Cajon, Jamul Mountains, La Mesa, National City, Otay Mesa, Otay Mountain, and San Vicente Reservoir. Land bounded by the following UTM NAD27 coordinates (E,N):503600, 3640300; 503600, 3640200; 503600, 3640100; 503600, 3640090; 503600, 3640090; 503600, 3640000; 503600, 3639900; 503600, 3639800; 503600, 3639700; 503600, 3639600; 503600, 3639500; 503600, 3639400; 503600, 3639300; 503600, 3639200; 503600, 3639100; 503600, 3639000; 503600, 3638900; 503600, 3638800; 503600, 3638700; 503600, 3638600; 503600, 3638500; 503600, 3638400; 503599, 3638300; 503600, 3638200; 503600, 3638200; 503600, 3638100; 503600, 3638029; 503600, 3638000; 503600, 3637900; 503600, 3637800; 503600, 3637790; 503600, 3637789; 503600, 3637789; 503600, 3637789; 503600, 3637700; 503600, 3637433; 503600, 3637400; 503600, 3637400; 503600, 3637234; 503600, 3637200; 503600, 3637200; 503600, 3637034; 503600, 3637000; 503600, 3637000; 503600, 3636700; 503600, 3636700; 503600, 3636635; 503600, 3636600; 503600, 3636500; 503600, 3636436; 503600, 3636436; 503600, 3636400; 503600, 3636393; 503591, 3636394; 503500, 3636399; 503500, 3636400; 503490, 3636400; 503243, 3636415; 503005, 3636470; 502885, 3636643; 502906, 3636830; 502915, 3636842; 502915, 3636900; 502950, 3636901; 502974, 3636969; 502975, 3637052; 503108, 3637243; 502788, 3637235; 502788, 3637240; 502578, 3637232; 502578, 3637276; 502391, 3637278; 502392, 3637230; 502392, 3637229; 502409, 3637229; 502441, 3637229; 502459, 3637229; 502492, 3637229; 502525, 3637230; 502529, 3637230; 501985, 3637208; 501991, 3636637; 501580, 3636638; 501580, 3636437; 501568, 3636437; 501568, 3636436; 501577, 3636436; 501579, 3636251; 501581, 3636251; 501581, 3636235; 501594, 3636236; 501600, 3635683; 501600, 3635600; 501601, 3635600; 501605, 3635222; 501551, 3635178; 501431, 3635124; 501383, 3635120; 501312, 3635113; 501280, 3635099; 501171, 3635048; 501135, 3635048; 501019, 3635048; 501030, 3635189; 501138, 3635298; 501167, 3635340; 501201, 3635389; 501236, 3635439; 501199, 3635450; 501160, 3635461; 501019, 3635417; 500889, 3635395; 500813, 3635602; 500889, 3635775; 500878, 3635905; 500769, 3635938; 500704, 3635808; 500683, 3635623; 500628, 3635526; 500498, 3635493; 500400, 3635471; 500379, 3635352; 500300, 3635372; 500300, 3635400; 500300, 3635500; 500300, 3635600; 500300, 3635700; 500300, 3635800; 500300, 3635900; 500300, 3636000; 500300, 3636057; 500300, 3636100; 500300, 3636148; 500300, 3636200; 500300, 3636250; 500300, 3637152; 500300, 3637204; 500301, 3637770; 500301, 3637770; 500302, 3637915; 500374, 3638063; 500521, 3638385; 500562, 3638476; 500563, 3638477; 500470, 3638539; 500721, 3639101; 500762, 3639420; 501160, 3639790; 501561, 3639931; 501582, 3640333; 501688, 3640344; 501938, 3640372; 501952, 3640029; 502735, 3640197; 502765, 3640204; 503532, 3640368; 503532, 3640368; 503532, 3640366; 503532, 3640365; 503596, 3640380; 503600, 3640380. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 502178, 3637276; 502177, 3637276; 501978, 3637278; 501980, 3637232; 501981, 3637232; 501994, 3637232; 502031, 3637232; 502061, 3637232; 502114, 3637232; 502146, 3637232; 502181, 3637232; 502184, 3637232; 502201, 3637232; 502221, 3637232; 502240, 3637232; 502260, 3637231; 502280, 3637231; 502300, 3637231; 502321, 3637230; 502338, 3637230; 502366, 3637229; 502365, 3637274; 502184, 3637276.

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Land bounded by the following UTM NAD27 coordinates (E,N): 512163, 3610363; 512178, 3610355; 512173, 3610118; 512173, 3610118; 512162, 3610118; 512121, 3610119; 512121, 3610119; 511744, 3610121; 511744, 3610121; 511744, 3610068; 511743, 3610036; 511704, 3610065; 511702, 3610069; 511685, 3610099; 511699, 3610145; 511745, 3610173; 511745, 3610173; 511822, 3610197; 511871, 3610232; 511910, 3610254; 511965, 3610274; 511989, 3610291; 512008, 3610315; 512059, 3610349; 512102, 3610378; 512137, 3610376; 512138, 3610375.

Land bounded by the following UTM NAD27 coordinates (E,N): 511358, 3609798; 511369, 3609770; 511367, 3609749; 511356, 3609725; 511331, 3609697; 511324, 3609686; 511326, 3609846.

Land bounded by the following UTM NAD27 coordinates (E,N): 511350, 3609430; 511378, 3609417; 511389, 3609402; 511395, 3609375; 511402, 3609340; 511400, 3609306; 511413, 3609284; 511423, 3609279; 511435, 3609273; 511327, 3609275; 511327, 3609227; 511308, 3609228; 511282, 3609212; 511276, 3609208; 511275, 3609282; 511327, 3609281; 511326, 3609447.

Land bounded by the following UTM NAD27 coordinates (E,N): 517543, 3608759; 517539, 3608254; 517383, 3608243; 516739, 3608199; 516736, 3608198; 516736, 3608241; 516738, 3608825; 516738, 3609008; 516738, 3609012; 517151, 3609040; 517462, 3609061; 517465, 3609061; 517533, 3609062; 517546, 3609062.

Land bounded by the following UTM NAD27 coordinates (E,N): 511709, 3608059; 511710, 3608059; 511746, 3608059; 511743, 3607906; 511732, 3607232; 511732, 3607179; 511726, 3606824; 511723, 3606687; 511720, 3606464; 511719, 3606403; 510916, 3606421; 510906, 3606421; 510360, 3606433; 510092, 3606439; 510092, 3606467; 510089, 3606675; 510083, 3607257; 510078, 3607660; 510078, 3607668; 510120, 3607667; 510351, 3607664; 510486, 3607662; 510489, 3607288; 510492, 3607288; 510492, 3607257; 510492, 3607248; 510866, 3607244; 510902, 3607243; 510902, 3607243; 510905, 3606853; 510906, 3606823; 511312, 3606828; 511312, 3606828; 511313, 3606877; 511326, 3606877; 511317, 3607291; 511321, 3607650; 511321, 3607650; 511309, 3607650; 511308, 3607698; 510903, 3607693; 510903, 3607693; 510905, 3607900; 510906, 3608069; 511326, 3608064.

Land bounded by the following UTM NAD27 coordinates (E,N): 507471, 3604934; 507471, 3604934; 507505, 3604920; 507506, 3604919; 507508, 3604918; 507509, 3604917; 507510, 3604917; 507512, 3604916; 507513, 3604915; 507514, 3604914; 507516, 3604913; 507517, 3604913; 507518, 3604912; 507520, 3604911; 507521, 3604911; 507522, 3604910; 507524, 3604909; 507525, 3604909; 507527, 3604908; 507528, 3604908; 507529, 3604907; 507531, 3604907; 507532, 3604906; 507534, 3604906; 507535, 3604905; 507537, 3604905; 507538, 3604905; 507540, 3604904; 507541, 3604904; 507543, 3604904; 507544, 3604903; 507545, 3604903; 507547, 3604903; 507549, 3604902; 507550, 3604902; 507552, 3604902; 507553, 3604902; 507555, 3604902; 507556, 3604902; 507557, 3604901; 507559, 3604901; 507560, 3604901; 507562, 3604901; 507563, 3604901; 507565, 3604900; 507566, 3604900; 507568, 3604900; 507569, 3604899; 507571, 3604899; 507572, 3604899; 507574, 3604898; 507575, 3604898; 507577, 3604898; 507578, 3604897; 507580, 3604897; 507581, 3604896; 507583, 3604896; 507584, 3604895; 507585, 3604895; 507587, 3604894; 507588, 3604894; 507590, 3604893; 507591, 3604893; 507593, 3604892; 507594, 3604892; 507595, 3604891; 507597, 3604890; 507598, 3604890; 507600, 3604889; 507601, 3604888; 507602, 3604888; 507603, 3604887; 507605, 3604886; 507606, 3604885; 507608, 3604885; 507609, 3604884; 507610, 3604883; 507611, 3604882; 507613, 3604881; 507614, 3604881; 507615, 3604880; 507617, 3604879; 507618, 3604878; 507619, 3604877; 507620, 3604877; 507653, 3604855; 507654, 3604854; 507655, 3604853; 507657, 3604853; 507658, 3604852; 507659, 3604851; 507660, 3604850; 507661, 3604849; 507663, 3604848; 507664, 3604847; 507665, 3604846; 507666, 3604845; 507667, 3604844; 507668, 3604843; 507669, 3604841; 507670, 3604840; 507671, 3604839; 507672, 3604838; 507673, 3604837; 507674, 3604835; 507675, 3604834; 507675, 3604833; 507676, 3604832; 507677, 3604830; 507678, 3604829; 507678, 3604828; 507679, 3604826; 507680, 3604825; 507680, 3604823; 507681, 3604822; 507681, 3604821; 507682, 3604819; 507682, 3604818; 507682, 3604818; 507683, 3604816; 507683, 3604815; 507684, 3604813; 507684, 3604812; 507684, 3604810; 507685, 3604809; 507685, 3604807; 507685, 3604806; 507685, 3604804; 507686, 3604803; 507686, 3604801; 507686, 3604800; 507686, 3604798; 507686, 3604797; 507686, 3604795; 507686, 3604794; 507686, 3604792; 507686, 3604791; 507686, 3604789; 507685, 3604788; 507685, 3604786; 507685, 3604785; 507685, 3604783; 507684, 3604782; 507684, 3604780; 507684, 3604779; 507683, 3604777; 507472, 3604769; 507471, 3604863; 507471, 3604934.

Land bounded by the following UTM NAD27 coordinates (E,N): 510139, 3604400; 510139, 3604378; 510138, 3604238; 510136, 3603967; 510136, 3603967; 510136, 3603966; 510134, 3603577; 510134, 3603577; 510134, 3603569; 510134, 3603568; 510134, 3603568; 510381, 3603569; 510849, 3603569; 510951, 3603569; 510951, 3603569; 510957, 3603569; 510957, 3603569; 510958, 3603163; 510959, 3603026; 510960, 3602847; 510960, 3602763; 510960, 3602763; 511681, 3602759; 511792, 3602759; 511796, 3602550; 511797, 3602506; 511797, 3602506; 511810, 3601856; 511810, 3601856; 511784, 3601853; 511735,

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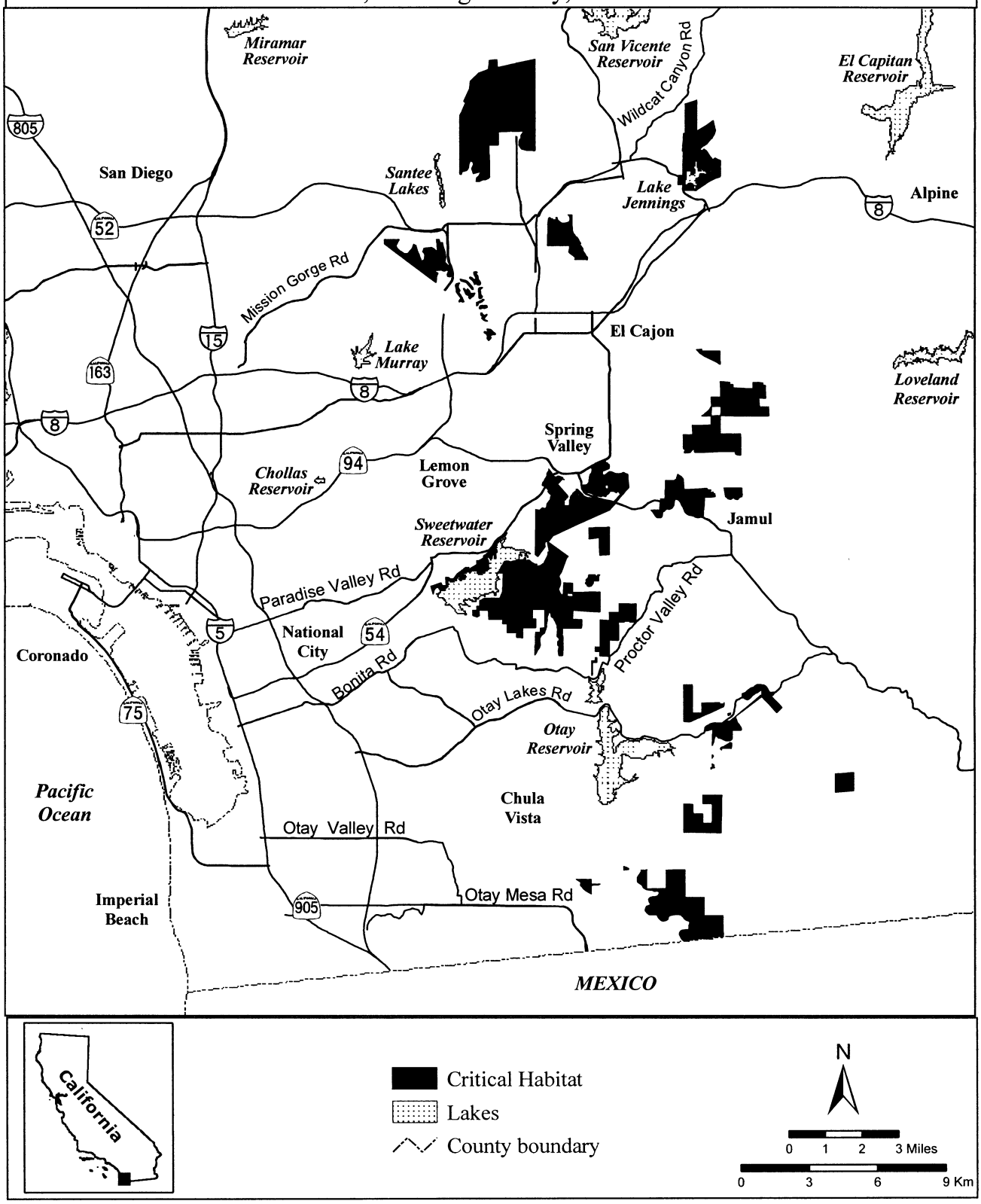
Land bounded by the following UTM NAD27 coordinates (E,N): 505519, 3604361; 505641, 3604360; 505641, 3604359; 505964, 3604358; 506051, 3604357; 506050, 3604209; 506050, 3604160; 506276, 3604160; 506455, 3604159; 506381, 3604107; 506323, 3604100; 506247, 3604100; 506164, 3604099; 506115, 3604093; 506049, 3604085; 506051, 3603876; 506052, 3603715; 506032, 3603725; 505890, 3603795; 505885, 3603797; 505884, 3603798; 505802, 3603848; 505738, 3603911; 505667, 3603993; 505577, 3604095; 505582, 3604222; 505582, 3604235; 505525, 3604267; 505387, 3604361.

(ii) Note: Map of Unit 1—South San Diego County (Map 2) follows:

BILLING CODE 4310–55–P

Map 2
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 1, San Diego County, California



BILLING CODE 4310–55–C

(7) Unit 2: Upper San Diego River and El Capitan Linkage, San Diego County, California.

(i) From USGS 1:24,000 quadrangle maps Alpine, El Cajon Mountain, Ramona, Santa Ysabel, and Tule Springs. 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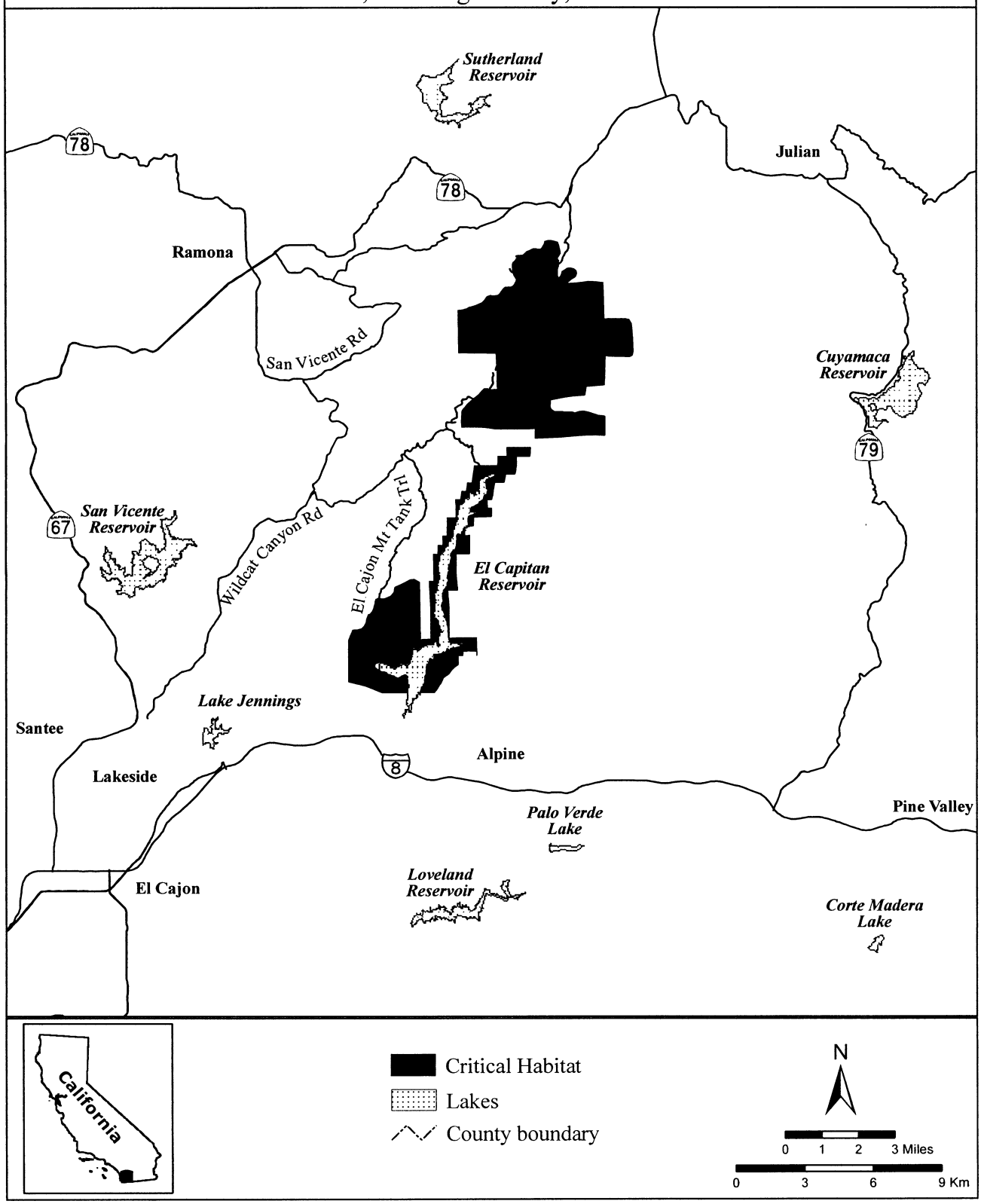
(ii) Note: Map of Unit 2—Upper San Diego River and El Capitan Linkage (Map 3) follows:

BILLING CODE 4310–55–P

Map 3
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 2, San Diego County, California



BILLING CODE 4310–55–C

(8) Unit 3: North San Diego County Multiple Habitat Conservation Plan (MHCP), San Diego County, California.

(i) From USGS 1:24,000 quadrangle maps Bonsall, Del Mar, Encinitas, Escondido, Morro Hill, Oceanside, Rancho Santa Fe, Rodriquez Mountain, San Luis Rey, San Marcos, San Pasqual, and Valley Center. Land bounded by the following UTM NAD27 coordinates (E,N): 472475, 3682070; 472501, 3682025; 472544, 3682028; 472644, 3682015; 472719, 3681997; 472786, 3681979; 472870, 3682025; 472958, 3682088; 473079, 3682152; 473173, 3682161; 473246, 3682121; 473288, 3682088; 473297, 3682040; 473270, 3682000; 473212, 3682009; 473191, 3681979; 473194, 3681601; 473221, 3681604; 473215, 3681510; 473137, 3681507; 473131, 3681480; 472886, 3681477; 472883, 3681477; 472886, 3681538; 472952, 3681544; 472955, 3681568; 473040, 3681565; 473043, 3681595; 473152, 3681601; 473158, 3681964; 473125, 3681958; 472964, 3681888; 472907, 3681873; 472831, 3681864; 472795, 3681837; 472749, 3681795; 472686, 3681780; 472641, 3681798; 472607, 3681843; 472547, 3681837; 472462, 3681861; 472456, 3681749; 472326, 3681783; 472262, 3681767; 472226, 3681767; 472199, 3681807; 472193, 3681815.

Land bounded by the following UTM NAD27 coordinates (E,N): 471640, 3681314; 471642, 3681290; 471609, 3681214; 471635, 3681152; 471471, 3681160.

Land bounded by the following UTM NAD27 coordinates (E,N): 471528, 3680718; 471473, 3680440; 471364, 3680216; 471385, 3680182; 471491, 3680212; 471528, 3680238; 471712, 3680524; 471751, 3680515; 471860, 3680500; 471954, 3680512; 472011, 3680536; 472042, 3680570; 472066, 3680621; 472102, 3680654; 472111, 3680672; 472111, 3680751; 472151, 3680784; 472235, 3680775; 472323, 3680836; 472332, 3680899; 472281, 3680922; 472235, 3681014; 472259, 3681063; 472323, 3681072; 472350, 3681087; 472380, 3681135; 472380, 3681193; 472510, 3681190; 472511, 3681127; 472439, 3681127; 472438, 3680631; 472302, 3680721; 472214, 3680676; 472123, 3680585; 472126, 3680567; 472084, 3680512; 472066, 3680440; 472045, 3680334; 471927, 3680331; 471806, 3680107; 471491, 3679974; 471419, 3679907; 471270, 3679804; 471222, 3679756; 471077, 3679732; 470941, 3679665; 470850, 3679611; 470877, 3679992; 470829, 3679999; 470829, 3680171; 470947, 3680110; 471054, 3680194; 470904, 3680352; 471103, 3680423; 471305, 3680249; 471534, 3680746.

Land bounded by the following UTM NAD27 coordinates (E,N): 471647, 3681068; 471649, 3681117; 471679, 3681043.

Land bounded by the following UTM NAD27 coordinates (E,N): 477253, 3679512; 477254, 3679362; 477255, 3678848; 477302, 3678303; 476924, 3678286; 476932, 3678300; 476911, 3678707; 476890, 3678968; 476864, 3679047; 476875, 3679172; 476916, 3679203; 476614, 3679219; 476598, 3679266; 476509, 3679235; 476494, 3679365; 476431, 3679365; 476222, 3679339; 476156, 3679508.

Land bounded by the following UTM NAD27 coordinates (E,N): 468840, 3678777; 468858, 3678722; 468851, 3678689; 468870, 3678653; 468929, 3678582; 468955, 3678541; 469001, 3678360; 469136, 3678291; 469143, 3678251; 469139, 3678232; 469120, 3678215; 469015, 3678303; 468958, 3678317; 468934, 3678320; 468908, 3678303; 468882, 3678308; 468827, 3678329; 468784, 3678308; 468796, 3678263; 468777, 3678222; 468772, 3678160; 468751, 3678110; 468743, 3678065; 468715, 3678034; 468701, 3678003; 468736, 3677936; 469172, 3677922; 469174, 3677879; 468824, 3677877; 468689, 3677834; 468522, 3677758; 468386, 3677639; 468276, 3677474; 468209, 3677303; 468137, 3677108; 468044, 3676920; 468032, 3676922; 467967, 3677096; 467950, 3677160; 467953, 3677191; 467960, 3677210; 468036, 3677193; 468062, 3677317; 468062, 3677377; 468056, 3677427; 468023, 3677462; 467997, 3677481; 467952, 3677501; 467923, 3677505; 467897, 3677503; 467878, 3677481; 467852, 3677446; 467818, 3677408; 467804, 3677405; 467809, 3677460; 467792, 3677491; 467761, 3677498; 467735, 3677501; 467718, 3677501; 467718, 3677546; 467675,3677560; 467628,3677567; 467634,3677684.

Land bounded by the following UTM NAD27 coordinates (E,N): 467230, 3677318; 467262, 3677283; 467303, 3677280; 467307, 3677215; 467360, 3677196; 467420, 3677215; 467424, 3677193; 467402, 3677162; 467352, 3677128; 467292, 3677128; 467205, 3677125; 467152, 3677079; 467103, 3677011; 467069, 3676917; 467020, 3676886; 466989, 3676815; 466992, 3676753; 466989, 3676743; 466973, 3676718; 466958, 3676693; 466984, 3676620; 467017, 3676590; 467073, 3676465; 467067, 3676301; 467017, 3676242; 466997, 3676208; 466986, 3676161; 466976, 3676081; 466909, 3676085; 466826, 3676108; 466770, 3676123; 466712, 3676124; 466708, 3676123; 466706, 3675793; 466679, 3675771; 466600, 3675756; 466536, 3675692; 466527, 3675695; 466531, 3675691; 466531, 3675630; 466561, 3675642; 466591, 3675706; 466671, 3675600; 466676, 3675594; 466703, 3675618; 466762, 3675673; 466899, 3675742; 467019, 3675768; 467186, 3675780; 467310, 3675759; 467452, 3675729; 467588, 3675751; 467738, 3675810; 467854, 3675909; 467888, 3675964; 467832, 3676144; 467811, 3676264; 467838, 3676308; 468139, 3676312; 468132, 3676277; 468132, 3675986; 468089, 3675905; 468004, 3675875; 467969, 3675840; 467931, 3675772; 467832, 3675682; 467725, 3675626; 467456, 3675562; 467285, 3675588; 467182, 3675609; 466981, 3675601; 466810, 3675524; 466703, 3675404; 466701, 3675400; 466700, 3675400; 466700, 3675399; 466643, 3675284; 466780, 3675211; 466771, 3674980; 466604, 3674946; 466382, 3674924; 466386, 3674877; 466103, 3674792; 465872, 3674749; 465556, 3674753; 465526, 3674746; 465376, 3674766; 465166, 3674745; 464978, 3674625; 464798, 3674471; 464605, 3674291; 464524, 3674244; 464447, 3674124; 464359, 3674053; 464358, 3674297; 464614, 3674522; 464691, 3674603; 464700, 3674655; 464739, 3674678; 464769, 3674973; 464977, 3675146; 465064, 3675109; 464984, 3675018; 465019, 3674942; 465098, 3674946; 465359, 3675143; 465457, 3675075; 465521, 3675131; 465332, 3675598; 465334, 3675600; 465500, 3675600; 465500, 3675700; 465600, 3675700; 465600, 3675800; 465700, 3675800; 465700, 3675900; 465800, 3675900; 465800, 3676022; 465996, 3676200; 466100, 3676200; 466100, 3676294; 466107, 3676300; 466200, 3676300; 466200, 3676385; 466217, 3676400; 466300, 3676400; 466300, 3676475; 466327, 3676500; 466400, 3676500; 466400, 3676566; 466438, 3676600; 466500, 3676600; 466500, 3676656; 466548, 3676700; 466600, 3676700; 466600, 3676747. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 466299, 3675700; 466168, 3675903; 466115, 3675831; 466043, 3675831; 466043, 3675721; 466024, 3675695; 465956, 3675698; 465960, 3675608; 466005, 3675596; 466047, 3675623; 466066, 3675540; 465998, 3675479; 465930, 3675479; 465899, 3675453; 465778, 3675347; 465778, 3675044; 465779, 3675036; 466150, 3675053; 466364, 3675147; 466394, 3675211; 466424, 3675305; 466510, 3675361; 466529, 3675389; 466538, 3675422; 466493, 3675460; 466489, 3675385; 466308, 3675358; 466225, 3675464; 466342, 3675634; 466300, 3675699; 466300, 3675700.

Land bounded by the following UTM NAD27 coordinates (E,N): 471280, 3676450; 471425, 3676405; 471382, 3676169; 471325, 3675915; 471364, 3675860; 471388, 3675812; 471440, 3675806; 471494, 3675863; 471488, 3675960; 471482, 3676066; 471509, 3676117; 471543, 3676208; 471558, 3675739; 471346, 3675745; 471331, 3675857; 471240, 3675915; 471210, 3675975; 471240, 3676105; 471322, 3676196; 471340, 3676211; 471349, 3676250; 471286, 3676353; 471262, 3676375; 471262, 3676381.

Land bounded by the following UTM NAD27 coordinates (E,N): 468428, 3675982; 468308, 3676314; 468315, 3676314; 468736, 3675136; 468865, 3675334; 468862, 3675328; 468850, 3675309; 468841, 3675295; 468831, 3675279; 468822, 3675263; 468813, 3675248; 468803, 3675233; 468793, 3675218; 468783, 3675201; 468774, 3675186; 468764, 3675170; 468754, 3675154; 468734, 3675122; 468734, 3675123; 468720, 3675162; 468719, 3675162; 468718, 3675161; 468717, 3675160; 468716, 3675159; 468715, 3675158; 468713, 3675157; 468712, 3675156; 468711, 3675155; 468710, 3675155; 468709, 3675154; 468708, 3675153; 468706, 3675152; 468705, 3675151; 468704, 3675150; 468703, 3675149; 468702, 3675148; 468701, 3675147; 468700, 3675146; 468699, 3675145; 468698, 3675144; 468697, 3675142; 468696, 3675141; 468695, 3675140; 468695, 3675139; 468694, 3675137; 468693, 3675136; 468693, 3675134; 468692, 3675133; 468692, 3675132; 468691, 3675130; 468691, 3675129; 468691, 3675127; 468690, 3675126; 468690, 3675125; 468690, 3675123; 468690, 3675122; 468690, 3675120; 468689, 3675119; 468689, 3675117; 468689, 3675116; 468689, 3675114; 468688, 3675113; 468688, 3675111; 468687, 3675110; 468687, 3675108; 468686, 3675107; 468686, 3675105; 468685, 3675104; 468685, 3675103; 468684, 3675101; 468683, 3675100; 468683, 3675099; 468682, 3675097; 468681, 3675096; 468680, 3675095; 468694, 3675057; 468706, 3675024; 468720, 3674986; 468734, 3674946; 468743, 3674922; 468755, 3674888; 468761, 3674870; 468771, 3674841; 468779, 3674820; 468791, 3674786; 468825, 3674689; 468818, 3674689; 468773, 3674687; 468773, 3674668; 468604, 3674675; 468551, 3674659; 468487, 3674659; 468366, 3674622; 468332, 3674675; 468290, 3674656; 468264, 3674610; 468286, 3674580; 468347, 3674565; 468305, 3674508; 468252, 3674376; 468192, 3674323; 468059, 3674327; 468071, 3674463; 468029, 3674489; 467874, 3674531; 467678, 3674531; 467598, 3674512; 467500, 3674501; 467422, 3674583; 467451, 3674641; 467549, 3674739; 467908, 3674618; 467938, 3674588; 468029, 3674569; 468086, 3674497; 468169, 3674584; 468192, 3674754; 468218, 3674750; 468237, 3674890; 468252, 3674883; 468339, 3674841; 468456, 3674822; 468600, 3674822; 468664, 3674743; 468748, 3674731; 468785, 3674796; 468241, 3676306; 468241, 3676308; 468238, 3676313; 468243, 3676313; 468251, 3676291; 468297, 3676161; 468384, 3675920; 468392, 3675934; 468400, 3675947; 468406, 3675959; 468428, 3675958; 468428, 3675982. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 468627, 3675422; 468626, 3675421; 468624, 3675421; 468623, 3675420; 468622, 3675419; 468620, 3675418; 468619, 3675417; 468618, 3675417; 468617, 3675416; 468615, 3675415; 468614, 3675414; 468613, 3675413; 468612, 3675412; 468611, 3675411; 468576, 3675383; 468585, 3675358; 468592, 3675340; 468598, 3675322; 468605, 3675303; 468611, 3675286; 468618, 3675267; 468625, 3675249; 468632, 3675230; 468639, 3675211; 468646, 3675190; 468655, 3675166; 468659, 3675153; 468671, 3675120; 468672, 3675122; 468672, 3675123; 468672, 3675125; 468672, 3675126; 468672, 3675128; 468672, 3675129; 468673, 3675131; 468673, 3675132; 468673, 3675134; 468674, 3675135; 468674, 3675136; 468675, 3675138; 468675, 3675139; 468676, 3675141; 468676, 3675142; 468677, 3675144; 468677, 3675145; 468678, 3675146; 468679, 3675148; 468680, 3675149; 468680, 3675150; 468681, 3675152; 468682, 3675153; 468683, 3675154; 468684, 3675155; 468685, 3675157; 468686, 3675158; 468687, 3675159; 468688, 3675160; 468689, 3675161; 468690, 3675162; 468691, 3675163; 468692, 3675164; 468693, 3675165; 468695, 3675166; 468696, 3675167; 468697, 3675168; 468698, 3675169; 468700, 3675170; 468701, 3675170; 468702, 3675171; 468703, 3675172; 468705, 3675173; 468706, 3675174; 468707, 3675175; 468708, 3675176; 468709, 3675178; 468710, 3675179; 468711, 3675180; 468712, 3675181; 468713, 3675182; 468698, 3675223; 468690, 3675248; 468683, 3675267; 468676, 3675285; 468669, 3675305; 468662, 3675324; 468656, 3675343; 468649, 3675361; 468642, 3675381; 468635, 3675400. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 468576, 3675565; 468544, 3675538; 468526, 3675523; 468559, 3675431; 468570, 3675402; 468599, 3675425; 468600, 3675426; 468601, 3675427; 468603, 3675428; 468604, 3675429; 468605, 3675430; 468606, 3675431; 468607, 3675431; 468609, 3675432; 468610, 3675433; 468611, 3675434; 468613, 3675435; 468614, 3675435; 468615, 3675436; 468617, 3675437; 468618, 3675438; 468619, 3675438; 468621, 3675439; 468621, 3675439; 468610, 3675472.

Land bounded by the following UTM NAD27 coordinates (E,N): 470059, 3676232; 470044, 3675918; 469984, 3675911; 469659, 3675922; 469647, 3675548; 469712, 3675556; 469715, 3675620; 469817, 3675616; 469855, 3675654; 469889, 3675639; 469931, 3675661; 469961, 3675699; 470018, 3675665; 470063, 3675631; 470041, 3675563; 469935, 3675567; 469927, 3675510; 469791, 3675510; 469753, 3675465; 469715, 3675457; 469715, 3675397; 469685, 3675351; 469674, 3675291; 469572, 3675283; 469553, 3675340; 469583, 3675416; 469613, 3675450; 469640, 3675484; 469617, 3675533; 469360, 3675525; 469386, 3675590; 469386, 3675718; 469394, 3675767; 469372, 3675942; 469373, 3675961.

Land bounded by the following UTM NAD27 coordinates (E,N): 468773, 3675127; 468883, 3675303; 468901, 3675333; 469070, 3675607; 468905, 3675671; 468892, 3675676; 469213, 3675903; 469167, 3675624; 469137, 3675412; 469114, 3675219; 469103, 3675064; 469073, 3674890; 469016, 3674659; 469004, 3674660; 469004, 3674660; 469004, 3674662; 469004, 3674663; 469005, 3674665; 469005, 3674666; 469005, 3674668; 469005, 3674669; 469005, 3674670; 469005, 3674671; 469005, 3674672; 469006, 3674674; 469006, 3674675; 469006, 3674677; 469006, 3674678; 469006, 3674679; 469006, 3674681; 469007, 3674682; 469007, 3674684; 469007, 3674685; 469007, 3674687; 469007, 3674688; 469008, 3674690; 469008, 3674691; 469008, 3674693; 469008, 3674694; 469009, 3674696; 468888, 3674692; 468810, 3674912; 468748, 3675086.

Land bounded by the following UTM NAD27 coordinates (E,N): 471500, 3673900; 471500, 3673899; 471246, 3673719; 470411, 3673516; 469108, 3673531; 469032, 3673743; 469014, 3673937; 469023, 3674254; 469037, 3674258; 469144, 3674266; 469320, 3674336; 469498, 3674348; 469855, 3674620; 469991, 3674644; 470641, 3674672; 470750, 3674799; 470862, 3674838; 470974, 3674826; 471150, 3674820; 471289, 3674886; 471391, 3674898; 471558, 3674995; 471612, 3675028; 471606, 3674805; 471488, 3674802; 471398, 3674708; 471286,

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Land bounded by the following UTM NAD27 coordinates (E,N): 472425, 3673694; 472425, 3673692; 472425, 3673689; 472425, 3673686; 472424, 3673684; 472424, 3673682; 472424, 3673678; 472424, 3673674; 472424, 3673672; 472424, 3673668; 472424, 3673665; 472424, 3673664; 472423, 3673619; 472420, 3673377; 472299, 3673371; 472217, 3673404; 472126, 3673401; 472045, 3673392; 472012, 3673437; 471984, 3673437; 471897, 3673441; 471773, 3673450; 471700, 3673456; 471630, 3673456; 471585, 3673456; 471555, 3673456; 471522, 3673437; 471443, 3673450; 471443, 3673419; 471391, 3673456; 471343, 3673465; 471322, 3673450; 471252, 3673468; 471225, 3673453; 471195, 3673453; 471161, 3673522; 471128, 3673646; 471325, 3673692; 471706, 3673713; 472190, 3673701; 472424, 3673743.

Land bounded by the following UTM NAD27 coordinates (E,N): 469218, 3673386; 469380, 3673389; 469377, 3673489; 469831, 3673477; 469831, 3673413; 469286, 3673280; 469221, 3673376.

Land bounded by the following UTM NAD27 coordinates (E,N): 469298, 3673256; 469837, 3673395; 469949, 3673401; 470148, 3673310; 471010, 3673456; 470811, 3673199; 470771, 3673138; 470638, 3673093; 470548, 3673138; 470460, 3673147; 470387, 3673102; 470148, 3673075; 469967, 3673078; 469831, 3673072; 469801, 3672978; 469667, 3672872; 469580, 3672947; 469492, 3672878; 469568, 3672754; 469522, 3672706.

Land bounded by the following UTM NAD27 coordinates (E,N): 469227, 3673255; 469226, 3673255; 469224, 3673255; 469223, 3673255; 469221, 3673254; 469220, 3673254; 469218, 3673254; 469217, 3673254; 469215, 3673254; 469214, 3673254; 469212, 3673254; 469211, 3673254; 469209, 3673254; 469208, 3673254; 469207, 3673254; 469213, 3673239; 469282, 3673074; 469369, 3672867; 469369, 3672867; 469436, 3672706; 469335, 3672681; 469238, 3672678; 469223, 3672775; 469220, 3672807; 469127, 3672879; 469006, 3672881; 468998, 3672855; 468990, 3672843; 468981, 3672824; 468962, 3672824; 468926, 3672834; 468900, 3672836; 468878, 3672808; 468859, 3672798; 468848, 3672803; 468831, 3672801; 468828, 3672777; 468819, 3672765; 468805, 3672752; 468821, 3672624; 468831, 3672517; 468860, 3672417; 468819, 3672397; 468764, 3672388; 468710, 3672402; 468655, 3672428; 468610, 3672469; 468569, 3672536; 468567,

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Land bounded by the following UTM NAD27 coordinates (E,N): 465979, 3672902; 466078, 3672853; 466120, 3672973; 466300, 3672917; 466326, 3672836; 466296, 3672767; 466210, 3672703; 466202, 3672643; 466232, 3672600; 466189, 3672528; 466168, 3672528; 465977, 3672791.

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Land bounded by the following UTM NAD27 coordinates (E,N): 498493, 3671181; 498493, 3671181; 498493, 3671181; 498493, 3671177; 498500, 3671001; 498500, 3671000; 498500, 3671000; 498502, 3670956; 498505, 3670883; 498509, 3670761; 498520, 3670482; 498524, 3670395; 498519, 3670364; 498443, 3669904; 498444, 3669902; 498590, 3669513; 498601, 3669471; 498673, 3669198; 498665, 3669199; 498657, 3669199; 498651, 3669198; 498648, 3669197; 498644, 3669194; 498640, 3669190; 498637, 3669186; 498636, 3669182; 498634, 3669178; 498631, 3669174; 498628, 3669173; 498624, 3669171; 498601, 3669169; 498596, 3669168; 498591, 3669165; 498574, 3669154; 498562, 3669145; 498559, 3669142; 498556, 3669136; 498556, 3669133; 498556, 3669129; 498557, 3669126; 498473, 3669130; 498459, 3669130; 498257, 3669139; 498256, 3669139; 497925, 3669153; 497925, 3669152; 497923, 3669122; 497860, 3668196; 497849, 3668195; 497811, 3668192; 497777, 3668185; 497743, 3668171; 497698, 3668167; 497653, 3668194; 497632, 3668211; 497594, 3668218; 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Land bounded by the following UTM NAD27 coordinates (E,N): 495339, 3671181; 495330, 3671136; 495290, 3671132; 495263, 3671149; 495236, 3671176; 495209, 3671176; 495168, 3671158; 495187, 3671099; 495223, 3671059; 495223, 3671028; 495215, 3670995; 495210, 3670974; 495152, 3670938; 495071, 3670928; 494986, 3670932; 494941, 3670932; 494897, 3670887; 494888, 3670886; 494866, 3670850; 494857, 3670792; 494859, 3670786; 494775, 3670974; 494613, 3671229; 495335, 3671202.

Land bounded by the following UTM NAD27 coordinates (E,N): 472787, 3671058; 472775, 3671066; 472764, 3671075; 472755, 3671084; 472745, 3671092; 472732, 3671097; 472720, 3671100; 472708, 3671099; 472707, 3671098; 472685, 3671098; 472647, 3671110; 472557, 3671098; 472543, 3671111; 472526, 3671128; 472571, 3671129; 472621, 3671135; 472678, 3671148; 472723, 3671142; 472774, 3671117; 472824, 3671099; 472863, 3671086; 472888, 3671099; 472932, 3671112; 472970, 3671144; 473014, 3671175; 473033, 3671189; 473071, 3671208; 473128, 3671215; 473164, 3671215; 473210, 3671215; 473244, 3671194; 473238, 3671175; 473223, 3671178; 473197, 3671190; 473115, 3671189; 473071, 3671176; 473033, 3671151; 473021, 3671125; 473027, 3671113; 473025, 3671112; 473024, 3671113; 473023, 3671115; 473020, 3671116; 473017, 3671116; 473011, 3671117; 473005, 3671116; 473000, 3671114; 472994, 3671110; 472989, 3671107; 472981, 3671102; 472967, 3671094; 472943, 3671084; 472919, 3671075; 472886, 3671067; 472861, 3671062; 472824, 3671059; 472801, 3671055.

Land bounded by the following UTM NAD27 coordinates (E,N): 472474, 3671100; 472472, 3671100; 472464, 3671103; 472459, 3671104; 472450, 3671105; 472443, 3671107; 472438, 3671109; 472432, 3671111; 472427, 3671114; 472420, 3671118; 472415, 3671121; 472406, 3671125; 472403, 3671127; 472400, 3671128; 472394, 3671130; 472389, 3671132; 472382, 3671133; 472376, 3671135; 472371, 3671135; 472366, 3671133; 472363, 3671129; 472359, 3671125; 472357, 3671123; 472353, 3671122; 472347, 3671121; 472342, 3671121; 472337, 3671118; 472333, 3671115; 472328, 3671112; 472322, 3671109; 472318, 3671106; 472311, 3671101; 472305, 3671098; 472299, 3671095; 472290, 3671091; 472280, 3671088; 472274, 3671085; 472269, 3671080; 472263, 3671077; 472256, 3671074; 472250, 3671070; 472247, 3671067; 472242, 3671062; 472234, 3671058; 472229, 3671055; 472219, 3671049; 472214, 3671047; 472208, 3671044; 472201, 3671040; 472196, 3671039; 472192, 3671039; 472189, 3671039; 472184, 3671041; 472183, 3671047; 472183, 3671051; 472185, 3671054; 472187, 3671057; 472190, 3671060; 472193, 3671064; 472198, 3671073; 472200, 3671076; 472202, 3671079; 472204, 3671083; 472205, 3671088; 472206, 3671091; 472207, 3671094; 472209, 3671097; 472212, 3671100; 472215, 3671105; 472218, 3671108; 472222, 3671113; 472226, 3671115; 472230, 3671120; 472232, 3671124; 472233, 3671127; 472236, 3671133; 472241, 3671136; 472249, 3671140; 472253, 3671144; 472255, 3671147; 472263, 3671151; 472267, 3671151; 472276, 3671151; 472280, 3671150; 472285, 3671149; 472291, 3671149; 472294, 3671148; 472304, 3671147; 472307, 3671148; 472311, 3671151; 472317, 3671155; 472321, 3671157; 472325, 3671159; 472332, 3671160; 472336, 3671160; 472340, 3671161; 472343, 3671163; 472349, 3671166; 472355, 3671168; 472359, 3671168; 472366, 3671168; 472371, 3671168; 472375, 3671167; 472379, 3671166; 472384, 3671165; 472388, 3671166; 472392, 3671168; 472397, 3671169; 472401, 3671170; 472405, 3671170; 472410, 3671166; 472413, 3671164; 472416, 3671163; 472424, 3671159; 472430, 3671159; 472437, 3671159; 472444, 3671159; 472449, 3671158; 472452, 3671157; 472456, 3671155; 472466, 3671160; 472505, 3671102; 472500, 3671100; 472500, 3671100.

Land bounded by the following UTM NAD27 coordinates (E,N): 474820, 3670762; 474858, 3670762; 474904, 3670754; 474946, 3670744; 474985, 3670725; 475021, 3670700; 475045, 3670678; 475075, 3670645; 475123, 3670579; 475142, 3670558; 475186, 3670519; 475199, 3670509; 475226, 3670492; 475264, 3670475; 475292, 3670466; 475345, 3670454; 475460, 3670429; 475465, 3670426; 475465, 3670420; 475457, 3670385; 475448, 3670360; 475438, 3670346; 475435, 3670349; 475425, 3670340; 475415, 3670332; 475402, 3670328; 475390, 3670326; 475370, 3670326; 475302, 3670331; 475291, 3670332; 475277, 3670334; 475266, 3670338; 475208, 3670366; 475181, 3670380; 475168, 3670385; 475155, 3670387; 475135, 3670387; 475119, 3670385; 475115, 3670387; 475113, 3670390; 475106, 3670416; 475107, 3670421; 475110, 3670427; 475110, 3670434; 475104, 3670442; 475100, 3670444; 475120, 3670516; 475086, 3670537; 475043, 3670438; 475053, 3670408; 474983, 3670380; 474927, 3670574; 474823, 3670572; 474823, 3670573; 474822, 3670572.

Land bounded by the following UTM NAD27 coordinates (E,N): 498693, 3669120; 498629, 3669123; 498619, 3669129; 498615, 3669131; 498610, 3669131; 498604, 3669131; 498571, 3669127; 498570, 3669128; 498568, 3669130; 498568, 3669133; 498569, 3669135; 498582, 3669146; 498598, 3669155; 498605, 3669157; 498628, 3669160; 498632, 3669161; 498636, 3669163; 498641, 3669167; 498644, 3669172; 498647, 3669177; 498648, 3669181; 498649, 3669182; 498652, 3669184; 498654, 3669186; 498659, 3669187; 498668, 3669186; 498676, 3669185.

Land bounded by the following UTM NAD27 coordinates (E,N): 478300, 3668600; 478300, 3668647; 478266, 3668754; 478313, 3668812; 478352, 3668860; 478377, 3668892; 478405, 3668925; 478425, 3668951; 478433, 3668957; 478462, 3668980; 478488, 3669000; 478510, 3669017; 478537, 3669038; 478566, 3669031; 478712, 3668994; 478779, 3668944; 478818, 3668915; 478913, 3668844; 478920, 3668777; 478934, 3668641; 478938, 3668601; 478931, 3668564; 478928, 3668550; 478879, 3668316; 478862, 3668232; 478830, 3668080; 478662, 3668082; 478542, 3668083; 478521, 3668083; 478459, 3668084; 478416, 3668084; 478380, 3668085; 478340, 3668085; 478300, 3668085; 478265, 3668086; 478224, 3668085; 478223, 3668085; 478142, 3668086; 478010, 3668087; 477907, 3668087; 477854, 3668092; 477825, 3668163; 477735, 3668158; 477738, 3668125; 477815, 3668087; 477815, 3667966; 477815, 3667870; 477732, 3667870; 477726, 3667915; 477656, 3667969; 477667, 3668013; 477681, 3668061; 477641, 3668101; 477624, 3668113; 477603, 3668113; 477597, 3668093; 477492, 3668092; 477500, 3668185; 477380, 3668184; 477372, 3667971; 477477, 3667967; 477475, 3667945; 477472, 3667917; 477471, 3667893; 477471, 3667837; 477438, 3667835; 477425, 3667879; 477297, 3667863; 477099, 3667787; 477099, 3667695; 477154, 3667694; 477167, 3667663; 477171, 3667640; 477167, 3667611; 477158, 3667566; 477116, 3667581; 477058, 3667600; 477060, 3667487; 477270, 3667420; 477271, 3667353; 477272, 3667261; 477273, 3667185; 477272, 3667168; 477231, 3667148; 477190, 3667127; 477175, 3667119; 477106,

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Land bounded by the following UTM NAD27 coordinates (E,N): 494519, 3668574; 494463, 3668601; 494447, 3668597; 494414, 3668624; 494377, 3668616; 494347, 3668675; 494261, 3668738; 494246, 3668777; 494246, 3668807; 494253, 3668806; 494258, 3668774; 494265, 3668744; 494352, 3668683; 494381, 3668628; 494414, 3668634; 494421, 3668637; 494450, 3668610; 494479, 3668611; 494498, 3668600; 494606, 3668535; 494606, 3668525.

Land bounded by the following UTM NAD27 coordinates (E,N): 494531, 3668331; 494568, 3668447; 494587, 3668444; 494608, 3668444; 494615, 3668425; 494611, 3668421; 494617, 3668374; 494537, 3668331.

Land bounded by the following UTM NAD27 coordinates (E,N): 497171, 3667590; 497171, 3667625; 497178, 3667658; 497594, 3667620; 497643, 3667616; 497661, 3667606; 497661, 3667586.

Land bounded by the following UTM NAD27 coordinates (E,N): 498166, 3667398; 498125, 3667429; 498082, 3667478; 498089, 3667517; 498113, 3667520; 498104, 3667580; 498075, 3667586; 498226, 3667587; 498226, 3667540; 498170, 3667524; 498170, 3667483; 498209, 3667464; 498212, 3667418; 498205, 3667389.

Land bounded by the following UTM NAD27 coordinates (E,N): 475297, 3666654; 475151, 3666647; 475150, 3666751; 475150, 3666760; 475150, 3666773; 475151, 3666826; 475152, 3666869; 475153, 3666898; 475190, 3666927; 475675, 3667302; 475685, 3667033; 475695, 3666757; 475718, 3666313; 475721, 3666260; 475723, 3666229; 475663, 3666226; 475530, 3666225; 475446, 3666375; 475425, 3666426; 475426, 3666431; 475420, 3666440; 475423, 3666444; 475423, 3666445; 475393, 3666495; 475334, 3666592; 475325, 3666626; 475314, 3666626.

Land bounded by the following UTM NAD27 coordinates (E,N): 500242, 3666510; 500242, 3666508; 500241, 3666064; 500241, 3666031; 500240, 3666000; 500204, 3665479; 500157, 3664802; 500208, 3664009; 499907, 3664000; 499900, 3664000; 499900, 3664000; 499814, 3663997; 499818, 3664071; 499865, 3664128; 499815, 3664179; 499814, 3664215; 499784, 3664265; 499812, 3664301; 499810, 3664355; 499794, 3664369; 499781, 3664414; 499745, 3664464; 499745, 3664497; 499755, 3664517; 499742, 3664517; 499694, 3664502; 499679, 3664527; 499694, 3664560; 499741, 3664593; 499796, 3664596; 499804, 3664602; 499799, 3664795; 499723, 3664807; 499573, 3664850; 499504, 3664863; 499479, 3664872; 499431, 3664852; 499304, 3664858; 499157, 3664857; 499044, 3664870; 499170, 3664998; 499282, 3665055; 499352, 3665091; 499522, 3665117; 499570, 3665192; 499594, 3665217; 499609, 3665264; 499608, 3665310; 499583, 3665352; 499541, 3665369; 499499, 3665397; 499485, 3665439; 499497, 3665462; 499496, 3665486; 499484, 3665520; 499477, 3665528; 499455, 3665568; 499429, 3665581; 499395, 3665589; 499358, 3665583; 499332, 3665570; 499314, 3665464; 499196, 3665210; 498989, 3665208; 498978, 3665204; 498923, 3665199; 498874, 3665223; 498805, 3665238; 498729, 3665219; 498725, 3665173; 498771, 3665144; 498758, 3665105; 498755, 3665072; 498744, 3665077; 498694, 3665089; 498735, 3664974; 498728, 3664871; 498717, 3664814; 498685, 3664835; 498672, 3664866; 498660, 3665011; 498643, 3665094; 498584, 3665094; 498568, 3665153; 498525, 3665328; 498519, 3665351; 498505, 3665373; 498481, 3665410; 498480, 3665411; 498480, 3665409; 498470, 3665425; 498454, 3665415; 498424, 3665413; 498394, 3665411; 498355, 3665417; 498340, 3665400; 498309, 3665381; 498269, 3665373; 498219, 3665371; 498179, 3665387; 498175, 3665417; 498175, 3665460; 498166, 3665492; 498147, 3665503; 498136, 3665492; 498134, 3665471; 498121, 3665447; 498099, 3665456; 498061, 3665469; 498020, 3665489; 497978, 3665507; 497952, 3665511; 497950, 3665502; 497954, 3665479; 497953, 3665464; 497936, 3665447; 497908, 3665430; 497897, 3665413; 497908, 3665393; 497907, 3665363; 497901, 3665342; 497884, 3665331; 497849, 3665334; 497806, 3665309; 497755, 3665308; 497770, 3665424; 497776, 3665473; 497808, 3665481; 497835, 3665488; 497810, 3665532; 497797, 3665572; 497774, 3665574; 497776, 3665611; 497755, 3665631; 497768, 3665659; 497773, 3665682; 497794, 3665688; 497814, 3665691; 497828, 3665692; 497831, 3665703; 497827, 3665708; 497820, 3665712; 497820, 3665742; 497829, 3665755; 497853, 3665819; 497770, 3665848; 497740, 3665861; 497673, 3665861; 497660, 3665861; 497617, 3665868; 497591, 3665869; 497549, 3665875; 497539, 3665891; 497547, 3665893; 497549,

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Land bounded by the following UTM NAD27 coordinates (E,N): 475651, 3666200; 475724, 3666204; 475727, 3666147; 475730, 3666097; 475731, 3666076; 475693, 3666092; 475550, 3666199.

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Excluding land bounded by the following UTM NAD27 coordinates (E,N): 481458, 3661671; 481178, 3661673; 481159, 3661674; 481159, 3661673; 481137, 3661659; 481167, 3661658; 481477, 3661655; 481477, 3661671. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 481109, 3661659; 481131, 3661674; 481109, 3661674; 481078, 3661674; 481077, 3661674; 481075, 3661674; 480911, 3661676; 480895, 3661676; 480711, 3661678; 480721, 3661667; 480727, 3661661; 480727, 3661661; 480728, 3661660; 480729, 3661659; 480730, 3661658; 480731, 3661656; 480732, 3661655; 480733, 3661654; 480734, 3661653; 480735, 3661652; 480736, 3661651; 480771, 3661606; 480772, 3661605; 480773, 3661604; 480774, 3661603; 480775, 3661602; 480776, 3661601; 480777, 3661600; 480778, 3661599; 480779, 3661598; 480781, 3661597; 480782, 3661596; 480783, 3661595; 480784, 3661594; 480786, 3661594; 480787, 3661593; 480788, 3661592; 480790, 3661591; 480791, 3661591; 480793, 3661590; 480793, 3661590; 480794, 3661590; 480843, 3661567; 480845, 3661571; 480899, 3661545; 480903, 3661543; 480907, 3661542; 480914, 3661541; 480920, 3661541; 480925, 3661541; 480933, 3661543; 480938, 3661545; 480942, 3661546; 480946, 3661548; 480964, 3661560; 480969, 3661564; 480973, 3661567; 481075, 3661642; 481075, 3661659. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 482060, 3660866; 482119, 3661074; 482021, 3661208; 481862, 3661306; 481672, 3661355; 481427, 3661377; 481422, 3661445; 481251, 3661481; 481066, 3661377; 481068, 3661064; 481093, 3660981; 481093, 3660893; 481200, 3660849; 481261, 3660763; 481388, 3660671; 481532, 3660663; 481691, 3660710; 481811, 3660680; 481838, 3660624; 481921, 3660585; 482009, 3660673; 482065, 3660776. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 482222, 3659770; 482283, 3659774; 482483, 3659767; 482510, 3659640; 482610, 3659643; 482613, 3659873; 482719, 3659883; 482707, 3659955; 482731, 3660034; 482779, 3659995; 482816, 3659910; 482831, 3659843; 482788, 3659761; 482752, 3659698; 482716, 3659634; 482649, 3659595; 482607, 3659510; 482604, 3659468; 482667, 3659371; 482601, 3659374; 482616, 3659198; 482722, 3659155; 482776, 3659116; 482843, 3659149; 482967, 3659162; 483164, 3659165; 483245, 3659150; 483247, 3659152; 483297, 3659146; 483397, 3659083; 483455, 3659071; 483437, 3659131; 483397, 3659262; 483428, 3659343; 483449, 3659443; 483516, 3659504; 483516, 3659561; 483519, 3659792; 483631, 3659795; 483628, 3659577; 483822, 3659568; 483809, 3659207; 483991, 3659201; 484037, 3659192; 484115, 3659131; 484185, 3659122; 484206, 3659575; 483922, 3659589; 483922, 3659604; 483837, 3659613; 483831, 3659986; 483900, 3660004; 483900, 3660058; 483931, 3660073; 483925, 3660146; 483806, 3660146; 483746, 3660152; 483722, 3660183; 483706, 3660267; 483609, 3660355; 483613, 3660410; 483491, 3660419; 483470, 3660067; 483461, 3660092; 483428, 3660128; 483364, 3660152; 483349, 3660179; 483304, 3660189; 483294, 3660237; 483279, 3660255; 483270, 3660295; 483182, 3660298; 483176, 3660337; 483143, 3660361; 483155, 3660482; 483097, 3660495; 483013, 3660434; 482976, 3660325; 482876, 3660414; 482871, 3660414; 482685, 3660734; 482698, 3660828; 482940, 3660852; 482907, 3660910; 482910, 3661043; 482885, 3661043; 482788, 3660888; 482792, 3661046; 482907, 3661146; 482904,

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Land bounded by the following UTM NAD27 coordinates (E,N): 477212, 3664642; 477269, 3664644; 477308, 3664635; 477327, 3664601; 477331, 3664573; 477306, 3664543; 477275, 3664519; 477248, 3664498; 477256, 3664480; 477306, 3664490; 477342, 3664505; 477386, 3664544; 477421, 3664573; 477466, 3664610; 477483, 3664623; 477487, 3664673; 477531, 3664687; 477561, 3664715; 477584, 3664771; 477596, 3664811; 477607, 3664834; 477631, 3664825; 477676, 3664811; 477722, 3664796; 477738, 3664790; 477765, 3664776; 477638, 3664755; 477631, 3664684; 477632, 3664676; 477636, 3664661; 477663, 3664612; 477662, 3664601; 477651, 3664589; 477632, 3664575; 477614, 3664561; 477580, 3664523; 477566, 3664510; 477529, 3664499; 477496, 3664490; 477466, 3664481; 477426, 3664478; 477410, 3664473; 477360, 3664434; 477340, 3664418; 477295, 3664402; 477245, 3664381; 477226, 3664375.

Land bounded by the following UTM NAD27 coordinates (E,N): 499008, 3664454; 498992, 3664483; 498978, 3664506; 498931, 3664535; 498889, 3664577; 498873, 3664610; 498863, 3664642; 498847, 3664669; 498816, 3664697; 498785, 3664721; 498744, 3664723; 498738, 3664744; 498742, 3664753; 498745, 3664752; 498736, 3664780; 498778, 3664778; 498806, 3664755; 498875, 3664687; 498957, 3664618; 499017, 3664538; 499062, 3664463; 499103, 3664410; 499115, 3664367; 499128, 3664323; 499184, 3664262; 499227, 3664207; 499203, 3664151; 499197, 3664096; 499212, 3664064; 499153, 3664055; 499129, 3664108; 499135, 3664206; 499128, 3664250; 499091, 3664286; 499054, 3664341; 499064, 3664364; 499067, 3664371; 499008, 3664427.

Land bounded by the following UTM NAD27 coordinates (E,N): 476898, 3664022; 476902, 3664016; 476915, 3663986; 476927, 3663961; 476934, 3663931; 476942, 3663902; 476943, 3663892; 477030, 3663947; 477048, 3663955; 477063, 3663960; 477082, 3663962; 477101, 3663975; 477109, 3663995; 477108, 3664020; 477109, 3664021; 477109, 3664021; 477245, 3664021; 477231, 3664274; 477246, 3664274; 477271, 3664282; 477292, 3664289; 477316, 3664300; 477333, 3664308; 477362, 3664319; 477390, 3664332; 477422, 3664347; 477434, 3664353; 477457, 3664356; 477590, 3664393; 477601, 3664392; 477616, 3664371; 477634, 3664346; 477659, 3664352; 477676, 3664373; 477692, 3664389; 477712, 3664400; 477742, 3664406; 477778, 3664404; 477823, 3664398; 477842, 3664399; 477858, 3664413; 477965, 3664515; 478059, 3664544; 478083, 3664515; 478172, 3664408; 478215, 3664341; 478195, 3664329; 478158, 3664304; 478142, 3664284; 478126, 3664242; 478120, 3664194; 478121, 3664170; 478133, 3664139; 478154, 3664105; 478174, 3664068; 478187, 3664046; 478142, 3664039; 478138, 3664049; 478130, 3664074; 478121, 3664097; 478108, 3664115; 478094, 3664133; 478076, 3664152; 478048, 3664169; 478035, 3664165; 478028, 3664154; 478021, 3664147; 478011, 3664147; 477871, 3664176; 477874, 3664217; 477854, 3664218; 477816, 3664212; 477774, 3664193; 477729, 3664184; 477697, 3664193; 477649, 3664215; 477587, 3664212; 477547, 3664193; 477510, 3664165; 477477, 3664129; 477445, 3664125; 477409, 3664156; 477381, 3664176; 477358, 3664171; 477348, 3664143; 477341, 3664094; 477345, 3664050; 477342, 3664007; 477343, 3663966; 477359, 3663931; 477388, 3663922; 477431, 3663919; 477469, 3663918; 477476, 3663914; 477493, 3663901; 477514, 3663882; 477529, 3663871; 477550, 3663864; 477587, 3663854; 477616, 3663843; 477648, 3663842; 477683, 3663845; 477738, 3663846; 477785, 3663850; 477839, 3663847; 477867, 3663845; 477901, 3663833; 477931, 3663817; 477959, 3663815; 477983, 3663826; 478025, 3663849; 478051, 3663865; 478082, 3663878; 478111, 3663888; 478139, 3663905; 478160, 3663924; 478175, 3663938; 478192, 3663931; 478221, 3663927; 478250, 3663923; 478285, 3663926; 478310, 3663928; 478338, 3663937; 478376, 3663941; 478370, 3663957; 478359, 3663975; 478340, 3663994; 478329, 3664011; 478330, 3664031; 478336, 3664047; 478349, 3664067; 478367, 3664079; 478367, 3664079; 478472, 3663903; 478470, 3663902; 478456, 3663891; 478429, 3663882; 478407, 3663883; 478379, 3663895; 478360, 3663903; 478339, 3663904; 478318, 3663892; 478303, 3663883; 478296, 3663866; 478287, 3663806; 478272, 3663777; 478259, 3663752; 478257, 3663695; 478256, 3663689; 478256, 3663689; 478147, 3663687; 478147, 3663687; 478148, 3663695; 478153, 3663710; 478163, 3663734; 478163, 3663752; 478153, 3663761; 478146, 3663783; 478151, 3663807; 478151, 3663837; 478149, 3663847; 478135, 3663855; 478122, 3663856; 478113, 3663854; 478090, 3663842; 478066, 3663828; 478039, 3663815; 478016, 3663808; 477984, 3663794; 477959, 3663780; 477943, 3663767; 477928, 3663766; 477913, 3663768; 477878, 3663791; 477848, 3663800; 477826, 3663796; 477799, 3663793; 477757, 3663794; 477642, 3663811; 477591, 3663818; 477570, 3663827; 477538, 3663836; 477503, 3663850; 477474, 3663850; 477440, 3663843; 477408, 3663834; 477375, 3663836; 477343, 3663841; 477318, 3663824; 477313, 3663793; 477318, 3663747; 477310, 3663709; 477301, 3663676; 477301, 3663676; 476969, 3663671; 476933, 3663701; 476903, 3663737; 476868, 3663793; 476834, 3663847; 476799, 3663889; 476747, 3663926; 476713, 3663940; 476665, 3663950; 476576, 3663951; 476495, 3663950; 476494, 3663630; 476461, 3663669; 476439, 3663668; 476414, 3663670; 476402, 3663686; 476349, 3663695; 476307, 3663694; 476280, 3663687; 476258, 3663699; 476285, 3663732; 476283, 3663745; 476277, 3663758; 476276, 3663762; 476262, 3663784; 476252, 3663801; 476219, 3663810; 476204, 3663827; 476178, 3663824; 476173, 3663810; 476153,

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Land bounded by the following UTM NAD27 coordinates (E,N): 499111, 3664485; 499103, 3664504; 499110, 3664516; 499126, 3664516; 499138, 3664504; 499143, 3664495; 499138, 3664482; 499131, 3664478; 499120, 3664478.

Land bounded by the following UTM NAD27 coordinates (E,N): 499341, 3664088; 499399, 3664091; 499454, 3664132; 499473, 3664158; 499489, 3664202; 499506, 3664278; 499519, 3664323; 499533, 3664372; 499570, 3664365; 499572, 3664333; 499554, 3664313; 499549, 3664287; 499548, 3664233; 499548, 3664191; 499554, 3664175; 499520, 3664122; 499483, 3664096; 499457, 3664074; 499407, 3664059; 499341, 3664055.

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Land bounded by the following UTM NAD27 coordinates (E,N): 479005, 3664013; 479043, 3664079; 479043, 3663706; 479045, 3663677; 479854, 3663675; 479852, 3663271; 479851, 3663271; 479846, 3663271; 479834, 3663271; 479831, 3663474; 479491, 3663474; 479491, 3663270; 479812, 3663268; 479847, 3663204; 479880, 3663144; 479873, 3663150; 479823, 3663126; 479797, 3663102; 479761, 3663104; 479713, 3663114; 479668, 3663143; 479656, 3663140; 479627, 3663126; 479618, 3663128; 479616, 3663157; 479606, 3663176; 479587, 3663183; 479556, 3663183; 479542, 3663169; 479516, 3663169; 479492, 3663178; 479468, 3663200; 479446, 3663212; 479423, 3663212; 479396, 3663212; 479385, 3663216; 479370, 3663243; 479339, 3663264; 479327, 3663264; 479306, 3663247; 479294, 3663231; 479263, 3663262; 479246, 3663262; 479211, 3663281; 479170, 3663319; 479096, 3663385; 479058, 3663447; 479033, 3663458; 479033, 3663458; 478992, 3663558; 478947, 3663677; 478953, 3663677; 478943, 3663698; 478941, 3663753; 478943, 3663825; 478955, 3663879; 478974, 3663944; 479000, 3664000; 479000, 3664000; 479000, 3664001.

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Land bounded by the following UTM NAD27 coordinates (E,N): 499674, 3663409; 499687, 3663432; 499737, 3663460; 499794, 3663484; 499815, 3663455; 499717, 3663397; 499689, 3663394.

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Land bounded by the following UTM NAD27 coordinates (E,N): 476312, 3663085; 476319, 3663080; 476338, 3663076; 476360, 3663072; 476369, 3663065; 476394, 3663046; 476379, 3663033; 476361, 3663041; 476345, 3663030; 476335, 3663013; 476334, 3662997; 476332, 3662980; 476331, 3662961; 476333, 3662945; 476335, 3662928; 476337, 3662918; 476332, 3662902; 476327, 3662883; 476322, 3662868; 476316, 3662849; 476311, 3662833; 476306, 3662817; 476302, 3662801; 476301, 3662789; 476298, 3662775; 476298, 3662761; 476301, 3662745; 476303, 3662732; 476308, 3662714; 476297, 3662723; 476291, 3662731; 476284, 3662743; 476262, 3662745; 476245, 3662777; 476236, 3662800; 476233, 3662808; 476237, 3662832; 476242, 3662857; 476250, 3662886; 476257, 3662908; 476261, 3662923; 476247, 3662957; 476265, 3662986; 476271, 3663010; 476273, 3663024; 476270, 3663038; 476267, 3663050; 476260, 3663062; 476247, 3663075; 476293, 3663094.

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Land bounded by the following UTM NAD27 coordinates (E,N): 494621, 3661452; 494621, 3661466; 494616, 3661573; 494611, 3661603; 494677, 3661630; 494669, 3661574; 494661, 3661516; 494674, 3661438; 494673, 3661412.

Land bounded by the following UTM NAD27 coordinates (E,N): 493928, 3661528; 493932, 3661507; 493924, 3661483; 493924, 3661467; 493924, 3661440; 493933, 3661422; 493943, 3661413; 493961, 3661396; 493960, 3661336; 493961, 3661335; 493961, 3661331; 493998, 3661294; 494014, 3661263; 494037, 3661198; 494037, 3661197; 494052, 3661137; 494079, 3661091; 494139, 3661067; 494168, 3660915; 494209, 3660824; 494264, 3660773; 494312, 3660702; 494342, 3660622; 494379, 3660611; 494358, 3660592; 494342, 3660569; 494324, 3660532; 494335, 3660516; 494366, 3660458; 494374, 3660441; 494379, 3660432; 494420, 3660345; 494426, 3660330; 494428, 3660321; 494427, 3660274; 494426, 3660238; 494422, 3660146; 494419, 3660135; 494404, 3660067; 494408, 3660024; 494420, 3659952; 494431, 3659914; 494484, 3660022; 494506, 3660076; 494503, 3660148; 494524, 3660271; 494588, 3660258; 494589, 3660258; 494590, 3660258; 494793, 3660217; 494800, 3660215; 494774, 3660064; 494767, 3660030; 494766, 3660025; 494765, 3660020; 494757, 3659976; 494737, 3659862; 494707, 3659873; 494699, 3659888; 494699, 3659905; 494688, 3659905; 494675, 3659897; 494653, 3659888; 494624, 3659888; 494606, 3659873; 494596, 3659877; 494557, 3659882; 494520, 3659875; 494488, 3659862; 494477, 3659858; 494449, 3659855; 494447, 3659837; 494428, 3659802; 494417, 3659771; 494413, 3659744; 494412, 3659727; 494414, 3659703; 494428, 3659655; 494383, 3659607; 494376, 3659612; 494319, 3659617; 494289, 3659531; 494289, 3659487; 494300, 3659423; 494300, 3659419; 494245, 3659345; 494182, 3659201; 494181, 3659197; 494223, 3659195; 494265, 3659182; 494255, 3659142; 494230, 3659111; 494208, 3659102; 494202, 3659100; 494200, 3659100; 494200, 3659099; 494181, 3659092; 494150, 3659104; 494121, 3659110; 494076, 3659104; 493989, 3659179; 493988, 3659179; 493883, 3659287; 493852, 3659309; 493821, 3659325; 493791, 3659334; 493750, 3659339; 493732, 3659338; 493715, 3659336; 493696, 3659331; 493669, 3659322; 493642, 3659309; 493585, 3659283; 493585, 3659354; 493588, 3659423; 493654, 3659428; 493700, 3659437; 493695, 3659478; 493722, 3659514; 493728, 3659526; 493730, 3659550; 493743, 3659554; 493768, 3659560; 493792, 3659601; 493789, 3659634; 493770, 3659706; 493723, 3659756; 493708, 3659780; 493697, 3659825; 493699, 3659832; 493621, 3659896; 493565, 3659926; 493519, 3659907; 493512, 3659969; 493507, 3660021; 493506, 3660021; 493505, 3660034; 493506, 3660044; 493494, 3660198; 493502, 3660284; 493505, 3660308; 493474, 3660462; 493449, 3660569; 493448, 3660643; 493493, 3660643; 493519, 3660541; 493536, 3660438; 493553, 3660348; 493588, 3660268; 493589, 3660256; 493589, 3660245; 493584, 3660236; 493586, 3660229; 493583, 3660153; 493577, 3660089; 493572, 3660058; 493566, 3660024; 493597, 3659989; 493667, 3659953; 493729, 3659911; 493779, 3659842; 493821, 3659812; 493823, 3659821; 493843, 3659812; 493843, 3659981; 493804, 3659981; 493803, 3660262; 493843, 3660254; 493929, 3660236; 493938, 3660235; 493967, 3660229; 494179, 3660186; 494261, 3660165; 494262, 3660118; 494239, 3660116; 494207, 3660109; 494203, 3660062; 494190, 3660010; 494180, 3659962; 494175, 3659896; 494171, 3659824; 494204, 3659788; 494218, 3659766; 494244, 3659801; 494250, 3659838; 494275, 3659851; 494299, 3659857; 494330, 3659846; 494331, 3659864; 494333, 3659899; 494381, 3659932; 494377, 3659970; 494373, 3659989; 494367, 3660020; 494368, 3660049; 494370, 3660087; 494381, 3660145; 494318, 3660158; 494316, 3660229; 494313, 3660281; 494312, 3660289; 494306, 3660485; 494305, 3660506; 494286, 3660552; 494276, 3660578; 494267, 3660586; 494249, 3660603; 494225, 3660619; 494193, 3660639; 494213, 3660688; 494206, 3660726; 494176, 3660753; 494158, 3660794; 494138, 3660841; 494125, 3660871; 494104, 3660897; 494069, 3660939; 494070, 3660946; 494029, 3660944; 494005, 3660937; 493984, 3660945; 493979, 3660993; 493974, 3661011; 493933, 3661008; 493897, 3661038; 493853, 3661066; 493849, 3661075; 493839, 3661088; 493835, 3661105; 493833, 3661117; 493826, 3661144; 493819, 3661148; 493784, 3661170; 493789, 3661194; 493848, 3661158; 493851, 3661129; 493851, 3661099; 493872, 3661086; 493878, 3661078; 493917, 3661074; 493927, 3661061; 493933, 3661049; 493958, 3661046; 493972, 3661050; 493978, 3661034; 493988, 3661021; 494005, 3661006; 494021, 3660992; 494034, 3660981; 494048, 3660983; 494051, 3660993; 494043, 3661016; 494030, 3661042; 494013, 3661083; 493997, 3661121; 493987, 3661146; 493990, 3661166; 493974, 3661202; 493950, 3661254; 493890, 3661283; 493868, 3661293; 493839, 3661299; 493825, 3661345; 493815, 3661354; 493807, 3661356; 493810, 3661367; 493769, 3661378; 493775, 3661408; 493784, 3661452; 493806, 3661447; 493829, 3661442; 493840, 3661439; 493848, 3661473; 493836, 3661478; 493794, 3661507; 493785, 3661518; 493837, 3661541; 493859, 3661525; 493869, 3661569.

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Land bounded by the following UTM NAD27 coordinates (E,N): 475821, 3659094; 475794, 3659099; 475794, 3659100; 475794, 3659100; 475795, 3659100; 475795, 3659101; 475795, 3659101; 475795, 3659101; 475795, 3659102; 475795, 3659102; 475795, 3659103; 475795, 3659103; 475795, 3659103; 475795, 3659104; 475796, 3659104; 475796, 3659105; 475812, 3659177; 475934, 3659199; 475984, 3659213; 476006, 3659205; 476021, 3659205; 476022, 3659207; 476030, 3659220; 476032, 3659224; 476041, 3659221; 476126, 3659196; 476120, 3659196; 476095, 3659194; 476072, 3659193; 476054, 3659192; 476023, 3659191; 476009, 3659190; 475989, 3659189; 475991, 3659158; 475973, 3659163; 475962, 3659157; 475943, 3659158; 475941, 3659159; 475925, 3659161; 475913, 3659162; 475899, 3659161; 475888, 3659157; 475875, 3659149; 475869, 3659143; 475860, 3659115; 475855, 3659090; 475845, 3659085.

Land bounded by the following UTM NAD27 coordinates (E,N): 492380, 3658298; 492373, 3658282; 492378, 3658252; 492380, 3658233; 492372, 3658223; 492367, 3658192; 492367, 3658158; 492374, 3658143; 492383, 3658132; 492386, 3658089; 492379, 3658072; 492343, 3658001; 492325, 3657981; 492296, 3657952; 492289, 3657940; 492278, 3657925; 492272, 3657914; 492261, 3657888; 492252, 3657877; 492259, 3657862; 492257, 3657849; 492252, 3657836; 492239, 3657827; 492229, 3657817; 492219, 3657807; 492211, 3657796; 492202, 3657785; 492171, 3657759; 492150, 3657739; 492104, 3657685; 492097, 3657675; 492086, 3657661; 492076, 3657650; 492045, 3657619; 492026, 3657602; 492011, 3657591; 491999, 3657582; 491973, 3657571; 491974, 3657556; 491968, 3657542; 491961, 3657521; 491970, 3657512; 491988, 3657497; 491994, 3657481; 491993, 3657466; 491986, 3657452; 491975,

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Land bounded by the following UTM NAD27 coordinates (E,N): 480605, 3658792; 480586, 3658792; 480456, 3658793; 480452, 3658793; 480410, 3658793; 480405, 3658793; 480376, 3658794; 480440, 3658901; 480570, 3658926; 480589, 3658954; 480621, 3659001; 480653, 3659046; 480732, 3659019; 480736, 3659018; 480904, 3659074; 480905, 3659073; 480907, 3659073; 480908, 3659072; 480909, 3659071; 480911, 3659070; 480912, 3659070; 480914, 3659069; 480915, 3659068; 480916, 3659068; 480918, 3659067; 480919, 3659066; 480920, 3659066; 480922, 3659065; 480923, 3659065; 480925, 3659064; 480926, 3659063; 480927, 3659063; 480929, 3659062; 480930, 3659061; 480931, 3659061; 480933, 3659060; 480934, 3659060; 480936, 3659059; 480937, 3659058; 480938, 3659058; 480940, 3659057; 480941, 3659057; 480943, 3659056; 480944, 3659056; 480945, 3659055; 480947, 3659054; 480948, 3659054; 480950, 3659053; 480951, 3659053; 480953, 3659052; 480954, 3659052; 480955, 3659051; 480956, 3659051; 480958, 3659050; 480959, 3659050; 480961, 3659049; 480962, 3659049; 480963, 3659048; 480965, 3659047; 480966, 3659047; 480967, 3659046; 480969, 3659045; 480970, 3659044; 480971, 3659043; 480973, 3659043; 480974, 3659042; 480975, 3659041; 480976, 3659040; 480978, 3659039; 480979, 3659038; 480980, 3659037; 480981, 3659036; 480982, 3659035; 480983, 3659034; 480985, 3659033; 480986, 3659032; 480987, 3659031; 480988, 3659030; 480989, 3659029; 480990, 3659028; 480991, 3659026; 480992, 3659025; 480993, 3659024; 480994, 3659023; 480994, 3659022; 480684, 3658954; 480641, 3658900; 480617, 3658792; 480612, 3658792.

Land bounded by the following UTM NAD27 coordinates (E,N): 475457, 3658903; 475565, 3658907; 475573, 3658800; 475577, 3658780; 475589, 3658722; 475591, 3658707; 475592, 3658696; 475594, 3658649; 475579, 3658648; 475481, 3658642; 475448, 3658640; 475448, 3658648; 475447, 3658779; 475475, 3658779; 475500, 3658829; 475497, 3658846; 475485, 3658871; 475475, 3658868; 475451, 3658902.

Land bounded by the following UTM NAD27 coordinates (E,N): 477768, 3658593; 477766, 3658618; 477766, 3658621; 477886, 3658629; 477921, 3658624; 477967, 3658631; 478015, 3658635; 478031, 3658636; 478302, 3658772; 478302, 3658772; 478265, 3658662; 478148, 3658656; 478109, 3658639; 478092, 3658606; 478099, 3658577; 478115, 3658538; 478134, 3658531; 478188, 3658512; 478111, 3658480; 478060, 3658454; 477996, 3658404; 477993, 3658448; 477795, 3658438; 477779, 3658439; 477779, 3658439.

Land bounded by the following UTM NAD27 coordinates (E,N): 478398, 3658320; 478385, 3658438; 478374, 3658468; 478344, 3658498; 478313, 3658528; 478292, 3658549; 478284, 3658579; 478276, 3658608; 478273, 3658630; 478285, 3658662; 478304, 3658726; 478323, 3658726; 478347, 3658719; 478413, 3658734; 478476, 3658750; 478475, 3658745; 478429, 3658714; 478420, 3658696; 478407, 3658674; 478409, 3658623; 478437, 3658589; 478475, 3658556; 478517, 3658539; 478566, 3658524; 478597, 3658526; 478627, 3658529; 478659, 3658534; 478688, 3658538; 478724, 3658542; 478772, 3658545; 478782, 3658555; 478808, 3658566; 478875, 3658535; 478884, 3658515; 478777, 3658483; 478613, 3658465; 478579, 3658463; 478544, 3658457; 478462, 3658419; 478433, 3658393; 478418, 3658391; 478420, 3658319.

Land bounded by the following UTM NAD27 coordinates (E,N): 479721, 3658387; 479718, 3658428; 479728, 3658485; 479759, 3658549; 479796, 3658627; 479863, 3658743; 479858, 3658712; 479855, 3658634; 479848, 3658578; 479851, 3658542; 479849, 3658508; 479858, 3658472; 479886, 3658409; 479886, 3658409; 479884, 3658409; 479883, 3658408; 479882, 3658408; 479880, 3658407; 479879, 3658407; 479877, 3658406; 479876, 3658406; 479874, 3658405; 479873, 3658405; 479871, 3658404; 479870, 3658404; 479868, 3658403; 479867, 3658403; 479866, 3658402; 479864, 3658402; 479863, 3658402; 479861, 3658401; 479860, 3658401; 479858, 3658400; 479857, 3658400; 479855, 3658399; 479854, 3658399; 479853, 3658398; 479851, 3658398; 479850, 3658397; 479848, 3658397; 479847, 3658396; 479845, 3658396; 479844, 3658396; 479842, 3658395; 479841, 3658395; 479839, 3658394; 479838, 3658394; 479837, 3658393; 479835, 3658393; 479834, 3658392; 479832, 3658392; 479831, 3658391; 479829, 3658391; 479828, 3658390; 479827, 3658390; 479825, 3658389; 479824, 3658389; 479822, 3658388; 479821, 3658388; 479819, 3658387; 479818, 3658386; 479816, 3658386; 479815, 3658385; 479814, 3658385; 479812, 3658384; 479811, 3658384; 479809, 3658383; 479808, 3658383; 479806, 3658382; 479805, 3658382; 479804, 3658381; 479802, 3658381; 479801, 3658380; 479799, 3658380; 479798, 3658379; 479796, 3658379; 479795, 3658378; 479794, 3658378; 479792, 3658377; 479791, 3658377; 479789, 3658376; 479788, 3658376; 479786, 3658375; 479785, 3658375; 479783, 3658374; 479782, 3658374; 479780, 3658374; 479779, 3658373; 479778, 3658373; 479776, 3658372; 479775, 3658372; 479773, 3658371; 479772, 3658371; 479770, 3658370; 479769, 3658370; 479767, 3658369; 479766, 3658369; 479765, 3658369; 479763, 3658368; 479762, 3658368; 479760, 3658367; 479759, 3658367; 479757, 3658366; 479756, 3658366; 479754, 3658365; 479753, 3658365; 479751, 3658364; 479750, 3658364; 479749, 3658363; 479747, 3658363; 479746, 3658362; 479744, 3658362; 479743, 3658361; 479741, 3658361; 479740, 3658360; 479739, 3658360; 479737, 3658359; 479736, 3658359; 479734, 3658358; 479733, 3658358; 479731, 3658357; 479730, 3658357; 479728, 3658356; 479727, 3658356.

Land bounded by the following UTM NAD27 coordinates (E,N): 475094,

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Land bounded by the following UTM NAD27 coordinates (E,N): 479855, 3658137; 479763, 3658221; 479729, 3658308; 479733, 3658348; 479832, 3658381; 479866, 3658304; 479888, 3658280; 479900, 3658280; 479941, 3658167.

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Land bounded by the following UTM NAD27 coordinates (E,N): 479207, 3658351; 479311, 3658343; 479311, 3658318; 479210, 3658284.

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Land bounded by the following UTM NAD27 coordinates (E,N): 479980, 3658180; 480000, 3658120; 480001, 3658119; 480001, 3658117; 480002, 3658116; 480002, 3658114; 480002, 3658113; 480003, 3658111; 480003, 3658110; 480003, 3658108; 480003, 3658107; 480003, 3658105; 480004, 3658104; 480004, 3658102; 480004, 3658101; 480004, 3658099; 480004, 3658098; 480004, 3658096; 480004, 3658095; 480004, 3658093; 480004, 3658092; 480003, 3658056; 479985, 3658059; 479986, 3658061; 479987, 3658062; 479987, 3658063; 479988, 3658065; 479989, 3658066; 479990, 3658067; 479990, 3658069; 479991, 3658070; 479992, 3658071; 479992, 3658073; 479993, 3658074; 479993, 3658076; 479994, 3658077; 479994, 3658079; 479994, 3658080; 479993, 3658082; 479993, 3658083; 479992, 3658085; 479992, 3658086; 479991, 3658087; 479990, 3658089; 479989, 3658090; 479988, 3658091; 479987, 3658092; 479986, 3658093; 479985, 3658094; 479984, 3658095; 479983, 3658096; 479982, 3658098; 479981, 3658099; 479980, 3658100; 479979, 3658101; 479978, 3658102; 479977, 3658103; 479976, 3658104; 479975, 3658105; 479974, 3658107; 479973, 3658108; 479972, 3658109; 479971, 3658110; 479970, 3658112; 479969, 3658113; 479969, 3658114; 479968, 3658116; 479967, 3658117; 479966, 3658118; 479966, 3658120; 479965, 3658121; 479964, 3658122; 479964, 3658124; 479963, 3658125; 479962, 3658126; 479962, 3658128; 479961, 3658129; 479960, 3658131; 479960, 3658132; 479959, 3658133; 479958, 3658135; 479958, 3658136; 479957, 3658137; 479956, 3658139; 479956, 3658140; 479955, 3658141; 479954, 3658143; 479954, 3658144; 479953, 3658146; 479952, 3658147; 479951, 3658148; 479951, 3658149; 479950, 3658151; 479949, 3658152; 479948, 3658153; 479948, 3658155; 479947, 3658156; 479946, 3658157; 479945, 3658159; 479944, 3658160; 479944, 3658161; 479943, 3658163; 479942, 3658164; 479941, 3658165; 479941, 3658167.

Land bounded by the following UTM NAD27 coordinates (E,N): 478428, 3658055; 478427, 3658070; 478429, 3658070; 478441, 3658069; 478442, 3658069; 478449, 3658069; 478598, 3658063; 478429, 3658039.

Land bounded by the following UTM NAD27 coordinates (E,N): 477706, 3657825; 477630, 3657821; 477544, 3657816; 477543, 3657853; 477548, 3657853; 477549, 3657854; 477551, 3657854; 477552, 3657854; 477554, 3657854; 477555, 3657854; 477557, 3657855; 477558, 3657855; 477560, 3657855; 477561, 3657856; 477563, 3657856; 477564, 3657857; 477566, 3657857; 477567, 3657858; 477569, 3657858; 477570, 3657859; 477571, 3657859; 477573, 3657860; 477574, 3657860; 477576, 3657861; 477577, 3657861; 477578, 3657862; 477580, 3657863; 477581, 3657863; 477583,

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Land bounded by the following UTM NAD27 coordinates (E,N): 476113, 3657727; 476103, 3657755; 476096, 3657771; 476090, 3657789; 476081, 3657812; 476069, 3657843; 476059, 3657872; 476058, 3657873; 476060, 3657873; 476062, 3657873; 476063, 3657872; 476064, 3657872; 476066, 3657872; 476113, 3657860; 476128, 3657820; 476144, 3657779; 476152, 3657758; 476159, 3657738; 476169, 3657713; 476168, 3657713; 476166, 3657712; 476165, 3657712; 476163, 3657712; 476162, 3657711; 476161, 3657711; 476160, 3657711; 476158, 3657711; 476157, 3657710; 476155, 3657710; 476154, 3657710; 476152, 3657709; 476151, 3657709; 476149, 3657708; 476148, 3657708; 476146, 3657707; 476145, 3657707; 476143, 3657707; 476142, 3657706; 476140, 3657706; 476139, 3657705; 476138, 3657705; 476136, 3657704; 476135, 3657704; 476133, 3657703; 476132, 3657703; 476130, 3657702; 476129, 3657702; 476128, 3657701; 476126, 3657701; 476123, 3657699.

Land bounded by the following UTM NAD27 coordinates (E,N): 476315, 3657186; 476308, 3657203; 476302, 3657219; 476294, 3657241; 476287, 3657260; 476280, 3657278; 476269, 3657309; 476240, 3657385; 476238, 3657391; 476227, 3657420; 476219, 3657441; 476212, 3657461; 476204, 3657482; 476196, 3657503; 476190, 3657519; 476180, 3657546; 476173, 3657565; 476165, 3657586; 476158, 3657607; 476153, 3657619; 476151, 3657626; 476144, 3657644; 476137, 3657662; 476130, 3657681; 476131, 3657681; 476132, 3657681; 476134, 3657682; 476135, 3657682; 476137, 3657682; 476138, 3657683; 476140, 3657683; 476141, 3657683; 476143, 3657684; 476144, 3657684; 476146, 3657684; 476147, 3657684; 476149, 3657685; 476150, 3657685; 476151, 3657685; 476153, 3657685; 476154, 3657685; 476156, 3657685; 476157, 3657686; 476159, 3657686; 476160, 3657686; 476162, 3657686; 476163, 3657687; 476165, 3657687; 476166, 3657688; 476168, 3657688; 476169, 3657688; 476171, 3657689; 476172, 3657689; 476174, 3657690; 476175, 3657690; 476176, 3657691; 476176, 3657691; 476184, 3657669; 476191, 3657651; 476200, 3657628; 476204, 3657619; 476210, 3657603; 476219, 3657580; 476230, 3657550; 476240, 3657524; 476248, 3657503; 476258, 3657478; 476266, 3657457; 476267, 3657455; 476367, 3657180; 476328, 3657165; 476327, 3657165; 476326, 3657165; 476324, 3657164; 476323, 3657164.

Land bounded by the following UTM NAD27 coordinates (E,N): 478918, 3656970; 478895, 3656977; 478839, 3656993; 478834, 3656975; 478833, 3656976; 478832, 3656976; 478830, 3656977; 478829, 3656977; 478827, 3656977; 478826, 3656978; 478824, 3656978; 478823, 3656979; 478821, 3656979; 478820, 3656979; 478818, 3656980; 478817, 3656980; 478815, 3656981; 478814, 3656981; 478812, 3656982; 478811, 3656982; 478810, 3656983; 478808, 3656983; 478807, 3656984; 478805, 3656984; 478804, 3656985; 478803, 3656986; 478801, 3656987; 478800, 3656987; 478799, 3656988; 478797, 3656989; 478796, 3656990; 478795, 3656990; 478793, 3656991; 478792, 3656992; 478791, 3656993; 478790, 3656994; 478789, 3656995; 478788, 3656997; 478787, 3656998; 478786, 3656999; 478785, 3657000; 478784, 3657001; 478783, 3657003; 478783, 3657004; 478782, 3657005; 478781, 3657007; 478781, 3657008; 478780, 3657009; 478779, 3657011; 478779, 3657012; 478778, 3657014; 478777, 3657015; 478777, 3657016; 478776, 3657018; 478776, 3657019; 478775, 3657021; 478775, 3657022; 478714, 3657039; 478715, 3657042; 478729, 3657038; 478758, 3657094; 478827, 3657074; 478811, 3657014; 478857, 3657001; 478900, 3656988; 478918, 3656983; 478943, 3656975; 478940, 3656963.

Land bounded by the following UTM NAD27 coordinates (E,N): 475521, 3656729; 475491, 3656730; 475467, 3656730; 475458, 3656731; 475436, 3656731; 475406, 3656732; 475399, 3656731; 475394, 3656732; 475310, 3656733; 475264, 3656734; 475183, 3656735; 475183, 3656741; 475183, 3656742; 475183, 3656744; 475183, 3656745; 475183, 3656747; 475183, 3656748; 475204, 3656747; 475225, 3656746; 475247, 3656745; 475264, 3656744; 475268, 3656744; 475293, 3656756; 475313, 3656767; 475320, 3656784; 475327, 3656802; 475318, 3656821; 475285, 3656814; 475283, 3656815; 475282, 3656815; 475280, 3656816; 475279, 3656816; 475277, 3656816; 475276, 3656816; 475274, 3656816; 475273, 3656816; 475271, 3656815; 475270, 3656815; 475269, 3656814; 475267, 3656813; 475266, 3656812; 475265, 3656811; 475264, 3656810; 475265, 3656829; 475267, 3656849; 475268, 3656868; 475263, 3656878; 475259, 3656885; 475249, 3656902; 475245, 3656920; 475242, 3656935; 475236, 3656946; 475228, 3656958; 475217, 3656965; 475191, 3656977; 475163, 3656976; 475161, 3656984; 475207, 3656993; 475209, 3656993; 475210, 3656994; 475212, 3656994; 475213, 3656994; 475215, 3656995; 475216, 3656995; 475218, 3656995; 475219, 3656996; 475221, 3656996; 475222, 3656996; 475224, 3656996; 475225, 3656997; 475227, 3656997; 475228, 3656997; 475230, 3656997; 475231, 3656998; 475233, 3656998; 475234, 3656998; 475236, 3656998; 475237, 3656998; 475239, 3656998; 475240, 3656998; 475242, 3656999; 475244, 3656999; 475245, 3656999; 475247, 3656999; 475248, 3656999; 475250, 3656999; 475251, 3656999; 475253, 3656999; 475254, 3656999; 475256, 3656999; 475257, 3656999; 475259, 3656999; 475260, 3656999; 475262, 3656999; 475263, 3656999; 475265, 3656998; 475267, 3656998; 475268, 3656998; 475270, 3656998; 475271, 3656998; 475273, 3656998; 475274, 3656997; 475276, 3656997; 475277, 3656997; 475279, 3656997; 475280, 3656996; 475281, 3656996; 475282, 3656996; 475284, 3656996; 475285, 3656996; 475287, 3656995; 475288, 3656995; 475290, 3656995; 475291, 3656994; 475293, 3656994; 475294, 3656994; 475296, 3656993; 475297, 3656993; 475299, 3656992; 475300, 3656992; 475302, 3656992; 475303, 3656991; 475305, 3656991; 475306, 3656990; 475307, 3656990; 475309, 3656989; 475310, 3656989; 475312, 3656988; 475313, 3656988; 475315, 3656987; 475315, 3656987; 475317, 3656986; 475318, 3656986; 475320, 3656985; 475321, 3656985; 475322, 3656984; 475324, 3656983; 475325, 3656983; 475327, 3656982; 475328, 3656981; 475329, 3656981; 475303, 3656956; 475308, 3656937; 475336, 3656923; 475345, 3656939; 475357, 3656933; 475370, 3656960; 475374, 3656958; 475375, 3656957; 475377, 3656956; 475377, 3656955; 475378, 3656954; 475378, 3656952; 475378, 3656951; 475378, 3656949; 475377, 3656948; 475377, 3656946; 475376, 3656945; 475375, 3656944; 475375, 3656942; 475374, 3656941; 475374, 3656939; 475373, 3656938; 475373, 3656936; 475372, 3656935; 475372, 3656933; 475371,

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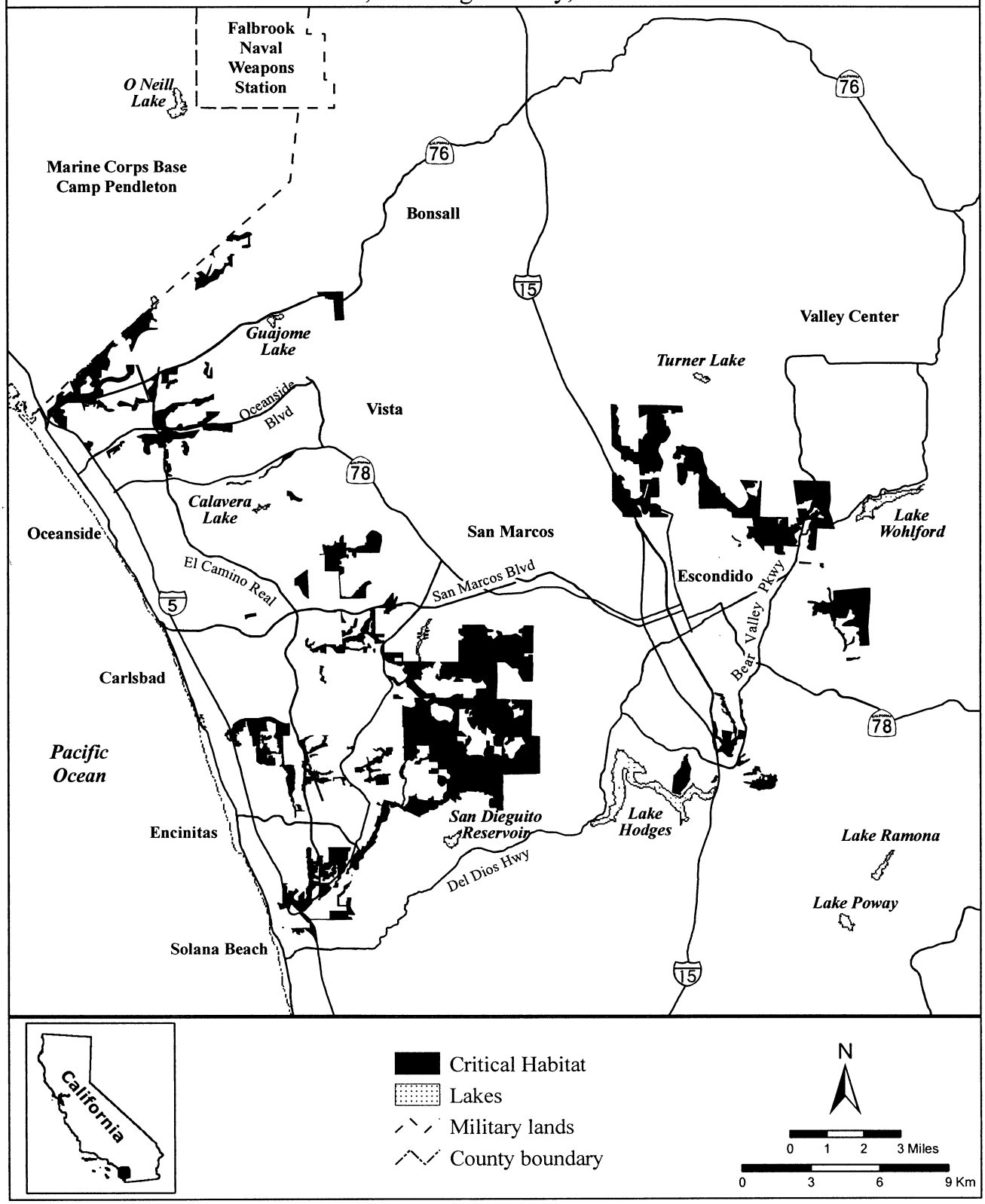
Land bounded by the following UTM NAD27 coordinates (E,N): 477493, 3653490; 477588, 3653632; 477529, 3653530; 477485, 3653457; 477495, 3653395; 477435, 3653375; 477408, 3653306; 477337, 3653277; 477310, 3653247; 477294, 3653154; 477269, 3653087; 477226, 3653051; 477189, 3653035; 477148, 3652999; 477107, 3652976; 477109, 3652944; 477084, 3652942; 477059, 3652948; 477023, 3652969; 477041, 3652563; 477383, 3652561; 477381, 3652739; 477417, 3652746; 477415, 3652766; 477415, 3652812; 477422, 3652891; 477565, 3652894; 477567, 3652796; 477540, 3652794; 477538, 3652502; 477611, 3652351; 477651, 3652280; 477652, 3652279; 477745, 3652139; 477415, 3652152; 477435, 3652051; 477476, 3652031; 477509, 3652031; 477563, 3652031; 477624, 3651951; 477644, 3651937; 476642, 3651936; 476211, 3651940; 476637, 3651943; 476644, 3651940; 476644, 3652306; 477596, 3652300; 477578, 3652355; 477397, 3652336; 477384, 3652530; 477001, 3652541; 476999, 3653000; 477112, 3653066; 477270, 3653199; 477275, 3653393; 477492, 3653539.

Land bounded by the following UTM NAD27 coordinates (E,N): 474600, 3651596; 474619, 3651560; 474610, 3651560; 474581, 3651572; 474582, 3651608.

(ii) Note: Map of Unit 3—North San Diego County Multiple Habitat Conservation Plan (MHCP) (Map 4) follows:

BILLING CODE 4310–55–P

Map 4
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 3, San Diego County, California



BILLING CODE 4310–55–C

(9) Unit 5: North County Subarea of the Multiple Species Conservation Program (MSCP) for Unincorporated San Diego County, San Diego County, California.

(i) From USGS 1:24,000 quadrangle maps Bonsall, Fallbrook, Pala, Pechanga, Ramona, San Marcos, San Pasqual, Temecula, and Valley Center. 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Excluding land bounded by the following UTM NAD27 coordinates (E,N): 480496, 3680485; 480449, 3680438; 480443, 3680331; 480442, 3680318; 480626, 3680088; 480573, 3680054; 480376, 3680044; 480386, 3679944; 480747, 3679947; 480797, 3680124; 480934, 3679977; 480964, 3679950; 480934, 3679954; 480937, 3679931; 480985, 3679932; 480997, 3679921; 480994, 3679533; 481388, 3679547; 481391, 3679941; 481017, 3679932; 481010, 3679944; 481010, 3680234; 480990, 3680236; 481012, 3680492; 480927, 3680555; 480848, 3680567; 480768, 3680633; 480646, 3680698; 480587, 3680717; 480557, 3680738; 480498, 3680659. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 481186, 3678938; 481307, 3678984; 481438, 3678919; 481494, 3678667; 481624, 3678555; 481811, 3678481; 481913, 3678499; 482091, 3678285; 482259, 3678052; 482417, 3677865; 482455, 3677650; 482585, 3677445; 482734, 3677343; 482987, 3677334; 482948, 3677417; 482940, 3677520; 482800, 3677622; 482744,

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Land bounded by the following UTM NAD27 coordinates (E,N): 484541, 3690849; 484627, 3690912; 484738, 3690937; 484791, 3690783; 484839, 3690675; 484837, 3690523; 484973, 3690483; 485066, 3690443; 485056, 3690266; 485069, 3690153; 485147, 3690069; 485153, 3690068; 485151, 3689995; 485109, 3689957; 485028, 3689885; 485028, 3689783; 485083, 3689702; 485087, 3689605; 485032, 3689464; 484945, 3689412; 484823, 3689398; 484599, 3689342; 484515, 3689230; 484458, 3689398; 484400, 3689498; 484400, 3689500; 484399, 3689500; 484360, 3689566; 484234, 3689650; 484108, 3689707; 484122, 3689833; 484192, 3689987; 484318, 3690057; 484416, 3689847; 484458, 3689636; 484585, 3689580; 484627, 3689847; 484627, 3690043; 484571, 3690170; 484444, 3690226; 484472, 3690380; 484444, 3690520; 484304, 3690675; 484150, 3690675; 484262, 3690857; 484402, 3690977.

Land bounded by the following UTM NAD27 coordinates (E,N): 489695, 3690598; 489695, 3690600; 489696, 3690601; 489696, 3690602; 489697, 3690604; 489698, 3690605; 489698, 3690607; 489699, 3690608; 489700, 3690609; 489700, 3690611; 489701, 3690612; 489702, 3690614; 489702, 3690615; 489703, 3690616; 489704, 3690618; 489704, 3690619; 489705, 3690620; 489706, 3690622; 489706, 3690622; 489707, 3690623; 489708, 3690624; 489708, 3690625; 489709, 3690627; 489710, 3690628; 489711, 3690629; 489712, 3690631; 489713, 3690632; 489714, 3690633; 489715, 3690634; 489716, 3690635; 489717, 3690637; 489718, 3690638; 489719, 3690639; 489720, 3690640; 489721, 3690641; 489722, 3690642; 489723, 3690643; 489724, 3690644; 489725, 3690645; 489726, 3690646; 489727, 3690648; 489728, 3690649; 489729, 3690649; 489737, 3690656; 489740, 3690621; 489691, 3690582.

Land bounded by the following UTM NAD27 coordinates (E,N): 484271, 3680763; 484248, 3680771; 484234, 3679999; 483771, 3679915; 483771, 3680350; 483196, 3680378; 483182, 3680644; 483212, 3681146; 483212, 3681150; 483807, 3681157; 483807, 3681181; 483827, 3681191; 483827, 3681185.

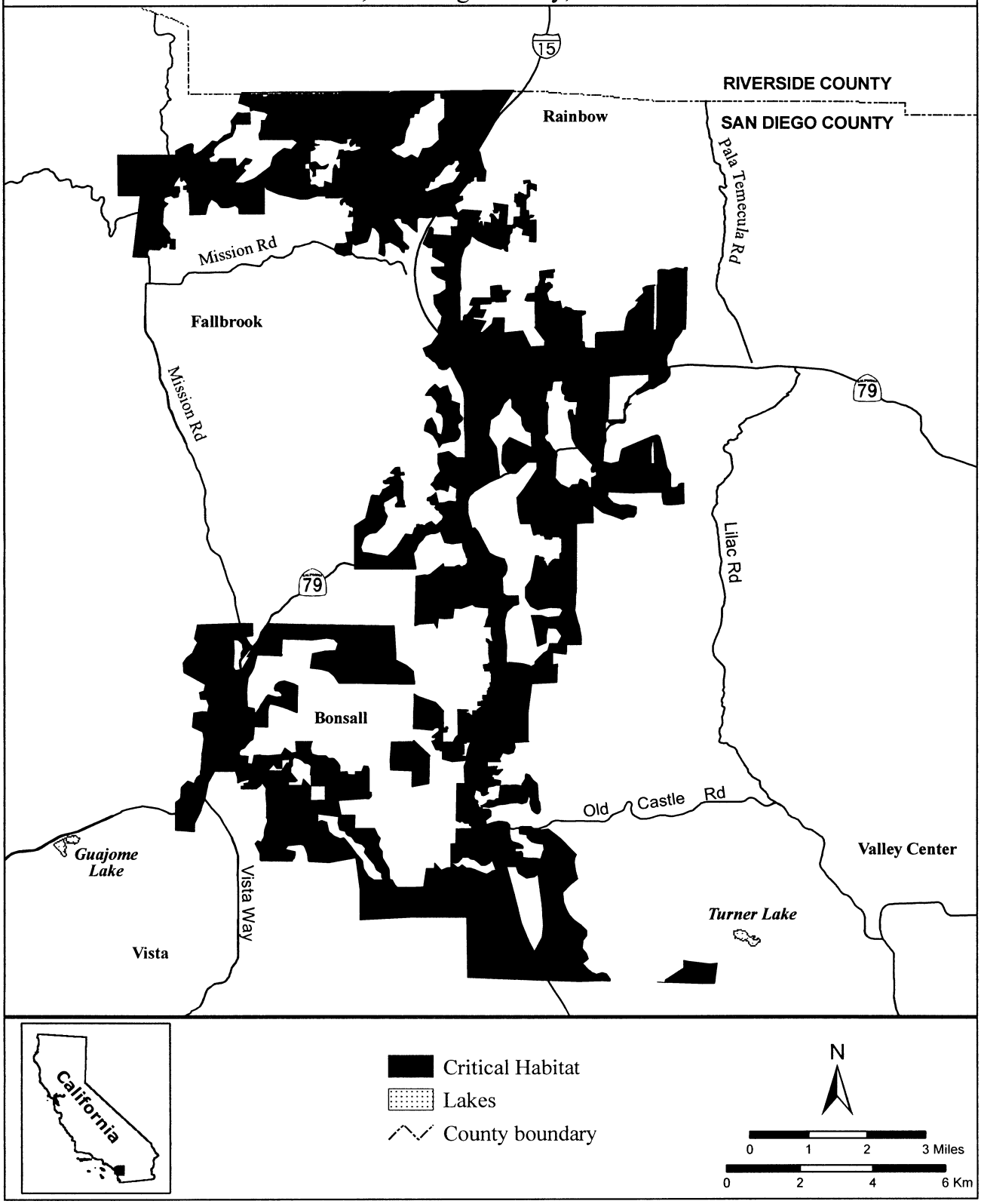
Land bounded by the following UTM NAD27 coordinates (E,N): 491679, 3674500; 490830, 3674530; 490693, 3674535; 490525, 3674540; 490492, 3674540; 490525, 3674541; 490693, 3674535; 490696, 3674599; 490780, 3674636; 491207, 3674928; 491207, 3675135; 491318, 3675117; 491936, 3675033; 492115, 3675059; 492051, 3674500; 491700, 3674500; 491679, 3674500.

Land bounded by the following UTM NAD27 coordinates (E,N): 510318, 3659656; 510324, 3659279; 510276, 3658865; 510385, 3658871; 510464, 3658865; 510531, 3658846; 510598, 3658871; 510671, 3658907; 510793, 3658962; 510927, 3658883; 511055, 3658785; 511140, 3658700; 511262, 3658755; 511287, 3658719; 511433, 3658578; 511573, 3658444; 511698, 3658455; 511699, 3658455; 511700, 3658454; 511700, 3658400; 511700, 3658300; 511700, 3658200; 511700, 3658100; 511700, 3658012; 511013, 3658006; 511000, 3657500; 511000, 3657500; 511000, 3657494; 510154, 3657488; 510160, 3657294; 510160, 3657184; 509667, 3657190; 509685, 3657007; 509703, 3656812; 509231, 3656800; 509200, 3656800; 509200, 3656799; 509009, 3656794; 509009, 3656700; 506800, 3656700; 506800, 3656742; 506506, 3656744; 505245, 3656754; 505200, 3658335; 505200, 3658343; 506827, 3658365; 508450, 3658307; 508451, 3658366; 508467, 3658365; 508482, 3658365; 508485, 3658366; 508881, 3658371; 508875, 3658749; 508474, 3658749; 508461, 3658749; 508469, 3659117; 508474, 3659360; 508477, 3659507; 508487, 3659930; 508946, 3659933; 509098, 3659933; 509147, 3659882; 509154, 3659887; 509178, 3659912; 509195, 3659934; 510104, 3659938; 510389, 3659937; 510391, 3659933.

(ii) Note: Map of Unit 5—North County Subarea of the MSCP for Unincorporated San Diego County (Map 5) follows:

BILLING CODE 4310–55–P

Map 5
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 5, San Diego County, California



BILLING CODE 4310–55–C

(10) Unit 6: Southern Natural Communities Conservation Program (NCCP) Subregion of Orange County, Orange County, California.

(i) From USGS 1:24,000 quadrangle maps Canada Gobernadora, Dana Point, El Toro, San Clemente, San Juan Capistrano, and Santiago Peak. 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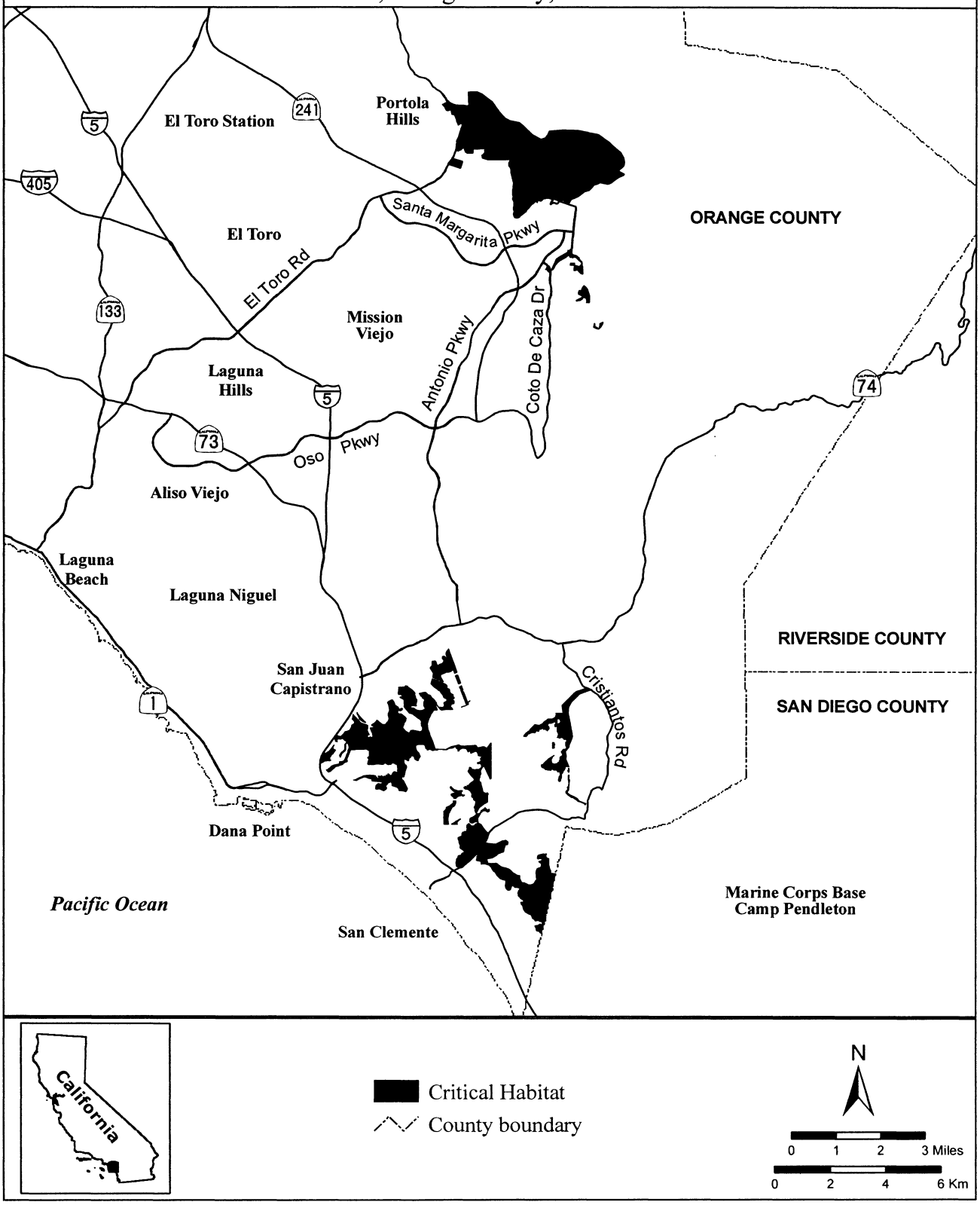
(ii) Note: Map of Unit 6—Southern NCCP Subregion of Orange County (Map 6) follows:

BILLING CODE 4310–55–P

Map 6
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 6, Orange County, California



BILLING CODE 4310–55–C

(11) Unit 7: Central-Coastal NCCP Subregions of Orange County (Central-Coastal NCCP), Orange County, California.

(i) From USGS 1:24,000 quadrangle maps Black Star Canyon, Dana Point, El Toro, Laguna Beach, Newport Beach, Orange, San Juan Capistrano, Santiago Peak, and Tustin. Land bounded by the following UTM NAD27 coordinates (E,N): 436568, 3747991; 436765, 3747883; 436875, 3747823; 436940, 3747787; 437069, 3747722; 437100, 3747710; 437220, 3747663; 437227, 3747661; 437327, 3747641; 437402, 3747631; 437515, 3747625; 437515, 3747625; 437627, 3747631; 437689, 3747640; 437718, 3747646; 437733, 3747649; 437734, 3747628; 437736, 3747611; 437737, 3747592; 437737, 3747592; 437782, 3746817; 437780, 3746817; 437770, 3747001; 437695, 3746975; 437549, 3746924; 437437, 3746913; 437393, 3746961; 437252, 3746950; 437226, 3746948; 437216, 3746899; 437210, 3746884; 437210, 3746884; 437210, 3746884; 437247, 3746844; 437289, 3746773; 437289, 3746772; 437158, 3746751; 437114, 3746796; 437028, 3746780; 437028, 3746780; 437028, 3746756; 437019, 3746754; 436993, 3746784; 436911, 3746795; 436920, 3746726; 436887, 3746684; 436877, 3746574; 436814, 3746551; 436809, 3746514; 436972, 3746483; 437058, 3746408; 437018, 3746340; 436834, 3746420; 436789, 3746366; 436764, 3746418; 436797, 3746506; 436800, 3746512; 436711, 3746552; 436711, 3746559; 436709, 3746574; 436705, 3746578; 436686, 3746572; 436672, 3746568; 436675, 3746578; 436671, 3746579; 436685, 3746601; 436689, 3746623; 436683, 3746668; 436653, 3746677; 436653, 3746677; 436594, 3746650; 436626, 3746706; 436649, 3746810; 436506, 3746798; 436542, 3746871; 436455, 3746907; 436389, 3746886; 436376, 3746711; 436437, 3746645; 436435, 3746633; 436426, 3746627; 436431, 3746616; 436422, 3746580; 436427, 3746535; 436414, 3746497; 436483, 3746467; 436605, 3746328; 436659, 3746129; 436660, 3746044; 436646, 3746039; 436606, 3746031; 436565, 3746044; 436477, 3745985; 436414, 3745961; 436325, 3745938; 436311, 3745937; 436271, 3745934; 436247, 3745932; 436129, 3745925; 436048, 3745831; 436085, 3745801; 436075, 3745790; 436073, 3745787; 435554, 3746238; 435551, 3746240; 435206, 3746539; 435535, 3746938; 436371, 3747954; 436409, 3748000; 436409, 3748000; 436454, 3748054; 436552, 3748000; 436552, 3748000.

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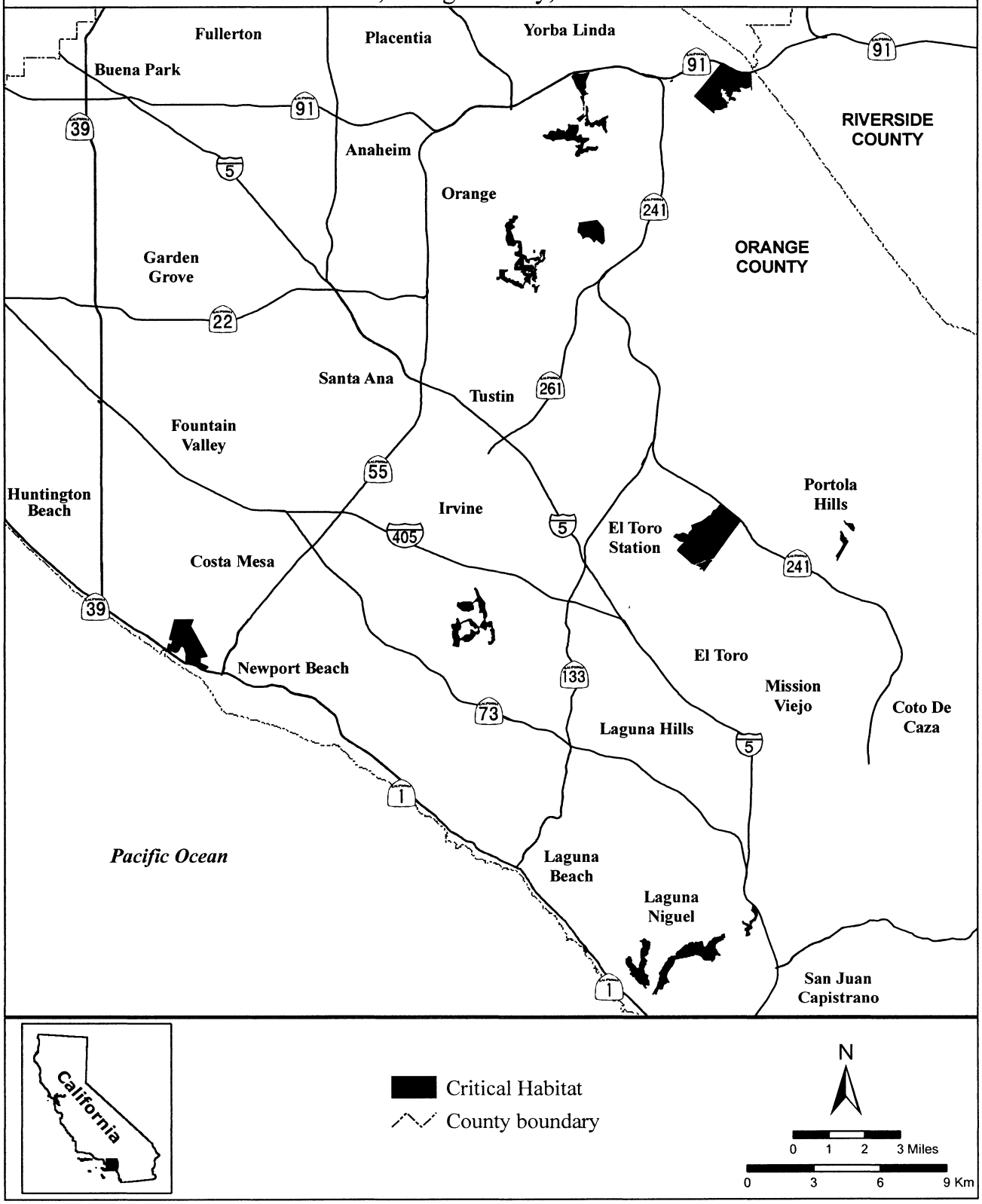
(ii) Note: Map of Unit 7—Central—Coastal NCCP Subregions of Orange County (Central—Coastal NCCP) (Map 7) follows:

BILLING CODE 4310–55–P

Map 7
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 7, Orange County, California



BILLING CODE 4310–55–C

(12) Unit 8: Palos Verdes Peninsula Subregion, Los Angeles County, Los Angeles County, California.

(i) From USGS 1:24,000 quadrangle maps Redondo Beach, San Pedro and Torrance. 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3735283; 374908, 3735232; 374819, 3735172; 374761, 3735163; 374714, 3735128; 374695, 3735086; 374650, 3735017; 374698, 3734966; 374673, 3734858; 374704, 3734829; 374730, 3734788; 374755, 3734731; 374723, 3734686; 374755, 3734645; 374812, 3734686; 374854, 3734683; 374923, 3734642; 374974, 3734683; 374949, 3734721; 374961, 3734766; 374987, 3734817; 374974, 3734845; 374923, 3734845; 374869, 3734877; 374812, 3734893; 374777, 3734918; 374736, 3734940; 374755, 3734978; 374777, 3735004; 374828, 3735061; 374869, 3735118; 374984, 3735163; 375019, 3735232; 375066, 3735290; 375146, 3735337; 375209, 3735252; 375273, 3735315; 375416, 3735242; 375412, 3735220; 375422, 3735156; 375498, 3735061; 375536, 3735112; 375577, 3735175; 375609, 3735258; 375623, 3735294. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 375644, 3734531; 375644, 3734578; 375638, 3734613; 375609, 3734648; 375552, 3734683; 375504, 3734683; 375539, 3734712; 375568, 3734747; 375571, 3734798; 375568, 3734832; 375558, 3734883; 375543, 3734915; 375489, 3734893; 375419, 3734848; 375377, 3734810; 375339, 3734782; 375349, 3734699; 375381, 3734636; 375403, 3734597; 375485, 3734566; 375549, 3734499; 375620, 3734474. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 375374, 3734293; 375381, 3734340; 375365, 3734378; 375336, 3734407; 375298, 3734455; 375292, 3734531; 375241, 3734585; 375177, 3734607; 375127, 3734607; 375108, 3734628; 375082, 3734601; 375025, 3734547; 375028, 3734521; 375050, 3734490; 375123, 3734448; 375193, 3734477; 375215, 3734394; 375273, 3734369; 375292, 3734328; 375317, 3734274. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 372554, 3735106; 372468, 3735135; 372392, 3735150; 372332, 3735096; 372310, 3735030; 372316, 3734960; 372354, 3734912; 372430, 3734855; 372564, 3734734; 372665, 3734674; 372621, 3734601; 372541, 3734525; 372475, 3734519; 372465, 3734468; 372437, 3734430; 372399, 3734395; 372386, 3734353; 372370, 3734343; 372386, 3734334; 372433, 3734312; 372551, 3734299; 372621, 3734271; 372672, 3734242; 372726, 3734198; 372770, 3734157; 372853, 3734096; 372888, 3734125; 372921, 3734182; 372918, 3734230; 372918, 3734255; 372932, 3734265; 372957, 3734242; 372970, 3734230; 372989, 3734236; 373008, 3734258; 373015, 3734287; 373011, 3734331; 373049, 3734598; 373043, 3734785; 373053, 3734830; 373116, 3734792; 373124, 3734781; 373142, 3734754; 373142, 3734749; 373161, 3734668; 373170, 3734560; 373142, 3734461; 373113, 3734366; 373084, 3734319; 373075, 3734284; 373119, 3734246; 373170, 3734246; 373256, 3734252; 373264, 3734251; 373280, 3734234; 373300, 3734168; 373339, 3734141; 373342, 3734138; 373343, 3734138; 373363, 3734125; 373409, 3734151; 373419, 3734201; 373427, 3734201; 373434, 3734185; 373443, 3734172; 373462, 3734163; 373484, 3734166; 373494, 3734182; 373507, 3734182; 373510, 3734181; 373526, 3734176; 373545, 3734157; 373554, 3734157; 373570, 3734157; 373596, 3734166; 373602, 3734192; 373646, 3734195; 373665, 3734157; 373678, 3734144; 373686, 3734142; 373710, 3734138; 373723, 3734134; 373738, 3734138; 373780, 3734303; 373783, 3734372; 373757, 3734468; 373748, 3734531; 373773, 3734582; 373789, 3734607; 373792, 3734658; 373767, 3734706; 373742, 3734719; 373704, 3734719; 373653, 3734677; 373630, 3734658; 373608, 3734639; 373538, 3734709; 373599, 3734769; 373605, 3734807; 373332, 3734903; 373345, 3735014; 373338, 3735049; 373272, 3735071; 373262, 3735115; 373275, 3735176; 373249, 3735217; 373116, 3735296; 373024, 3735315; 373024, 3735582; 372964, 3735576; 372922, 3735554; 372884, 3735449; 372878, 3735357; 372872, 3735309; 372859, 3735281; 372884, 3735242; 372919, 3735227; 372961, 3735198; 372989, 3735150; 373015, 3735112; 373015, 3735100; 372983, 3735090; 372932, 3735112; 372853, 3735087; 372776, 3735074; 372729, 3735049; 372735, 3735011; 372741, 3734985; 372751, 3734969; 372618, 3734954; 372551, 3734944; 372551, 3734998; 372583, 3735033; 372586, 3735065; 372578, 3735075; 372578, 3735078; 372576, 3735078.

Land bounded by the following UTM NAD27 coordinates (E,N): 374262, 3739840; 374170, 3739875; 374186, 3739903; 374348, 3739897; 374431, 3739891; 374488, 3739897; 374551, 3739935; 374539, 3739964; 374469, 3740002; 374386, 3740033; 374246, 3740053; 374154, 3740072; 374104, 3740094; 374056, 3740107; 373980, 3740110; 373881, 3740119; 373878, 3740176; 373846, 3740240; 373783, 3740275; 373726, 3740272; 373653, 3740284; 373640, 3740297; 373656, 3740348; 373716, 3740341; 373770, 3740341; 373831, 3740319; 373894, 3740291; 373954, 3740275; 374011, 3740278; 374043, 3740294; 374088, 3740284; 374085, 3740268; 374078, 3740246; 374088, 3740214; 374154, 3740170; 374237, 3740148; 374319, 3740138; 374405, 3740135; 374462, 3740148; 374516, 3740119; 374558, 3740094; 374605, 3740081; 374656, 3740087; 374700, 3740132; 374713, 3740157; 374754, 3740164; 374821, 3740164; 374853, 3740173; 374872, 3740195; 374859, 3740224; 374818, 3740278; 374758, 3740376; 374780, 3740427; 374827, 3740459; 374878, 3740465; 374916, 3740456; 374958, 3740424; 374980, 3740414; 375002, 3740414; 375101, 3740265; 375142, 3740208; 375170, 3740119; 375170, 3740072; 375151, 3740030; 375112, 3739998; 375085, 3739995; 375040, 3740018; 374932, 3740053; 374843, 3740068; 374770, 3740056; 374742, 3740040; 374742, 3739992; 374751, 3739941; 374720, 3739900; 374624, 3739875; 374570, 3739849; 374519, 3739837; 374478, 3739824.

Land bounded by the following UTM NAD27 coordinates (E,N): 373367, 3739675; 373312, 3739587; 373308, 3739584; 373272, 3739599; 373240, 3739599; 373202, 3739564; 373154, 3739500; 373103, 3739446; 373053, 3739392; 373008, 3739335; 373006, 3739321; 372982, 3739319; 372956, 3739381; 372961, 3739392; 372967, 3739411; 373005, 3739452; 373049, 3739506; 373078, 3739545; 373113, 3739599; 373176, 3739662; 373332, 3739814; 373359, 3739850; 373379, 3739821; 373402, 3739797.

Land bounded by the following UTM NAD27 coordinates (E,N): 373743, 3738202; 373689, 3738205; 373645, 3738163; 373626, 3738128; 373588, 3738094; 373483, 3738040; 373407, 3737995; 373359, 3737979; 373353, 3737998; 373356, 3738027; 373397, 3738062; 373416, 3738084; 373442, 3738125; 373496, 3738151; 373537, 3738163; 373584, 3738211; 373610, 3738262; 373581, 3738271; 373565, 3738297; 373594, 3738332; 373629, 3738332; 373692, 3738306; 373772, 3738284; 373800, 3738286; 373810, 3738287; 373854, 3738309; 373908, 3738367; 373937, 3738433; 374000, 3738490; 374054, 3738522; 374073, 3738544; 374121, 3738554; 374175, 3738554; 374235, 3738589; 374327, 3738614; 374397, 3738624; 374416, 3738579; 374359, 3738538; 374277, 3738535; 374245, 3738516; 374235, 3738481; 374181, 3738471; 374121, 3738475; 374058, 3738443; 374016, 3738398; 374013, 3738363; 374058, 3738348; 374156, 3738303; 374219, 3738255; 374289, 3738202; 374318, 3738176; 374337, 3738173; 374366, 3738227; 374378, 3738249; 374416, 3738281; 374502, 3738281; 374610, 3738297; 374696, 3738335; 374731, 3738335; 374759, 3738297; 374740,

3738255; 374654, 3738214; 374578, 3738182; 374499, 3738157; 374432, 3738106; 374397, 3738043; 374343, 3737976; 374305, 3737887; 374267, 3737767; 374213, 3737668; 374194, 3737624; 374188, 3737576; 374178, 3737535; 374146, 3737494; 374134, 3737459; 374096, 3737430; 374067, 3737417; 374023, 3737392; 374007, 3737363; 373975, 3737325; 373931, 3737290; 373905, 3737255; 373886, 3737227; 373842, 3737201; 373807, 3737182; 373800, 3737184; 373800, 3737157; 373800, 3737100; 373815, 3737100; 373900, 3737100; 373965, 3737100; 374000, 3737100; 374100, 3737100; 374155, 3737100; 374210, 3737160; 374245, 3737192; 374280, 3737252; 374324, 3737300; 374378, 3737347; 374419, 3737386; 374502, 3737452; 374594, 3737525; 374689, 3737624; 374758, 3737678; 374802, 3737687; 374872, 3737782; 374923, 3737871; 374983, 3737935; 375104, 3738195; 375189, 3738338; 375221, 3738322; 375161, 3738211; 375101, 3738087; 375081, 3737982; 375034, 3737874; 374964, 3737808; 374926, 3737770; 374885, 3737652; 374878, 3737589; 374853, 3737471; 374786, 3737424; 374723, 3737389; 374697, 3737360; 374640, 3737208; 374615, 3737138; 374608, 3737100; 374561, 3737080; 374525, 3736994; 374511, 3736963; 374460, 3736839; 374429, 3736741; 374429, 3736652; 374403, 3736591; 374355, 3736531; 374298, 3736496; 374279, 3736382; 374184, 3736369; 374000, 3736455; 373806, 3736550; 373647, 3736636; 373673, 3736696; 373838, 3736658; 373926, 3736658; 373965, 3736658; 373949, 3736679; 373993, 3736718; 374022, 3736785; 374050, 3736972; 373955, 3736998; 373950, 3736994; 373900, 3736992; 373820, 3737052; 373706, 3736983; 373617, 3736960; 373576, 3736986; 373512, 3737005; 373430, 3737021; 373363, 3737052; 373293, 3737078; 373236, 3737075; 373195, 3737062; 373125, 3737008; 373052, 3736989; 373007, 3737011; 372931, 3737036; 372814, 3737056; 372614, 3737078; 372612, 3737078; 372609, 3737102; 372692, 3737268; 372670, 3737289; 372609, 3737289; 372573, 3737293; 372564, 3737311; 372571, 3737327; 372575, 3737333; 372579, 3737335; 372595, 3737354; 372585, 3737408; 372541, 3737449; 372455, 3737516; 372445, 3737560; 372506, 3737535; 372544, 3737538; 372525, 3737592; 372477, 3737706; 372436, 3737754; 372417, 3737779; 372385, 3737833; 372363, 3737884; 372322, 3737929; 372264, 3737960; 372299, 3738024; 372350, 3738014; 372388, 3738005; 372426, 3737967; 372499, 3737802; 372585, 3737637; 372668, 3737576; 372776, 3737491; 372953, 3737386; 373026, 3737332; 373087, 3737278; 373131, 3737268; 373169, 3737303; 373398, 3737195; 373449, 3737173; 373512, 3737148; 373576, 3737119; 373680, 3737113; 373738, 3737135; 373728, 3737173; 373704, 3737200; 373687, 3737221; 373639, 3737275; 373620, 3737297; 373582, 3737341; 373557, 3737376; 373512, 3737383; 373468, 3737383; 373411, 3737392; 373373, 3737405; 373309, 3737433; 373265, 3737452; 373236, 3737465; 373188, 3737500; 373144, 3737525; 373071, 3737595; 373020, 3737630; 372969, 3737697; 372925, 3737729; 372874, 3737760; 372880, 3737792; 372925, 3737811; 372985, 3737779; 373071, 3737697; 373179, 3737668; 373242, 3737640; 373328, 3737611; 373376, 3737576; 373433, 3737532; 373500, 3737494; 373579, 3737471; 373652, 3737437; 373741, 3737344; 373799, 3737365; 373805, 3737430; 373840, 3737465; 373878, 3737509; 373900, 3737535; 373945, 3737557; 374002, 3737560; 374037, 3737579; 374092, 3737687; 374096, 3737735; 374029, 3737763; 373950, 3737824; 373911, 3737884; 373908, 3737967; 373905, 3738062; 373870, 3738116; 373800, 3738179; 373800, 3738179. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 374061, 3737786; 374013, 3737868; 373975, 3737938; 373972, 3737989; 374000, 3738087; 373975, 3738125; 373956, 3738170; 373937, 3738214; 373959, 3738240; 374004, 3738268; 374064, 3738278; 374124, 3738259; 374178, 3738221; 374219, 3738195; 374254, 3738154; 374267, 3738132; 374258, 3738100; 374216, 3738055; 374181, 3738011; 374159, 3737957; 374153, 3737903; 374145, 3737858; 374137, 3737846; 374115, 3737808; 374099, 3737786.

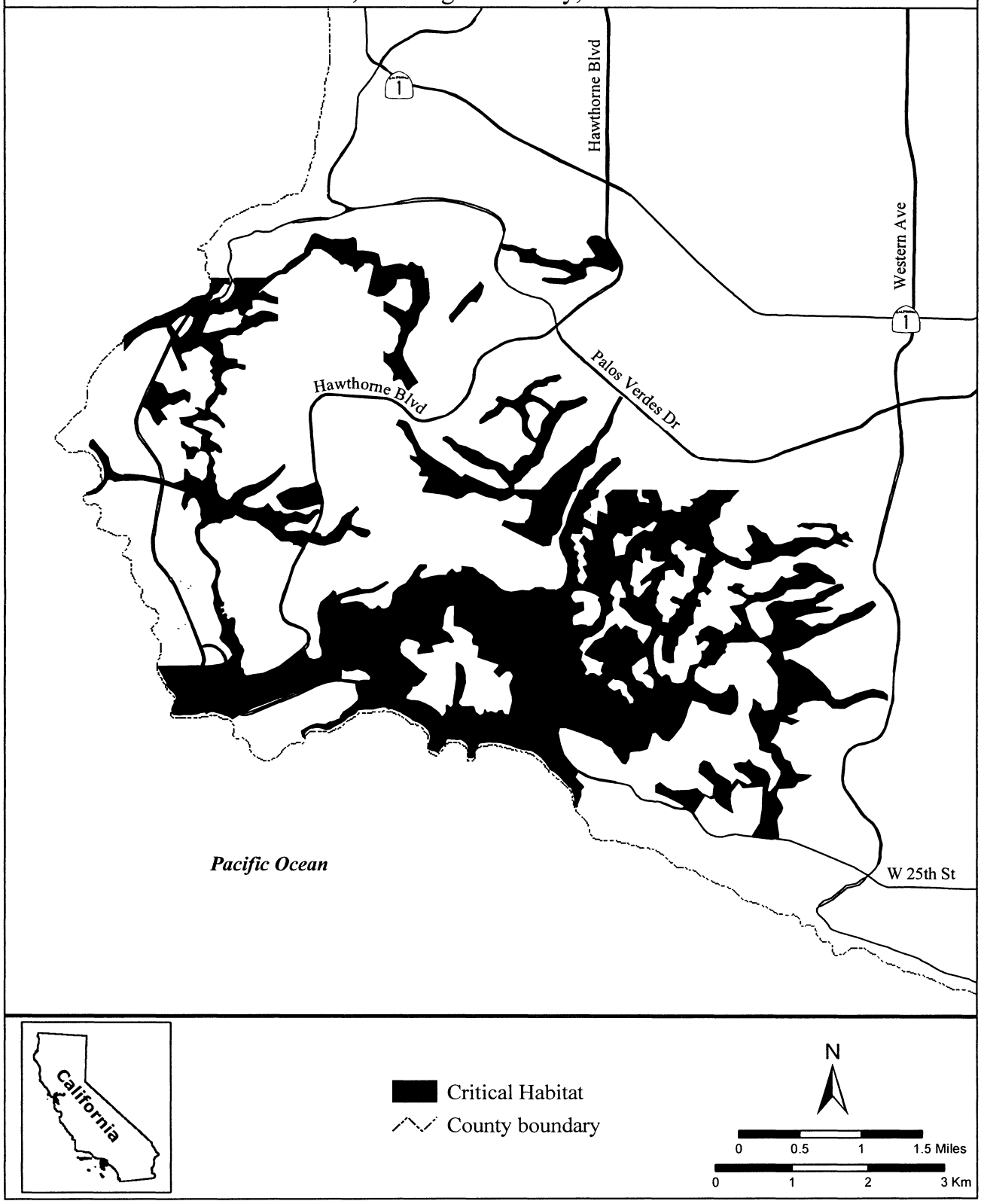
Land bounded by the following UTM NAD27 coordinates (E,N): 370826, 3736852; 370772, 3736887; 370696, 3737011; 370712, 3737036; 370785, 3737081; 370890, 3737129; 371033, 3737135; 371204, 3737202; 371226, 3737198; 371274, 3737084; 371293, 3736948; 371274, 3736919; 371236, 3736919; 371140, 3736890; 371004, 3736856; 370921, 3736843.

Land bounded by the following UTM NAD27 coordinates (E,N): 369129, 3737966; 369075, 3738033; 369053, 3738090; 369009, 3738166; 368929, 3738208; 369088, 3738535; 369199, 3738506; 369234, 3738446; 369263, 3738382; 369314, 3738369; 369409, 3738401; 369475, 3738430; 369517, 3738404; 369555, 3738379; 369558, 3738316; 369536, 3738255; 369485, 3738306; 369345, 3738230; 369279, 3738239; 369164, 3738163; 369256, 3738033; 369199, 3738033; 369152, 3737960.

(ii) Note: Map of Unit 8—Palos Verdes Peninsula Subregion, Los Angeles County (Map 8) follows:

BILLING CODE 4310–55–P

Map 8
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 8, Los Angeles County, California



BILLING CODE 4310–55–C

(13) Unit 9: East Los Angeles County—Matrix NCCP Subregion of Orange County, Los Angeles, San Bernardino, and Orange Counties, California.

(i) From USGS 1:24,000 quadrangle maps Black Star Canyon, El Monte, La Habra, Prado Dam, Whittier, and Yorba Linda. Land bounded by the following UTM NAD27 coordinates (E,N): 403340, 3765375; 403172, 3765242; 403058, 3765008; 402960, 3764796; 402892, 3764718; 402870, 3764713; 402780, 3764756; 402700, 3764804; 402594, 3764874; 402461, 3764892; 401804, 3764864; 401800, 3764870; 401167, 3764847; 401072, 3764853; 401072, 3764872; 401116, 3764923; 401202, 3765044; 401231, 3765105; 401240, 3765123; 401208, 3765164; 401161, 3765174; 401107, 3765171; 401050, 3765174; 400913, 3765183; 400856, 3765190; 400764, 3765212; 400700, 3765212; 400618, 3765202; 400529, 3765190; 400459, 3765193; 400380, 3765196; 400278, 3765196; 400199, 3765209; 400173, 3765234; 400081, 3765244; 400027, 3765234; 399957, 3765237; 399916, 3765210; 399913, 3765225; 399903, 3765263; 399891, 3765288; 399888, 3765314; 399900, 3765329; 399916, 3765352; 399935, 3765383; 399935, 3765418; 399900, 3765431; 399662, 3765450; 399418, 3765476; 399183, 3765491; 399094, 3765507; 398992, 3765476; 398824, 3765422; 398703, 3765374; 398600, 3765338; 398600, 3765340; 398409, 3765284; 398379, 3765296; 398376, 3765342; 398379, 3765410; 398379, 3765606; 398391, 3765676; 398419, 3765754; 398474, 3765825; 398600, 3765914; 398600, 3765919; 398780, 3766025; 398849, 3766066; 398900, 3766069; 398983, 3766072; 399116, 3766079; 399199, 3766117; 399281, 3766174; 399395, 3766263; 399507, 3766342; 399573, 3766361; 399630, 3766349; 399742, 3766330; 399875, 3766307; 399992, 3766285; 400078, 3766263; 400196, 3766269; 400281, 3766292; 400323, 3766241; 400354, 3766209; 400408, 3766199; 400491, 3766222; 400488, 3766196; 400500, 3766187; 400583, 3766203; 400665, 3766228; 400678, 3766250; 400646, 3766304; 400659, 3766320; 400719, 3766263; 400720, 3766263; 400728, 3766252; 400779, 3766197; 400837, 3766119; 400882, 3766086; 400932, 3766036; 400972, 3765976; 401005, 3765908; 401078, 3765860; 401146, 3765802; 401229, 3765749; 401327, 3765694; 401448, 3765631; 401513, 3765601; 401639, 3765566; 401694, 3765558; 401800, 3765604; 401800, 3765600; 401800, 3765599; 401826, 3765614; 402125, 3765687; 402470, 3765677; 402814, 3765742; 403114, 3765808; 403344, 3765858; 403623, 3765949; 403719, 3765954; 403842, 3765944; 403918, 3765926; 404146, 3766032; 403928, 3765820; 403812, 3765747; 403481, 3765659; 403388, 3765453.

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Land bounded by the following UTM NAD27 coordinates (E,N): 427672, 3752072; 427712, 3752045; 427783, 3752048; 427827, 3752048; 427871, 3752048; 427867, 3752014; 427878, 3751984; 427844, 3751957; 427820, 3751910; 427840, 3751870; 427904, 3751860; 428002, 3751893; 427962, 3751836; 427941, 3751769; 428039, 3751748; 428030, 3751606; 427994, 3751600; 427857, 3751613; 427744, 3751584; 427675, 3751548; 427676, 3751618; 427674, 3751618; 427656, 3751635; 427667, 3751906; 427660, 3751906; 427663, 3752084.

Land bounded by the following UTM NAD27 coordinates (E,N): 426984, 3751865; 426962, 3751821; 426928, 3751761; 426909, 3751735; 426898, 3751727; 426861, 3751768; 426793, 3751822; 426714, 3751861; 426654, 3751882; 426642, 3751888; 426520, 3751886; 426508, 3751884; 426457, 3751870; 426425, 3751836; 426422, 3751817; 426410, 3751780; 426395, 3751757; 426367, 3751745; 426329, 3751756; 426306, 3751785; 426301, 3751810; 426299, 3751829; 426286, 3751838; 426237, 3751849; 426168, 3751849; 426169, 3751822; 426162, 3751750; 426109, 3751673; 426070, 3751640; 426055, 3751638; 426058, 3751886; 426060, 3751907; 426992, 3751890.

Land bounded by the following UTM NAD27 coordinates (E,N): 427422, 3751865; 427377, 3751844; 427331, 3751836; 427290, 3751838; 427261, 3751852; 427238, 3751873; 427229, 3751886; 427436, 3751882.

Land bounded by the following UTM NAD27 coordinates (E,N): 424934, 3751108; 424924, 3751512; 424930, 3751512; 425042, 3751512; 425044, 3751109.

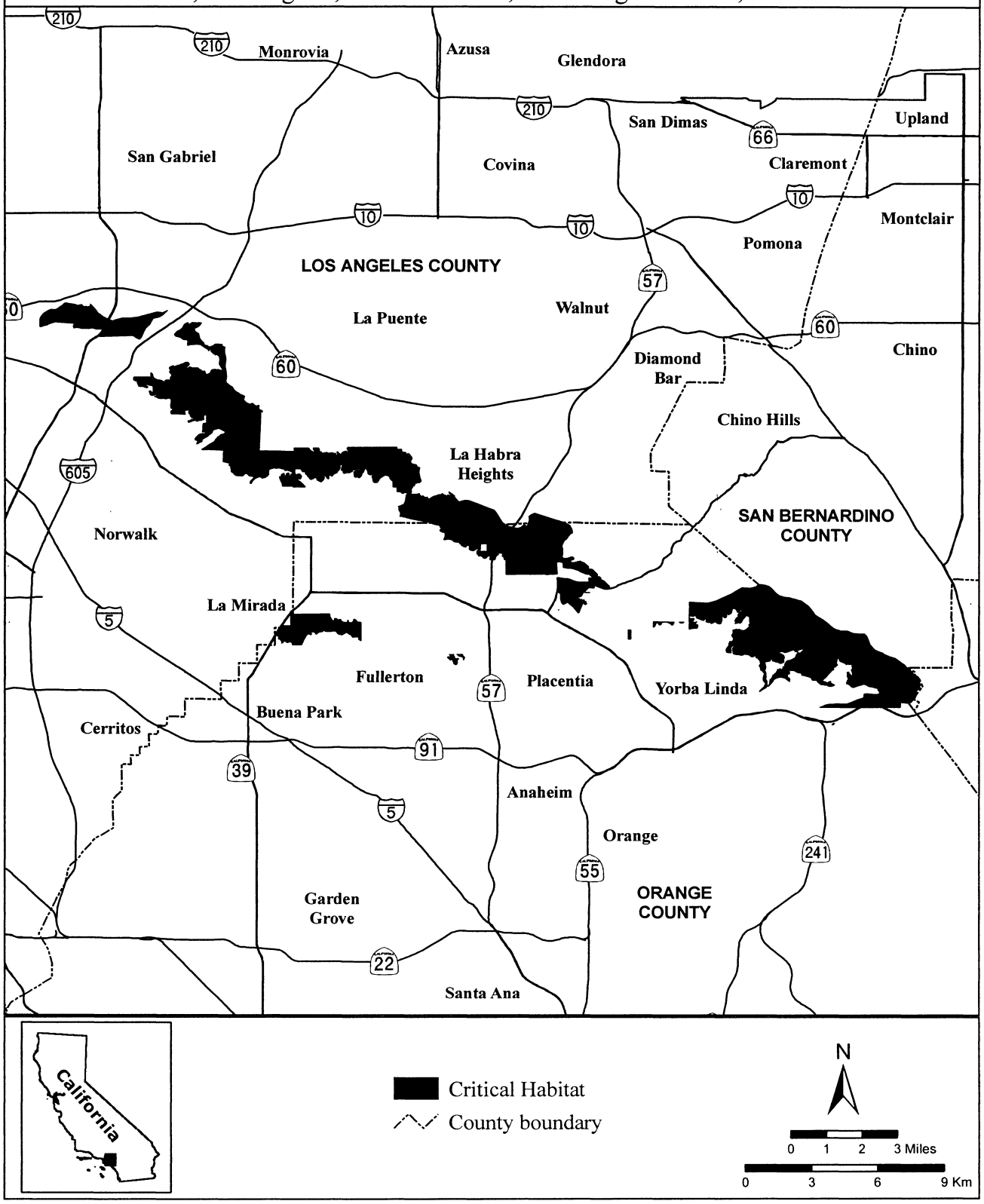
Land bounded by the following UTM NAD27 coordinates (E,N): 417464, 3750334; 417486, 3750308; 417540, 3750273; 417534, 3750239; 417556, 3750223; 417537, 3750210; 417518, 3750194; 417518, 3750166; 417512, 3750143; 417489, 3750166; 417486, 3750188; 417486, 3750210; 417480, 3750248; 417473, 3750258; 417467, 3750277; 417442, 3750283; 417423, 3750286; 417391, 3750286; 417375, 3750296; 417356, 3750305; 417331, 3750315; 417286, 3750315; 417264, 3750321; 417248, 3750353; 417202, 3750397; 417461, 3750397.

Land bounded by the following UTM NAD27 coordinates (E,N): 417054, 3750366; 417045, 3750343; 417051, 3750331; 417086, 3750302; 417086, 3750258; 417112, 3750223; 417124, 3750194; 417194, 3750197; 417210, 3750210; 417245, 3750216; 417270, 3750191; 417264, 3750175; 417223, 3750150; 417204, 3750124; 417223, 3750007; 417200, 3749981; 417194, 3749950; 417175, 3749927; 417121, 3749931; 417102, 3749950; 417083, 3749956; 417064, 3749969; 417054, 3749988; 417045, 3750016; 417054, 3750035; 417039, 3750058; 417010, 3750064; 417004, 3750083; 417013, 3750092; 417042, 3750102; 417032, 3750118; 417007, 3750143; 416981, 3750153; 416943, 3750156; 416892, 3750143; 416877, 3750162; 416816, 3750219; 416772, 3750251; 416769, 3750270; 416797, 3750286; 416870, 3750280; 416896, 3750264; 416918, 3750280; 416918, 3750315; 416896, 3750346; 416867, 3750375; 416863, 3750397; 417072, 3750397.

(ii) Note: Map of Unit 9—East Los Angeles County—Matrix NCCP Subregion of Orange County (Map 9) follows:

BILLING CODE 4310–55–P

Map 9
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 9, Los Angeles, San Bernardino, and Orange Counties, California



BILLING CODE 4310–55–C

(14) Unit 10: Western Riverside County Multiple Species Habitat Conservation Plan, San Bernardino and Riverside Counties, California.

(i) From USGS 1:24,000 quadrangle maps Aguanga, Alberhill, Bachelor Mountain, Black Star Canyon, Corona South, Fontana, Hemet, Lake Elsinore, Lake Mathews, Murrieta, Redlands, Romoland, Sage, San Bernardino South, Steele Peak, Temecula, Vail Lake, and Winchester. Land bounded by the following UTM NAD27 coordinates (E,N): 462288, 3766526; 462282, 3766242; 462304, 3766255; 462376, 3766383; 462438, 3766478; 462498, 3766500; 462500, 3766500; 462500, 3766501; 462523, 3766509; 462712, 3766507; 462869, 3766492; 462893, 3766483; 462971, 3766457; 463071, 3766405; 463202, 3766319; 463385, 3766235; 463459, 3766171; 463335, 3766105; 463207, 3766014; 463193, 3765962; 463309, 3765812; 463313, 3765811; 463118, 3765815; 463092, 3765816; 463051, 3765817; 462312, 3765832; 462121, 3765837; 461708, 3765845; 461574, 3765853; 461449, 3765860; 461125, 3765851; 460836, 3765844; 460656, 3765840; 460469, 3765835; 460128, 3765826; 460098, 3765825; 459359, 3765806; 459132, 3765800; 458973, 3765796; 458621, 3765794; 458135, 3765791; 458014, 3765790; 457882, 3765790; 457381, 3765786; 457412, 3765799; 457445, 3765856; 457460, 3765894; 457488, 3765939; 457512, 3765982; 457524, 3766030; 457536, 3766056; 457560, 3766070; 457600, 3766070; 457626, 3766077; 457650, 3766096; 457662, 3766122; 457657, 3766294; 457650, 3766415; 457645, 3766465; 457655, 3766501; 457688, 3766525; 457700, 3766558; 457700, 3766599; 457705, 3766625; 457726, 3766646; 457769, 3766677; 457807, 3766713; 457845, 3766784; 457893, 3766839; 457933, 3766873; 457974, 3766892; 458029, 3766892; 458076, 3766896; 458126, 3766920; 458160, 3766944; 458186, 3766977; 458198, 3766992; 458232, 3766974; 458342, 3766974; 458469, 3766872; 458539, 3766885; 458621, 3766949; 458996, 3766968; 459066, 3767018; 459083, 3767397; 459876, 3767400; 459876, 3767407; 459882, 3767403; 461490, 3767409; 461495, 3767409; 461857, 3767413; 462282, 3767417; 462294, 3767417.

Land bounded by the following UTM NAD27 coordinates (E,N): 477400, 3764800; 477401, 3764800; 477411, 3764789; 477406, 3764751; 477421, 3764687; 477461, 3764635; 477499, 3764568; 477499, 3764530; 477460, 3764478; 477460, 3764449; 477493, 3764408; 477500, 3764401; 477500, 3764400; 477501, 3764400; 477519, 3764380; 477531, 3764351; 477536, 3764323; 477558, 3764301; 477603, 3764306; 477638, 3764311; 477655, 3764287; 477653, 3764244; 477677, 3764182; 477700, 3764154; 477743, 3764104; 477775, 3764077; 477472, 3764079; 477239, 3764081; 476500, 3764085; 476476, 3764086; 475882, 3764089; 475879, 3764147; 475850, 3764152; 475788, 3764155; 475698, 3764124; 475629, 3764091; 475479, 3764092; 475392, 3764093; 475098, 3764093; 475093, 3764157; 475074, 3764195; 475019, 3764276; 475579, 3764388; 475931, 3764469; 475893, 3764516; 475910, 3764574; 475912, 3764593; 475862, 3764571; 475800, 3764571; 475736, 3764562; 475662, 3764536; 475636, 3764533; 475624, 3764619; 475581, 3764626; 475386, 3764619; 475329, 3764619; 475326, 3764586; 475305, 3764564; 475338, 3764476; 475303, 3764447; 475260, 3764440; 475248, 3764424; 475095, 3764443; 475079, 3764478; 475026, 3764466; 474969, 3764483; 474931, 3764462; 474900, 3764397; 474829, 3764481; 474791, 3764547; 474795, 3764566; 474833, 3764602; 474791, 3764645; 474895, 3764726; 474945, 3764769; 474995, 3764762; 475023, 3764800; 475028, 3764826; 475008, 3764847; 474970, 3764850; 474723, 3764847; 474708, 3765067; 474716, 3765126; 474689, 3765221; 474604, 3765226; 474504, 3765228; 474506, 3765167; 474420, 3765157; 474420, 3765112; 474375, 3765105; 474368, 3765062; 474304, 3765067; 474208, 3765267; 474039, 3765500; 473940, 3765688; 473990, 3765698; 473993, 3765774; 473957, 3765883; 474010, 3765945; 473995, 3766031; 473936, 3766076; 473895, 3766079; 473871, 3766212; 473914, 3766231; 473929, 3766271; 473933, 3766343; 474024, 3766345; 474071, 3766355; 474076, 3766400; 474105, 3766421; 474181, 3766424; 474245, 3766414; 474314, 3766407; 474360, 3766400; 474402, 3766391; 474462, 3766357; 474526, 3766293; 474617, 3766167; 474669, 3766107; 474717, 3766052; 474762, 3766019; 474810, 3765967; 474831, 3765910; 474876, 3765869; 474944, 3765852; 475113, 3765871; 475135, 3765936; 475142, 3766014; 475120, 3766055; 475078, 3766069; 475013, 3766067; 474966, 3766095; 474870, 3766231; 474832, 3766269; 474818, 3766276; 474844, 3766305; 474851, 3766364; 474818, 3766419; 474801, 3766522; 474749, 3766548; 474711, 3766536; 474682, 3766524; 474647, 3766529; 474635, 3766555; 474616, 3766569; 474463, 3766567; 474413, 3766574; 474406, 3766610; 474363, 3766607; 474339, 3766617; 474313, 3766643; 474289, 3766660; 474286, 3766738; 474231, 3766772; 474133, 3766760; 474040, 3766767; 473943, 3766795; 473943, 3766905; 473952, 3766953; 473969, 3766969; 474017, 3766983; 474024, 3767053; 473990, 3767095; 473960, 3767110; 473931, 3767105; 473890, 3767095; 473829, 3767100; 473790, 3767114; 473776, 3767143; 473762, 3767188; 473786, 3767207; 473860, 3767212; 473910, 3767255; 473964, 3767314; 474000, 3767364; 474036, 3767376; 474110, 3767343; 474129, 3767331; 474148, 3767303; 474148, 3767262; 474179, 3767231; 474212, 3767217; 474241, 3767219; 474267, 3767238; 474274, 3767262; 474302, 3767260; 474345, 3767226; 474398, 3767184; 474429, 3767172; 474467, 3767141; 474502, 3767141; 474524, 3767160; 474536, 3767184; 474533, 3767214; 474552, 3767231; 474572, 3767231; 474591, 3767262; 474607, 3767293; 474662, 3767272; 474791, 3767238; 474831, 3767195; 474860, 3767179; 474864, 3767281; 474888, 3767362; 475067, 3767357; 475086, 3767338; 475074, 3767186; 475143, 3767167; 475207, 3767153; 475243, 3767060; 475231, 3766948; 475231, 3766893; 475257, 3766812; 475274, 3766724; 475310, 3766681; 475324, 3766626; 475319, 3766588; 475350, 3766543; 475373, 3766548; 475394, 3766567; 475520, 3766569; 475544, 3766533; 475582, 3766524; 475599, 3766548; 475639, 3766560; 475759, 3766562; 475804, 3766591; 475835, 3766641; 475866, 3766657; 475909, 3766622; 475928, 3766600; 476025, 3766567; 476194, 3766562; 476416, 3766560; 476461, 3766557; 476465, 3766476; 476474, 3766369; 476672, 3766360; 476987, 3766357; 476991, 3766347; 476998, 3766294; 476957, 3766161; 476922, 3766059; 476891, 3766009; 476862, 3765961; 476848, 3765892; 476853, 3765840; 476879, 3765797; 476948, 3765737; 477024, 3765680; 477043, 3765649; 477022, 3765625; 477031, 3765582; 477072, 3765513; 477091, 3765466; 477072, 3765416; 477112, 3765342; 477131, 3765280; 477136, 3765235; 477117, 3765147; 477140, 3765009; 477156, 3764923; 477182, 3764880; 477242, 3764837; 477342, 3764818; 477392, 3764809; 477400, 3764801.

Land bounded by the following UTM NAD27 coordinates (E,N): 469028, 3767037; 469048, 3767011; 469102, 3766947; 469107, 3766901; 469074, 3766808; 469055, 3766756; 469026, 3766727; 469002, 3766725; 468914, 3766661; 468876, 3766618; 468845, 3766577; 468819, 3766266; 468998, 3766268; 469001, 3766120; 468987,

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Land bounded by the following UTM NAD27 coordinates (E,N): 472219, 3766984; 472384, 3766971; 472511, 3766984; 472575, 3767002; 472631, 3766959; 472708, 3766959; 472738, 3766926; 472791, 3766923; 472852, 3766923; 472951, 3766885; 473086, 3766801; 473160, 3766781; 473246, 3766697; 473322, 3766606; 473350, 3766570; 473378, 3766583; 473429, 3766580; 473533, 3766568; 473533, 3766502; 473597, 3766466; 473665, 3766375; 473668, 3766354; 473523, 3766352; 473459, 3766296; 473424, 3766260; 473383, 3766207; 473327, 3766182; 473233, 3766176; 473198, 3766169; 473185, 3766133; 473205, 3766011; 473243, 3765966; 473197, 3765882; 473219, 3765806; 473217, 3765762; 473214, 3765734; 473171, 3765722; 473161, 3765689; 473166, 3765638; 473120, 3765610; 473115, 3765552; 473115, 3765402; 473156, 3765392; 473181, 3765404; 473222, 3765295; 473179, 3765277; 473207, 3765221; 473257, 3765191; 473346, 3765191; 473410, 3765226; 473451, 3765257; 473710, 3765270; 473738, 3765259; 473872, 3765262; 473960, 3765155; 474046, 3765051; 474112, 3764985; 474178, 3764909; 474214, 3764851; 474224, 3764807; 474249, 3764772; 474313, 3764698; 474376, 3764602; 474447, 3764492; 474516, 3764434; 474651, 3764370; 474737, 3764310; 474879, 3764132; 474900, 3764101; 474900, 3764100; 474901, 3764100; 474905, 3764094; 474528, 3764094; 474482, 3764094; 474300, 3764094; 474284, 3764095; 473546, 3764129; 473487, 3764132; 472907, 3764159; 472808, 3764161; 472721, 3764163; 472491, 3764165; 472069, 3764168; 471891, 3764169; 471906, 3764201; 472004, 3764185; 472027, 3764230; 472029, 3764256; 471945, 3764276; 471900, 3764300; 471900, 3764300; 471899, 3764300; 471897, 3764301; 471933, 3764451; 471958, 3764548; 472016, 3764565; 472049, 3764626; 472062, 3764713; 472044, 3764852; 472027, 3764878; 471996, 3764865; 471960, 3764842; 471943, 3764837; 471917, 3764873; 471930, 3764896; 471935, 3764962; 471981, 3764967; 471976, 3764990; 471983, 3765015; 472062, 3765033; 472095, 3765114; 472131, 3765124; 472150, 3765175; 472221, 3765239; 472244, 3765307; 472307, 3765391; 472333, 3765409; 472345, 3765424; 472348, 3765754; 472409, 3765762; 472449, 3765777; 472500, 3765757; 472546, 3765759; 472551, 3765767; 472508, 3765841; 472490, 3765861; 472498, 3765980; 472538, 3766013; 472592, 3766011; 472670, 3765980; 472726, 3765942; 472775, 3765881; 472775, 3765828; 472762, 3765810; 472739, 3765790; 472772, 3765762; 472879, 3765757; 472968, 3765942; 472847, 3766031; 472771, 3766176; 472743, 3766331; 472745, 3766392; 472712, 3766465; 472662, 3766483; 472583, 3766488; 472544, 3766514; 472513, 3766560; 472407, 3766669; 472280, 3766773; 472181, 3766860; 472137, 3766883; 471975, 3766921; 471810, 3766951; 471711, 3766977; 471660, 3766982; 471660, 3766951; 471657, 3766921; 471619, 3766916; 471576, 3766916; 471540, 3766905; 471520, 3766885; 471510, 3766862; 471500, 3766850; 471424, 3766852; 471469, 3766878; 471479, 3766913; 471518, 3767007; 471551, 3767063; 471573, 3767091; 471609, 3767109; 471858, 3767043; 471947, 3767071; 471980, 3767109; 472008, 3767152; 472181, 3767060; 472196, 3767005; 472200, 3767001; 472200, 3767000; 472201, 3767000.

Land bounded by the following UTM NAD27 coordinates (E,N): 456608, 3766596; 456608, 3766527; 456627, 3766439; 456661, 3766375; 456677, 3766318; 456749, 3766234; 456768, 3766180; 456815, 3765908; 456851, 3765849; 456882, 3765830; 456937, 3765808; 456992, 3765794; 457001, 3765784; 457024, 3765784; 456868, 3765783; 456405, 3765786; 456357, 3765786; 456142, 3765788; 455924, 3765789; 456100, 3766028; 456050, 3766148; 455961, 3766167; 455840, 3766187; 455757, 3766225; 455662, 3766263; 455599, 3766326; 455548, 3766529; 455561, 3766669; 455586, 3766841; 455643, 3766974; 455694, 3767088; 455751, 3767076; 455789, 3766974; 456024, 3766879; 456240, 3766879; 456373, 3766783; 456456, 3766758; 456513, 3766758; 456589, 3766811; 456588, 3766768; 456588, 3766690; 456588, 3766622.

Land bounded by the following UTM NAD27 coordinates (E,N): 455027, 3765901; 455122, 3765933; 455186, 3765856; 455281, 3765818; 455333, 3765792; 455145, 3765793; 454954, 3765795; 454955, 3765883.

Land bounded by the following UTM NAD27 coordinates (E,N): 455367, 3764979; 455375, 3764979; 455459, 3764980; 455772, 3764981; 455786, 3764981; 455779, 3765348; 455778, 3765382; 455874, 3765383; 456182, 3765383; 456181, 3765781; 456195, 3765781; 456585, 3765780; 456598, 3765780; 456592, 3764970; 456589, 3764578; 456580, 3764578; 456372, 3764579; 456265, 3764580; 456185, 3764580; 456152, 3764580; 456083, 3764581; 456070, 3764581; 455872, 3764582; 455842, 3764582; 455812, 3764582; 455782, 3764582; 455781, 3764582; 455662, 3764583; 455543, 3764583; 455422, 3764582; 455409, 3764582; 455408, 3764593; 455384, 3764593; 455371, 3764594; 455366, 3764945; 455365, 3764977; 455365, 3764979.

Land bounded by the following UTM NAD27 coordinates (E,N): 455055, 3764977; 454963, 3764977; 454957, 3764977; 454957, 3764988; 454953, 3765344; 454953, 3765351; 454953, 3765365; 454953, 3765374; 455359,

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Land bounded by the following UTM NAD27 coordinates (E,N): 441213, 3746548; 441619, 3746547; 441616, 3746253; 441615, 3746052; 441611, 3745650; 442214, 3745645; 442211, 3745243; 442412, 3745241; 442614, 3745241; 442614, 3745257; 442614, 3745258; 442614, 3745442; 442629, 3745442; 442630, 3745442; 443013, 3745443; 443014, 3745450; 443014, 3745450; 443015, 3745645; 442616, 3745644; 442618, 3745844; 442417, 3745844; 442419, 3746045; 442434, 3746045; 442435, 3746045; 442821, 3746046; 442821, 3746058; 442821, 3746059; 442823, 3746257; 442823, 3746258; 442823, 3746290; 442437, 3746289; 442436, 3746289; 442421, 3746289; 442423, 3746545; 442438, 3746545; 442439, 3746545; 442796, 3746541; 442826, 3746540; 443006, 3746539; 443168, 3746537; 443201, 3746537; 443204, 3746537; 443228, 3746537; 443253, 3746537; 443339, 3746536; 443334, 3746502; 443310, 3746331; 443289, 3746187; 443285, 3746164; 443282, 3746140; 443269, 3746053; 443215, 3746052; 443211, 3745645; 443209, 3745645; 443206, 3745354; 443206, 3745354; 443206, 3745345; 443109, 3745344; 442833, 3745343; 442833, 3745343; 442811, 3745343; 442811, 3745243; 442809, 3745042; 442808, 3744851; 442808, 3744850; 442808, 3744840; 442425, 3744839; 442424, 3744839; 442410, 3744839; 442408, 3744840; 442400, 3744849; 442322, 3744927; 442201, 3744927; 442039, 3744881; 442003, 3744848; 441996, 3744842; 441873, 3744730; 441641, 3744558; 441549, 3744580; 441455, 3744650; 441537, 3744846; 441538, 3744850; 441566, 3744917; 441627, 3745098; 441605, 3745254; 441525, 3745435; 441385, 3745460; 441192, 3745444; 441144, 3745581; 441001, 3745822; 440881, 3745879; 440833, 3745901; 440812, 3745911; 440266, 3746403; 439866, 3746546; 439794, 3746570; 440420, 3746557; 440851, 3746549.

Land bounded by the following UTM NAD27 coordinates (E,N): 444001, 3745245; 444000, 3745043; 443807, 3745043; 443807, 3745043; 443804, 3745043; 443806, 3745245; 443813, 3745245; 443813, 3745245; 443967, 3745246; 444000, 3745246; 444001, 3745246; 444001, 3745246.

Land bounded by the following UTM NAD27 coordinates (E,N): 444384, 3744642; 444384, 3744638; 444323, 3744638; 444322, 3744638; 444296, 3744638; 444298, 3744714; 444383, 3744712; 444384, 3744642.

Land bounded by the following UTM NAD27 coordinates (E,N): 444828, 3744537; 445019, 3744323; 445017, 3744323; 445016, 3744316; 445008, 3744025; 445005, 3743922; 444811, 3743925; 444811, 3743932; 444811, 3743933; 444814, 3744028; 444827, 3744525; 444827, 3744526.

Land bounded by the following UTM NAD27 coordinates (E,N): 444001, 3744442; 444001, 3744442; 443988, 3744442; 443990, 3744504; 444001, 3744504; 444001, 3744504; 444097, 3744506; 444189, 3744507; 444293, 3744509; 444292, 3744443.

Land bounded by the following UTM NAD27 coordinates (E,N): 443978, 3744049; 443983, 3744238; 444288, 3744242; 444395, 3744243; 444395, 3744241; 444395, 3744236; 444395, 3744235; 444391, 3744039; 444391, 3744039; 444391, 3744032; 444355, 3744033; 444116, 3744038; 444106, 3744038; 444085, 3744039; 444084, 3744039; 443996, 3744040; 443995, 3744041; 443977, 3744041.

Land bounded by the following UTM NAD27 coordinates (E,N): 443977, 3744038; 443977, 3744038; 443978, 3744031; 443977, 3743999; 443948, 3743978; 443975, 3743943; 443974, 3743937; 443980, 3743937; 443981, 3743935; 443998, 3743935; 444028, 3743935; 444044, 3743935; 444049, 3743934; 444059, 3743933; 444059, 3743933; 444057, 3743836; 444099, 3743836; 444100, 3743836; 444370, 3743833; 444372, 3743830; 444396, 3743800; 444411, 3743830; 444413, 3743832; 444534, 3743831; 444535, 3743830; 444536, 3743829; 444536, 3743829; 444592, 3743824; 444594, 3743824; 444594, 3743818; 444585, 3743630; 444591, 3743630; 444593, 3743630; 444617, 3743629; 444665, 3743629; 444633, 3743563; 444642, 3743496; 444715, 3743390; 444728, 3743628; 444892, 3743626; 444893, 3743626; 444893, 3743626; 444892, 3743593; 444890, 3743546; 444889, 3743528; 445085, 3743524; 445174, 3743522; 445174, 3743522; 445182, 3743522; 445174, 3743330; 445174, 3743329; 445174, 3743327; 445469, 3743325; 445467, 3743230; 445468, 3743230; 445470, 3743186; 445471, 3743148; 445471, 3743127; 445471, 3743127; 445472, 3743118; 445567, 3743119; 445650, 3743119; 445651, 3743027; 445676, 3743027; 445676, 3743027; 445859, 3743028; 445857, 3743229; 445889, 3743229; 445993, 3743228; 445994, 3743228; 446002, 3743228; 446235, 3742970; 446234, 3742970; 446233, 3742970; 446169, 3742968; 446170, 3742559; 446178, 3742559; 446179, 3742559; 446370, 3742559; 446370, 3742552; 446370, 3742551; 446369, 3742435; 446369, 3742336; 446375, 3742336; 446376, 3742336; 446573, 3742332; 446574, 3742436; 446787, 3742436; 446800, 3742436; 447162, 3742213; 447389, 3742073; 447388, 3742067; 447387, 3742063; 447489, 3741981; 447551, 3741966; 447567, 3741962; 447627, 3741925; 447643, 3741909; 447711, 3741841; 447832, 3741784; 447848, 3741783; 447858, 3741782; 447968, 3741714; 448118, 3741621; 448110, 3741621; 448108, 3741621; 447967, 3741613; 447967, 3741595; 447965, 3741311; 447963, 3741114; 447739, 3741217; 447441, 3741010; 447310, 3740966; 447231, 3741061; 447318, 3741388; 447287, 3741594; 447271, 3741619; 447233, 3741677; 447163, 3741671; 447096, 3741664; 447034, 3741620; 446768, 3741620; 446826, 3741810; 446753, 3742001; 446575, 3741972; 446110, 3741622; 445565, 3741626; 445564, 3741374; 445564, 3741330; 445563, 3741311; 445563, 3741311; 445324, 3741201; 445280, 3741271; 445410, 3741498; 445531, 3741626; 445565, 3741663; 445575, 3741674; 445600, 3741700; 445600, 3741700; 445600, 3741700; 445807, 3741920; 445918, 3742333; 445784, 3742618; 445581, 3742664; 445564, 3742668; 445445, 3742695; 445365, 3742472; 445143, 3742301; 444959, 3742358; 444914, 3742660; 444711, 3742815; 444448, 3742822; 444311, 3742444; 444140, 3741907; 443975, 3741837; 443851, 3741783; 443711, 3741955; 443660, 3742136; 443841, 3742301; 443848, 3742510; 443551, 3742768; 443405, 3743091; 443449, 3743227; 443451, 3743233; 443463, 3743272; 443270, 3743453; 443193, 3743470; 442952, 3743520; 442482, 3743384; 442418, 3743350; 442398, 3743340; 442203, 3743241; 442162, 3743336; 442159, 3743593; 442251, 3743723; 442401, 3744028; 442407, 3744040; 442418, 3744040; 442419, 3744040; 442669, 3744039; 442733, 3744039; 443197, 3744036; 443578, 3744038; 443649, 3744039; 443977, 3744041.

Land bounded by the following UTM NAD27 coordinates (E,N): 458767, 3741492; 459313, 3741490; 459310, 3741140; 459310, 3741086; 459310, 3741086; 459309, 3740884; 459309, 3740884; 459308, 3740788; 459307, 3740684; 459179, 3740685; 458857, 3740688; 458634, 3740690; 458405, 3740690; 458364, 3740691; 458204, 3740692; 458204, 3740673; 458202, 3740495; 458102, 3740496; 458103, 3740675; 458103, 3740693; 458002, 3740694; 458003, 3740796; 458004, 3740896; 458005, 3740964; 458005, 3740995; 458006, 3741094; 458208, 3741092; 458361, 3741091; 458407, 3741091; 458407, 3741094; 458408, 3741235; 458409, 3741494.

Land bounded by the following UTM NAD27 coordinates (E,N): 460067, 3740678; 460446, 3740677; 460480, 3740677; 460480, 3740677; 460816, 3740676; 460817, 3740445; 460818, 3740275; 460820, 3739907; 460820, 3739873; 460820, 3739873; 460820, 3739873; 460823, 3739393; 460825, 3739074; 460869, 3739074; 460306, 3739076; 460113, 3739076; 460063, 3739077; 460061, 3739877; 460064, 3740272; 460067, 3740678; 460067, 3740678.

Land bounded by the following UTM NAD27 coordinates (E,N): 450336, 3739933; 450334, 3739465; 450250, 3739486; 449968, 3739172; 449931, 3739184; 449765, 3739239; 449631, 3739248; 449516, 3739121; 449482, 3739083; 449328, 3738667; 448931, 3738635; 448782, 3738482; 448709, 3738407; 448518, 3738395; 448419, 3738389; 448386, 3738391; 448380, 3738398; 447904, 3738867; 448380, 3738889; 448723, 3739232; 448457, 3739477; 448331, 3739810; 448433, 3739950; 448760, 3739924; 448791, 3739931; 448793, 3739932; 449130, 3739932; 449781, 3739932; 449934, 3739933.

Land bounded by the following UTM NAD27 coordinates (E,N): 451938, 3738764; 452341, 3738746; 452745, 3738728; 452744, 3738723; 452744, 3738722; 452743, 3738491; 452742, 3738430; 452742, 3738355; 452741, 3738315; 451961, 3738369; 451961, 3738369; 451935, 3738371.

Land bounded by the following UTM NAD27 coordinates (E,N): 451935, 3738325; 451935, 3738324; 451930, 3736705; 452734, 3736701; 452733, 3736524; 452730, 3736143; 452729, 3735902; 452729, 3735897; 452745, 3735897; 452746, 3735897; 452984, 3735898; 453129, 3735898; 453129, 3735884; 453129, 3735884; 453125, 3735517; 453124, 3735413; 453117, 3735409; 453124, 3735382; 453123, 3735297; 452729, 3735301; 452729, 3735092; 452746, 3735092; 452746, 3735092; 452940, 3735091; 452950, 3735078; 452976, 3735046; 452865, 3734835; 452822, 3734783; 452451, 3734441; 452420, 3734529; 452636, 3734734; 452689, 3734989; 452667, 3735092; 452638, 3735226; 452645, 3735490; 452617, 3735555; 452357, 3735496; 452224, 3735457; 452108, 3735202; 451959, 3735460; 452028, 3735640; 452314, 3735871; 452393, 3736103; 452352, 3736236; 452194, 3736411; 452099, 3736576; 451947, 3736515; 451929, 3736508; 451793, 3736452; 451875, 3736674; 451862, 3736706; 451856, 3736718; 451818, 3736810; 451638, 3736789; 451507, 3736723; 451487, 3736712; 451467, 3736708; 451101, 3736622; 450869, 3736612; 450641, 3736634; 450803, 3736711; 450844, 3736730; 451202, 3736901; 451663, 3737204; 451644, 3737399; 451494, 3737526; 451116, 3737440; 451138, 3737795; 451423, 3737852; 451550, 3738035; 451464, 3738159; 451116, 3738177; 450910, 3738335; 450913, 3738338; 450916, 3738341; 451133, 3738347; 451935, 3738371.

Land bounded by the following UTM NAD27 coordinates (E,N): 460484, 3738197; 460499, 3738197; 460385, 3737942; 460100, 3737974; 460101, 3738185; 460103, 3738185; 460479, 3738197.

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Land bounded by the following UTM NAD27 coordinates (E,N): 473321, 3725075; 473282, 3725076; 473249, 3725077; 473222, 3725077; 473198, 3725078; 473174, 3725078; 473155, 3725079; 473148, 3725079; 473127, 3725079; 473106, 3725080; 473082, 3725080; 473061, 3725081; 473040, 3725081; 473019, 3725082; 473015, 3725082; 472997, 3725082; 472984, 3725082; 472984, 3725145; 472985, 3725351; 472985, 3725489; 473086, 3725486; 473100, 3725486; 473115, 3725486; 473258, 3725482; 473378, 3725479; 473378, 3725458; 473380, 3725074.

Land bounded by the following UTM NAD27 coordinates (E,N): 501323, 3725256; 501447, 3725257; 501446, 3725286; 501446, 3725295; 501538, 3725296; 501540, 3725184; 501324, 3725182.

Land bounded by the following UTM NAD27 coordinates (E,N): 501966, 3723887; 501967, 3723762; 501966, 3723678; 501963, 3723555; 501960, 3723430; 501953, 3723085; 501706, 3723085; 501563, 3723086; 501369, 3722715; 501368, 3722716; 501361, 3722726; 501356, 3722736; 501351, 3722747; 501297, 3722884; 501292, 3722895; 501287, 3722906; 501280, 3722917; 501273, 3722927; 501264, 3722936; 501255, 3722945; 501246, 3722953; 501236, 3722960; 501225, 3722967; 501214, 3722973; 501206, 3722976; 501202, 3722978; 501198, 3722980; 501195, 3722983; 501192, 3722986; 501188, 3722989; 501186, 3722992; 501183, 3722996; 501181, 3723000; 501179, 3723004; 501178, 3723008; 501177, 3723012; 501176, 3723016; 501176, 3723021; 501176, 3723025; 501176, 3723029; 501177, 3723034; 501178, 3723038; 501180, 3723042; 501182, 3723046; 501202, 3723087; 501195, 3723087; 501181, 3723888.

Land bounded by the following UTM NAD27 coordinates (E,N): 500602, 3722286; 500610, 3722264; 500398, 3722261; 500398, 3722261; 500392, 3722194; 500389, 3722157; 500633, 3722207; 500633, 3722207; 500634, 3722203; 500639, 3722192; 500644, 3722180; 500647, 3722175; 500649, 3722169; 500656, 3722158; 500662, 3722147; 500666, 3722142; 500669, 3722137; 500675, 3722129; 500676, 3722127; 500680, 3722122; 500684, 3722117; 500692, 3722107; 500697, 3722101; 500700, 3722098; 500702, 3722096; 500709, 3722089; 500709, 3722082; 500533, 3721913; 500524, 3721904; 500515, 3721893; 500515, 3721893; 500508, 3721882; 500505, 3721876; 500501, 3721870; 500501, 3721870; 500496, 3721858; 500491, 3721846; 500471, 3721780; 500452, 3721720; 500448, 3721710; 500448, 3721710; 500443, 3721700; 500438, 3721691; 500436, 3721687; 500432, 3721682; 500426, 3721673; 500419, 3721664; 500412, 3721657; 500360, 3721609; 500358, 3721607; 500355, 3721605; 500351, 3721601; 500347, 3721598; 500346, 3721598; 500345, 3721597; 500341, 3721595; 500341, 3721595; 500341, 3721595; 500339, 3721572; 500334, 3721509; 500332, 3721489; 500332, 3721488; 500365, 3721096; 500365, 3721096; 500365, 3721096; 500848, 3721265; 500849, 3721264; 500853, 3721256; 500854, 3721255; 500858, 3721247; 500861, 3721238; 500863, 3721230; 500863, 3721228; 500864, 3721221; 500865, 3721214; 500865, 3721212; 500865, 3721212; 500865, 3721203; 500864, 3721195; 500864, 3721194; 500863, 3721186; 500861, 3721177; 500858, 3721169; 500858, 3721169; 500854, 3721160; 500814, 3721071; 500813, 3721070; 500810, 3721063; 500805, 3721057; 500800, 3721052; 500799, 3721051; 500798, 3721051; 500792, 3721047; 500786, 3721045; 500784, 3721044; 500779, 3721043; 500758, 3721036; 500755, 3721035; 500750, 3721033; 500743, 3721030; 500736,

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Land bounded by the following UTM NAD27 coordinates (E,N): 496718, 3722672; 497123, 3722675; 497137, 3722261; 496934, 3722263; 496733, 3722264; 496324, 3722268; 496307, 3722268; 496304, 3722667; 496304, 3722669.

Land bounded by the following UTM NAD27 coordinates (E,N): 500648, 3721664; 500649, 3721663; 500655, 3721657; 500663, 3721651; 500672, 3721646; 500675, 3721644; 500680, 3721642; 500752, 3721603; 500808, 3721573; 500812, 3721571; 500816, 3721569; 500820, 3721566; 500824, 3721563; 500828, 3721560; 500832, 3721557; 500839, 3721550; 500845, 3721543; 500850, 3721535; 500854, 3721529; 500855, 3721527; 500856, 3721525; 500859, 3721518; 500861, 3721515; 500863, 3721509; 500865, 3721500; 500866, 3721496; 500867, 3721491; 500868, 3721483; 500868, 3721481; 500868, 3721472; 500867, 3721462; 500865, 3721453; 500863, 3721443; 500860, 3721434; 500856, 3721426; 500855, 3721425; 500851, 3721418; 500845, 3721410; 500842, 3721406; 500839, 3721403; 500838, 3721402; 500835, 3721398; 500583, 3721390; 500542, 3721389; 500547, 3721756; 500547, 3721763; 500641, 3721671; 500647, 3721665; 500648, 3721664.

Land bounded by the following UTM NAD27 coordinates (E,N): 496746, 3721453; 496746, 3721453; 496753, 3721054; 496753, 3721046; 496350, 3721058; 496349, 3721101; 496346, 3721253; 496342, 3721463.

Land bounded by the following UTM NAD27 coordinates (E,N): 495959, 3720651; 495929, 3720653; 495776, 3720664; 495557, 3720679; 495558, 3720885; 495558, 3721041; 495558, 3721044; 495558, 3721081; 495919, 3721070; 495954, 3721069.

Land bounded by the following UTM NAD27 coordinates (E,N): 478136, 3719798; 477825, 3719796; 477756, 3719795; 477758, 3719998; 477759, 3720101; 477760, 3720253; 477761, 3720352; 477761, 3720405; 477762, 3720521; 477770, 3720521; 477801, 3720522; 477857, 3720470; 478140, 3720205; 478136, 3719806.

Land bounded by the following UTM NAD27 coordinates (E,N): 498720, 3720461; 498719, 3720061; 497912, 3720043; 497510, 3720030; 497509, 3720233; 497159, 3720221; 497159, 3720422; 497910, 3720453.

Land bounded by the following UTM NAD27 coordinates (E,N): 478940, 3719001; 478924, 3719001; 478670, 3719001; 478663, 3719001; 478536, 3719001; 478542, 3719404; 478679, 3719404; 478681, 3719404; 479354, 3719401; 479352, 3719001.

Land bounded by the following UTM NAD27 coordinates (E,N): 498718, 3719053; 498718, 3718949; 498718, 3718912; 498718, 3718671; 498718, 3718598; 498719, 3718490; 498723, 3718209; 498724, 3718159; 498727, 3717885; 498727, 3717884; 498728, 3717831; 498732, 3717692; 498732, 3717684; 498738, 3717439; 498738, 3717439; 498735, 3717282; 498730, 3717107; 499003, 3717172; 499101, 3717196; 499425, 3717194; 499425, 3717194; 499429, 3717238; 499429, 3717239; 499429, 3717239; 499429, 3717240; 499429, 3717240; 499429, 3717241; 499429, 3717242; 499429, 3717243; 499429, 3717244; 499429, 3717244; 499429, 3717245; 499429, 3717247; 499429, 3717247; 499429, 3717248; 499429, 3717249; 499429, 3717252; 499429, 3717252; 499429, 3717253; 499429, 3717254; 499429, 3717255; 499429, 3717256; 499429, 3717257; 499429, 3717259; 499429, 3717260; 499429, 3717261; 499429, 3717262; 499426, 3717318; 499426, 3717319; 499426, 3717320; 499425, 3717320; 499425, 3717321; 499425, 3717322; 499425, 3717322; 499425, 3717324; 499425, 3717325; 499425, 3717326; 499425, 3717326; 499424, 3717327; 499424, 3717328; 499424, 3717328; 499424, 3717329; 499424, 3717330; 499424, 3717331; 499423, 3717332; 499423, 3717332; 499423, 3717333; 499423, 3717333; 499423, 3717334; 499422, 3717334; 499422, 3717335; 499422, 3717336; 499422, 3717336; 499422, 3717336; 499421, 3717338; 499421, 3717339; 499420, 3717339; 499420, 3717340; 499420, 3717340; 499420, 3717341; 499419, 3717342; 499419, 3717343; 499418, 3717344; 499418, 3717344; 499418, 3717345; 499418, 3717345; 499417, 3717345; 499417, 3717346; 499416, 3717347; 499416, 3717347; 499416, 3717348; 499415, 3717348; 499415, 3717349; 499415, 3717350; 499414, 3717350; 499414, 3717350; 499414, 3717351; 499413, 3717351; 499413, 3717352; 499412, 3717353; 499412, 3717353; 499368, 3717406; 499352, 3717425; 499345, 3717433; 499347, 3717433; 499349, 3717433; 499441, 3717432; 499521, 3717431; 499559, 3717431; 499707, 3717430; 499722, 3717430; 499980, 3717428; 499982, 3717402; 499982, 3717402; 499998, 3717127; 500052, 3717127; 500056, 3716659; 500259, 3716573; 500259, 3716572; 500259, 3716571; 500259, 3716570; 500259, 3716569; 500260, 3716200; 500000, 3716211; 499963, 3716213; 499900, 3716215; 499893, 3716216; 499896, 3716660; 499830, 3716648; 499763, 3716635; 499739, 3716616; 499681, 3716572; 499644, 3716556; 499643, 3716556; 499642, 3716555; 499641, 3716555; 499639, 3716554; 499638, 3716554; 499638, 3716554; 499637, 3716553; 499636, 3716553; 499634, 3716553; 499633, 3716553; 499632, 3716552; 499631, 3716552; 499631, 3716552; 499630, 3716552; 499629, 3716552; 499628, 3716552; 499627, 3716552; 499626, 3716552; 499626, 3716552; 499625, 3716552; 499624, 3716552; 499623,

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Land bounded by the following UTM NAD27 coordinates (E,N): 501909, 3708054; 501909, 3708062; 501933, 3709158; 501943, 3709610; 501944, 3709666; 502706, 3709681; 502725, 3709681; 502723, 3709478; 502722, 3709269; 502721, 3709059; 502720, 3708891; 502720, 3708850; 502959, 3708845; 503116, 3708841; 503420, 3708834; 503508, 3708833; 503513, 3708832; 503513, 3708791; 503515, 3708529; 503515, 3708511; 503517, 3708017; 501908, 3708030.

Land bounded by the following UTM NAD27 coordinates (E,N): 500251, 3708054; 500165, 3708053; 499698, 3708050; 499579, 3708049; 499733, 3708396; 499805, 3708558; 499860, 3708679; 499874, 3708711; 499941, 3708862; 500001, 3708997; 500069, 3709150; 500110, 3709242; 500146, 3709321; 500159, 3709351; 500200, 3709443; 500210, 3709467; 500286, 3709638; 500287, 3709582; 500288, 3709520; 500292, 3709244; 500300, 3708672; 500309, 3708054.

Land bounded by the following UTM NAD27 coordinates (E,N): 501103, 3708053; 501521, 3708041; 501635, 3708038; 501817, 3708032; 501877, 3708031; 501908, 3708030; 501911, 3707648; 501914, 3707246; 501915, 3707121; 501833, 3707135; 501624, 3707168; 501509, 3707187; 501102, 3707252; 500696, 3707317; 500289, 3707382; 500289, 3707383; 500290, 3707386; 500306, 3707950; 500306, 3707960; 500309, 3708054.

Land bounded by the following UTM NAD27 coordinates (E,N): 510786, 3707197; 510786, 3707227; 510782, 3707584; 510675, 3707585; 509994, 3707592; 509992, 3707609; 509779, 3707611; 509631, 3707613; 509174, 3707620; 509172, 3707639; 509144, 3707978; 509140, 3708020; 509153, 3708020; 509440, 3708018; 509527, 3708017; 509638, 3708016; 509792, 3708014; 509950, 3708013; 510466, 3708009; 510769, 3708007; 511410, 3708002; 511500, 3708001; 511587, 3708001; 511587, 3708000; 511586, 3707869; 511586, 3707737; 511585, 3707588; 511584, 3707440; 511583, 3707307; 511582, 3707179; 511568, 3707179; 510824, 3707193; 510786, 3707194.

Land bounded by the following UTM NAD27 coordinates (E,N): 510794, 3706431; 510794, 3706429; 510114, 3706414; 510104, 3706513; 510095, 3706602; 510074, 3706811; 510053, 3707010; 510033, 3707208; 510047, 3707207; 510689, 3707196; 510786, 3707194.

Land bounded by the following UTM NAD27 coordinates (E,N): 515257, 3703983; 515275, 3703983; 515273, 3703640; 515273, 3703607; 516035, 3703623; 516088, 3703625; 516092, 3703219; 516078, 3703219; 516063, 3703218; 515863, 3703211; 515841, 3703210; 515647, 3703202; 515618, 3703203; 515388, 3703211; 515156, 3703218; 514926, 3703225; 514853, 3703228; 514853, 3703252; 514845, 3703968; 514848, 3703969; 514854, 3703969; 515246, 3703982; 515255, 3703983.

Land bounded by the following UTM NAD27 coordinates (E,N): 510976, 3703211; 510974, 3703215; 511637, 3703198; 511664, 3702694; 511678, 3702433; 511686, 3702270; 511719, 3701647; 511363, 3701649; 510930, 3701652; 510922, 3701777; 510918, 3701848; 510907, 3702041; 510903, 3702041; 510905, 3702055; 510997, 3702278; 510999, 3702300; 511000, 3702300; 511000, 3702308; 511035, 3702617; 511098, 3702878; 511052, 3703094; 510979, 3703207.

Land bounded by the following UTM NAD27 coordinates (E,N): 486608, 3703085; 486612, 3703080; 486614, 3703077; 486638, 3703046; 486705, 3702962; 486873, 3702746; 487022, 3702556; 487120, 3702430; 487239, 3702278; 487249, 3702265; 487096, 3702266; 486996, 3702267; 487001, 3701866; 487005, 3701468; 487389, 3701467; 487398, 3701438; 487406, 3701374; 487409, 3701327; 487409, 3701322; 487413, 3701270; 487412, 3701051; 487411, 3700948; 487410, 3700912; 487409, 3700889; 487406, 3700844; 487402, 3700804; 487397, 3700766; 487391, 3700739; 487377, 3700694; 487370, 3700673; 487019, 3700675; 486819, 3700676; 486661, 3700676; 486635, 3700676; 486619, 3700676; 486421, 3700677; 486419, 3700677; 486219, 3700678; 486019, 3700679; 486002, 3700679; 485831, 3700680; 485819, 3700680; 485807, 3701079; 485807, 3701092; 485775, 3702223; 485774, 3702277; 485771, 3702277; 485767, 3702277; 485597, 3702268; 485520, 3702264; 485499, 3702263; 485478, 3702262; 485435, 3702260; 485403, 3702258; 485400, 3702258; 485361, 3702256; 485360, 3702258; 485360, 3702281; 485347, 3702636; 485487, 3702642; 485763, 3702655; 485999, 3702680; 486589, 3702742; 486586, 3703113.

Land bounded by the following UTM NAD27 coordinates (E,N): 513144, 3701771; 513138, 3701804; 513135, 3701843; 513134, 3701875; 513136, 3701907; 513150, 3702008; 513153, 3702041; 513155, 3702102; 513153, 3702129; 513156, 3702164; 513161, 3702189; 513169, 3702217; 513175, 3702046; 513178, 3701948; 513181, 3701852; 513182, 3701827.

Land bounded by the following UTM NAD27 coordinates (E,N): 516307, 3702061; 516325, 3702061; 516506, 3702058; 516506, 3702060; 517038, 3702041; 517165, 3702037; 517164, 3702032; 517101, 3701785; 517008, 3701712; 516507, 3701831; 516416, 3701852; 515547, 3702074; 515910, 3702068; 516193, 3702063.

Land bounded by the following UTM NAD27 coordinates (E,N): 481969, 3700614; 482138, 3700611; 482132, 3700215; 482132, 3700213; 482184, 3700213; 482546, 3700209; 482534, 3699420; 482534, 3699416; 482207, 3699417; 482121, 3699417; 482127, 3699815; 481946, 3699817; 481713, 3699818; 481708, 3699419; 480886, 3699423; 480889, 3699828; 480892, 3700208; 480892, 3700226; 481718, 3700218; 481721, 3700402; 481724, 3700601; 481724, 3700617.

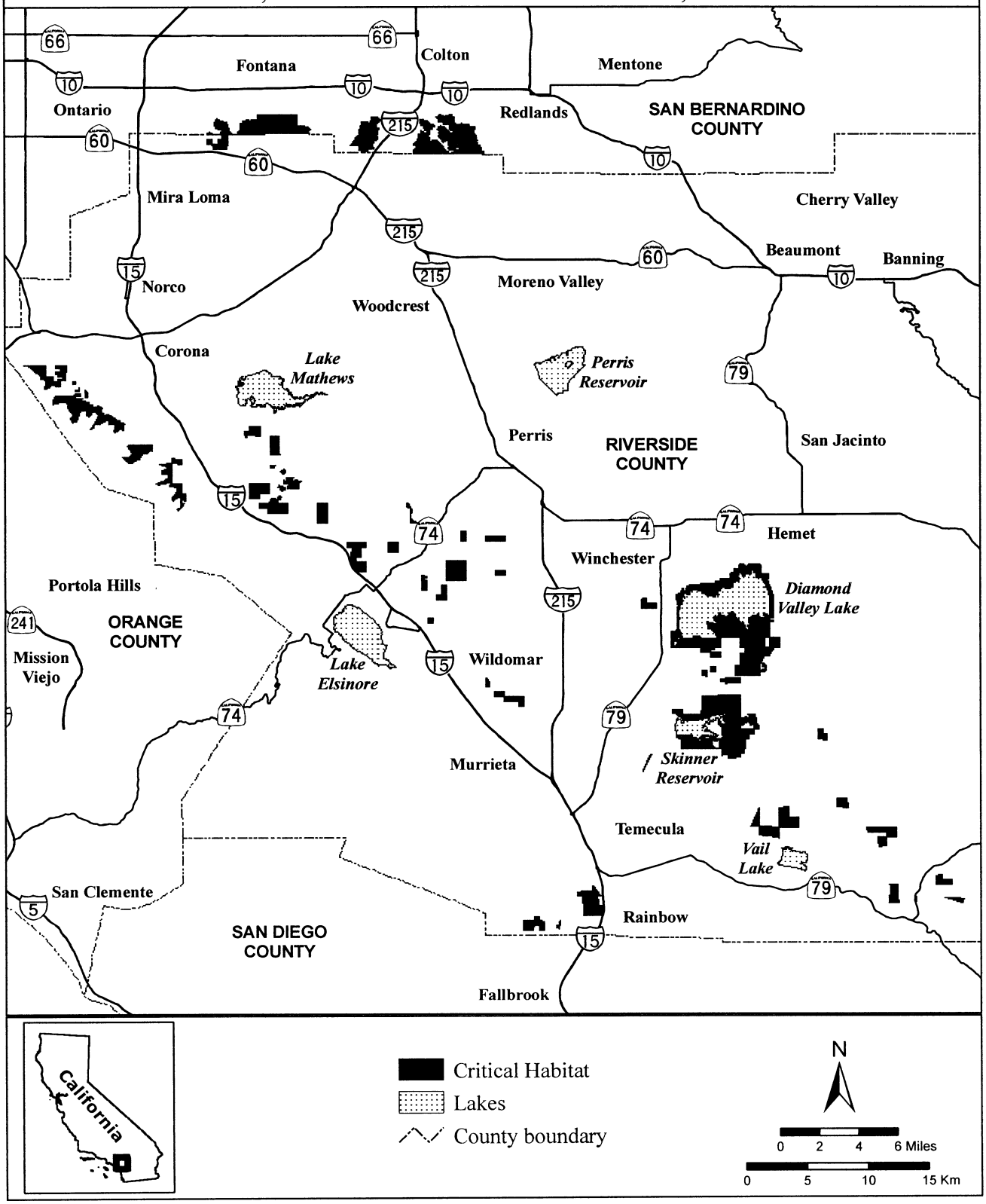
Land bounded by the following UTM NAD27 coordinates (E,N): 483946, 3700238; 483901, 3700054; 483873, 3699945; 483849, 3699851; 483801, 3699670; 483781, 3699609; 483769, 3699579; 483766, 3699571; 483746, 3699522; 483746, 3699615; 483699, 3699614; 483637, 3699614; 483636, 3699618; 483635, 3699816; 483657, 3699816; 483680, 3699817; 483745, 3699818; 483745, 3699800; 483745, 3699778; 483751, 3699803; 483760, 3699840; 483767, 3699867; 483786, 3699935; 483825, 3700072; 483867, 3700218; 483870, 3700230; 483872, 3700237.

Land bounded by the following UTM NAD27 coordinates (E,N): 487396, 3699050; 487369, 3699052; 487371, 3699111; 487375, 3699216; 487382, 3699457; 487384, 3699457; 487406, 3699455.

(ii) Note: Map of Unit 10—Western Riverside County Multiple Species Habitat Conservation Plan (Map 10) follows:

BILLING CODE 4310–55–P

Map 10
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 10, San Bernardino and Riverside Counties, California



BILLING CODE 4310–55–C

(15) Unit 12: East Los Angeles County, Los Angeles County, California.

(i) From USGS 1:24,000 quadrangle maps Baldwin Peak and San Dimas. Land bounded by the following UTM NAD27 coordinates (E,N): 425493, 3772912; 425451, 3772908; 425410, 3772889; 425359, 3772886; 425315, 3772886; 425277, 3772886; 425258, 3772902; 425229, 3772918; 425194, 3772912; 425169, 3772889; 425156, 3772851; 425172, 3772807; 425207, 3772756; 425245, 3772712; 425251, 3772645; 425207, 3772613; 425207, 3772588; 425245, 3772575; 425293, 3772566; 425337, 3772547; 425372, 3772518; 425429, 3772534; 425464, 3772553; 425502, 3772559; 425537, 3772531; 425578, 3772512; 425601, 3772502; 425655, 3772486; 425709, 3772477; 425770, 3772502; 425766, 3772420; 425794, 3772375; 425807, 3772334; 425801, 3772305; 425718, 3772286; 425616, 3772283; 425547, 3772293; 425512, 3772308; 425483, 3772350; 425455, 3772375; 425429, 3772404; 425401, 3772420; 425378, 3772407; 425378, 3772356; 425353, 3772327; 425293, 3772334; 425264, 3772343; 425216, 3772356; 425188, 3772375; 425181, 3772420; 425166, 3772448; 425137, 3772461; 425137, 3772429; 425131, 3772366; 425102, 3772340; 425102, 3772293; 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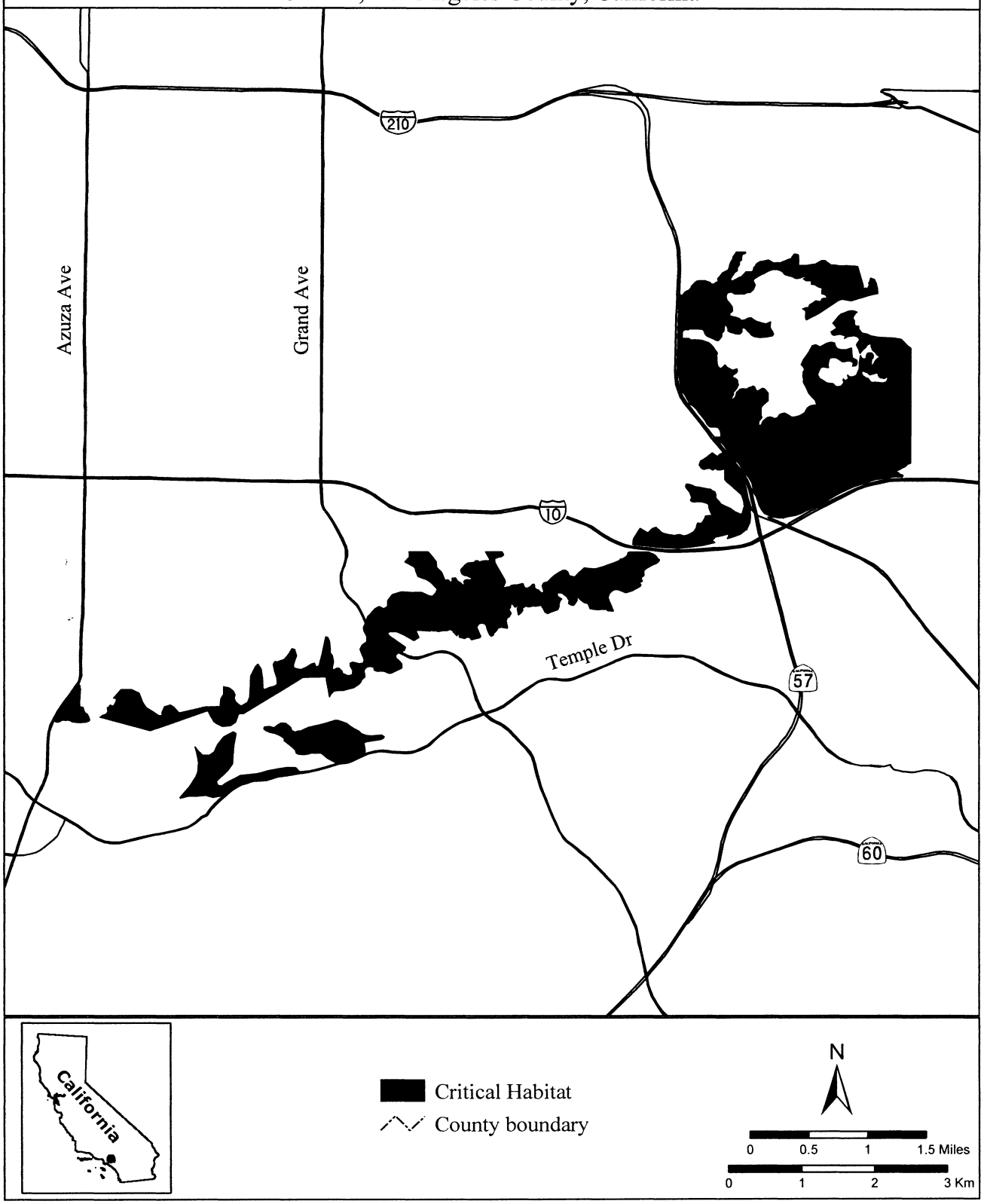
(ii) Note: Map of Unit 12—East Los Angeles County (Map 11) follows:

BILLING CODE 4310–55–P

Map 11
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 12, Los Angeles County, California



BILLING CODE 4310–55–C

(16) Unit 13: Western Los Angeles and Ventura Counties, Ventura and Los Angeles Counties, California.

(i) From USGS 1:24,000 quadrangle maps Mint Canyon, Moorpark, Simi Valley West, Simi Valley East, Oat Mountain, San Fernando, and Thousand Oaks. Land bounded by the following UTM NAD27 coordinates (E,N): 364605, 3804921; 364505, 3805021; 364205, 3805121; 363705, 3805121; 363564, 3805037; 363205, 3805121; 363605, 3805521; 363805, 3805621; 364005, 3805721; 364305, 3806021; 364405, 3806121; 364705, 3806221; 364905, 3806321; 365005, 3806421; 365105, 3806521; 365305, 3806621; 365405, 3806721; 365505, 3806821; 365644, 3806892; 365645, 3806568; 365724, 3806081; 365969, 3805652; 367229, 3805542; 367240, 3805877; 366577, 3806621; 367505, 3806621; 367505, 3807121; 367305, 3807121; 367397, 3807321; 368505, 3807321; 368405, 3807121; 368305, 3806821; 368305, 3806521; 368505, 3806421; 368705, 3806421; 368905, 3806521; 369149, 3806621; 369405, 3806621; 369405, 3806221; 369305, 3806121; 369305, 3805191; 369105, 3805121; 369005, 3805021; 368905, 3804721; 368605, 3804621; 368605, 3804321; 368505, 3804221; 368395, 3804001; 368205, 3803621; 368205, 3803521; 368005, 3803521; 367805, 3803621; 367705, 3803621; 367397, 3803519; 367105, 3803621; 367105, 3803627; 367105, 3803821; 366916, 3804011; 366905, 3804021; 366705, 3804121; 366105, 3804121; 366062, 3804078; 365905, 3803921; 365905, 3803721; 365705, 3803621; 365705, 3803521; 365805, 3803421; 365805, 3803321; 365605, 3803221; 365305, 3803221; 365005, 3803121; 364905, 3803221; 364805, 3803221; 364605, 3803121; 364605, 3802721; 364405, 3802421; 364405, 3802321; 364305, 3802221; 364205, 3802321; 364105, 3802321; 364005, 3802021; 363905, 3801721; 363805, 3801721; 363605, 3801121; 363493, 3801009; 363405, 3800921; 363405, 3800221; 363505, 3800021; 363505, 3799821; 363305, 3799621; 363305, 3799521; 362205, 3799521; 362205, 3799721; 362105, 3799821; 362005, 3800021; 361905, 3800021; 362005, 3801021; 362005, 3801221; 361805, 3802021; 361705, 3802421; 361705, 3802921; 361805, 3803121; 362005, 3803221; 362105, 3803321; 362505, 3803521; 362505, 3803721; 362105, 3803811; 362205, 3804021; 362305, 3804121; 362405, 3804321; 362605, 3804521; 362705, 3804621; 362829, 3804705; 362905, 3804621; 363005, 3804521; 363704, 3804521; 363895, 3804427; 363905, 3804421; 363985, 3804341; 363994, 3804333; 364005, 3804321; 364205, 3804321; 364205, 3804322; 364305, 3804421; 364407, 3804455; 364605, 3804521; 364705, 3804621; 364705, 3804624; 364705, 3804637; 364705, 3804821; 364700, 3804826.

Land bounded by the following UTM NAD27 coordinates (E,N): 347305, 3801521; 347505, 3801321; 347705, 3801221; 348005, 3801221; 348105, 3800921; 348205, 3800821; 348305, 3800821; 348605, 3800921; 348805, 3801021; 348905, 3801321; 349005, 3801321; 349005, 3801121; 348905, 3800821; 348805, 3800521; 348705, 3800321; 348705, 3800221; 348805, 3800221; 349105, 3800321; 349305, 3800521; 349505, 3800821; 349605, 3800821; 349805, 3801021; 350105, 3800921; 350105, 3800821; 350005, 3800721; 349905, 3800621; 349905, 3800521; 350005, 3800321; 350205, 3800221; 350105, 3800121; 350105, 3800021; 350305, 3799821; 350505, 3799821; 350605, 3799921; 350605, 3800121; 350805, 3800121; 350805, 3799821; 351005, 3799721; 351205, 3799621; 351305, 3799521; 351405, 3799421; 351105, 3799121; 351105, 3798921; 351205, 3798821; 351305, 3798521; 351505, 3798521; 351605, 3798621; 351705, 3798621; 351805, 3798521; 352105, 3798421; 352205, 3798221; 352305, 3798121; 352405, 3798121; 352605, 3798221; 352705, 3798521; 353005, 3798521; 353105, 3798621; 353305, 3798721; 353305, 3798821; 353705, 3798821; 353705, 3798621; 353805, 3798521; 353805, 3798021; 354005, 3797821; 354105, 3797821; 354305, 3797921; 354305, 3798221; 354805, 3798121; 355005, 3798021; 355105, 3797821; 355305, 3797621; 355405, 3797421; 355705, 3797321; 355805, 3797221; 355905, 3797221; 356005, 3797421; 356105, 3797321; 356305, 3797321; 356405, 3797221; 356705, 3797221; 356705, 3797321; 356605, 3797664; 356605, 3798021; 357105, 3798021; 357205, 3798121; 357205, 3798421; 357705, 3798421; 357705, 3798821; 357905, 3798821; 357905, 3798721; 357905, 3798621; 357905, 3798421; 358105, 3798421; 358205, 3798321; 358205, 3798221; 358305, 3798121; 358505, 3798021; 358605, 3797921; 358805, 3797821; 358905, 3797821; 358905, 3797621; 358805, 3797621; 358705, 3797521; 358605, 3797321; 358605, 3797221; 359005, 3797221; 359305, 3797321; 359305, 3797421; 359205, 3797521; 359205, 3797921; 359105, 3798121; 359005, 3798221; 358905, 3798321; 358605, 3798321; 358605, 3798521; 358505, 3798621; 358505, 3798921; 358205, 3799021; 357945, 3799076; 357939, 3799219; 358105, 3799221; 358105, 3799321; 358005, 3799421; 358105, 3799421; 358405, 3799321; 358505, 3799321; 358505, 3799421; 358405, 3799521; 358105, 3799521; 358105, 3799721; 358005, 3800021; 357905, 3800021; 357905, 3799621; 357805, 3799621; 357705, 3799521; 357605, 3799521; 357505, 3799421; 357405, 3799321; 357305, 3799321; 357305, 3799121; 357005, 3799121; 357005, 3799221; 356905, 3799421; 356805, 3799521; 356805, 3799721; 356605, 3799821; 356405, 3799821; 356305, 3799821; 356063, 3799821; 356005, 3799721; 355905, 3799621; 355805, 3799821; 355805, 3800021; 355905, 3800121; 355905, 3800221; 355805, 3800321; 355705, 3800421; 355736, 3800462; 355802, 3800513; 355905, 3800521; 355905, 3800621; 356605, 3800521; 356805, 3800521; 356805, 3800621; 356605, 3800721; 355805, 3800748; 355805, 3800821; 355605, 3801021; 355505, 3801121; 355505, 3801521; 355405, 3801521; 355305, 3801321; 355305, 3801021; 355405, 3800921; 355505, 3800821; 355605, 3800621; 355705, 3800521; 355665, 3800443; 355654, 3800421; 355605, 3800421; 355505, 3800321; 355464, 3800156; 355305, 3800198; 355305, 3800521; 355105, 3800521; 355105, 3800321; 354905, 3800421; 354875, 3800459; 354805, 3800421; 354766, 3800262; 354662, 3800229; 354624, 3800359; 354505, 3800321; 354452, 3800240; 354421, 3800305; 354405, 3800521; 354105, 3800521; 354105, 3800404; 354026, 3800330; 354005, 3800521; 353905, 3800521; 353759, 3800421; 353705, 3800721; 353505, 3800721; 353505, 3800821; 354205, 3800821; 354205, 3800921; 353905, 3800921; 353905, 3801021; 353805, 3801121; 353705, 3801221; 353505, 3801321; 353350, 3801326; 353305, 3801521; 353105, 3801521; 352932, 3801556; 352805, 3801521; 352735, 3801439; 352650, 3801448; 352805, 3801621; 352905, 3801721; 352905, 3801821; 352805, 3801921; 352705, 3802121; 352605, 3802221; 352505, 3802321; 352405, 3802376; 352405, 3802538; 352505, 3802521; 352605, 3802421; 352705, 3802421; 352755, 3802496; 352712, 3802545; 352705, 3802621; 353005, 3802621; 353005, 3802521; 353205, 3802421; 353305, 3802421; 353405, 3802421; 353505, 3802321; 353612, 3802203; 353783, 3802218; 353804, 3802119; 353905, 3802021; 354005, 3802021; 354005, 3802121; 353905, 3802219; 353905, 3802509; 353905, 3802613; 353905, 3802776; 353923, 3802821; 354005, 3802821; 354069, 3803001; 354205, 3803021; 354305,

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361405, 3797624; 361405, 3797421; 361105, 3797421; 361005, 3797221; 360905, 3797121; 360705, 3797021; 360505, 3796921; 360405, 3796821; 359805, 3796721; 359605, 3796621; 359505, 3796521; 359405, 3796421; 359405, 3796221; 357905, 3796221; 357505, 3796121; 357105, 3796121; 356705, 3796221; 356505, 3796321; 356405, 3796321; 356205, 3796221; 356105, 3796121; 356005, 3796021; 355805, 3795921; 355805, 3795821; 355505, 3795821; 355505, 3796021; 355405, 3796121; 355305, 3796321; 355105, 3796421; 354805, 3796521; 354605, 3796521; 354505, 3796421; 354405, 3795821; 354405, 3795621; 354505, 3795421; 354605, 3795321; 354905, 3795221; 355205, 3795221; 355005, 3794621; 354805, 3794721; 354105, 3794721; 353705, 3794521; 353605, 3794421; 353574, 3793544; 353405, 3793621; 353205, 3793821; 353105, 3794021; 353005, 3794121; 352805, 3794221; 352305, 3794721; 352105, 3794821; 351805, 3795121; 351605, 3795221; 351505, 3795221; 350805, 3795121; 350605, 3794921; 350505, 3794521; 350405, 3794421; 350305, 3794221; 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343905, 3796621; 341605, 3796621; 341305, 3796521; 341105, 3796421; 340305, 3796221; 340005, 3796121; 339605, 3796021; 339405, 3795921; 339005, 3795721; 338005, 3795521; 338005, 3795821; 338105, 3795821; 338205, 3795921; 338205, 3796121; 338405, 3796121; 338405, 3796021; 338605, 3795921; 338705, 3795921; 338905, 3796121; 339005, 3797221; 339005, 3797721; 338805, 3797921; 338705, 3797921; 338405, 3797621; 338305, 3797521; 338205, 3797321; 338105, 3797221; 338005, 3797021; 337705, 3796721; 337605, 3796521; 337505, 3796221; 337305, 3795421; 337305, 3795121; 335805, 3795121; 335805, 3795321; 335605, 3795521; 335405, 3795521; 335105, 3795221; 334705, 3795221; 334705, 3795421; 334805, 3795421; 334905, 3795621; 335105, 3795821; 335205, 3796021; 335205, 3796721; 334805, 3796721; 334705, 3796621; 334705, 3796321; 334505, 3796321; 334205, 3796221; 334105, 3796121; 334005, 3795721; 333605, 3795821; 333305, 3795821; 332305, 3795921; 331405, 3796021; 331305, 3796121; 331405, 3796321; 331705, 3796621; 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341205, 3802721; 341205, 3802321; 341705, 3802321; 342005, 3802021; 342105, 3802021; 342305, 3802121; 342505, 3802121; 342605, 3802221; 342705, 3802521; 342705, 3802921; 342805, 3803121; 342905, 3803221; 343105, 3803321; 343205, 3803421; 343505, 3803421; 343705, 3803321; 343905, 3803321; 344105, 3803421; 344205, 3803521; 344405, 3803521; 344905, 3803021; 345105, 3802921; 345305, 3802821; 345405, 3802821; 345605, 3802721; 345705, 3802221; 345905, 3802221; 345905, 3802421; 346305, 3802521; 346405, 3802521; 346505, 3802321; 346705, 3802221; 346805, 3802021; 346905, 3801821; 346905, 3801721; 347005, 3801621; 347106, 3801588. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 349305, 3798421; 349605, 3798121; 349805, 3798021; 349905, 3797921; 350005, 3797921; 350005, 3798221; 349905, 3798321; 349705, 3798421; 349605, 3798521; 349305, 3798521. Excluding land bounded by the following UTM

NAD27 coordinates (E,N): 349005, 3797921; 349005, 3798221; 348805, 3798421; 348505, 3798521; 348293, 3798521; 348005, 3798521; 347705, 3798421; 347705, 3798221; 347305, 3798121; 347305, 3798021; 347805, 3798021; 348005, 3798121; 348405, 3797921; 348526, 3797921. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 348405, 3796321; 348205, 3796221; 348205, 3796121; 348405, 3795921; 348605, 3795621; 348705, 3795521; 348905, 3795421; 349005, 3795321; 349405, 3795321; 349466, 3795382; 349505, 3795421; 349505, 3795621; 349407, 3795646; 349105, 3795721; 349105, 3796121; 349005, 3796221; 348905, 3796421; 349050, 3796567; 349105, 3796621; 349105, 3796721; 348978, 3796753; 348705, 3796821; 348505, 3796921; 348405, 3796921. Excluding land bounded by the following UTM NAD27 coordinates (E,N): 342505, 3798721; 342705, 3798821; 342805, 3798921; 343105, 3799021; 343105, 3799421; 343805, 3799421; 343905, 3799621; 343905, 3799721; 343605, 3799721; 343505, 3799821; 343605, 3799921; 343705, 3800121; 343705, 3800721; 343605, 3801021; 342705, 3801021; 342505, 3800921; 342405, 3800821; 342105, 3800821; 341905, 3800921; 341505, 3800921; 341305, 3800821; 341205, 3800721; 340705, 3800621; 340405, 3800521; 340005, 3800421; 339805, 3800321; 339605, 3800221; 339505, 3800121; 339505, 3799621; 339605, 3799521; 340005, 3799521; 340105, 3799721; 340305, 3799921; 341605, 3800021; 341605, 3799821; 341705, 3799621; 341805, 3799321; 342005, 3799321; 342605, 3799921; 342805, 3799821; 342805, 3799521; 342605, 3799221; 342305, 3799121; 342105, 3799021; 342005, 3798921; 341905, 3798721; 341905, 3798521; 342005, 3798421; 342205, 3798421.

Land bounded by the following UTM NAD27 coordinates (E,N): 361105, 3800521; 360905, 3800621; 360605, 3800721; 360505, 3800821; 360305, 3800921; 359905, 3801021; 359605, 3801121; 359505, 3801221; 359405, 3801421; 359305, 3801521; 359205, 3801621; 359105, 3801721; 358805, 3801821; 358705, 3801821; 358705, 3802121; 358505, 3802221; 358405, 3802221; 358351, 3802021; 358088, 3802021; 358005, 3802121; 357905, 3802221; 357705, 3802321; 357605, 3802421; 357505, 3802621; 357405, 3802721; 357305, 3802821; 357248, 3802861; 357243, 3803119; 357405, 3803021; 357605, 3802921; 357905, 3802821; 358205, 3802721; 358405, 3802721; 358505, 3802921; 358605, 3803421; 358605, 3803521; 358805, 3803521; 358805, 3803421; 358905, 3803321; 359005, 3803221; 359105, 3803121; 359205, 3802921; 359346, 3802863; 359405, 3802921; 359505, 3803021; 359605, 3803121; 359705, 3803221; 359741, 3803321; 359942, 3803321; 360005, 3803021; 360105, 3802921; 360305, 3802921; 360336, 3802976; 360310, 3803652; 360405, 3803721; 360405, 3803821; 360647, 3803821; 360705, 3803721; 360805, 3803621; 360905, 3803521; 360996, 3803339; 360885, 3803336; 360905, 3803021; 361005, 3802621; 361105, 3802221; 361172, 3802137; 361205, 3802121; 361305, 3802072; 361305, 3801648; 361205, 3801521; 361105, 3801421; 361105, 3801121; 361205, 3800621; 361274, 3800621; 361305, 3800520; 361272, 3800438.

Land bounded by the following UTM NAD27 coordinates (E,N): 333205, 3795621; 333805, 3795521; 334005, 3795421; 334207, 3795310; 334105, 3795221; 334005, 3795121; 333905, 3795121; 333705, 3795221; 333305, 3795321; 332896, 3795359; 332302, 3795413; 332205, 3795421; 331905, 3795521; 331605, 3795621; 331505, 3795721; 331305, 3795821; 331652, 3795821; 331805, 3795721; 332005, 3795621; 332105, 3795621; 332309, 3795659; 332667, 3795726; 332890, 3795683.

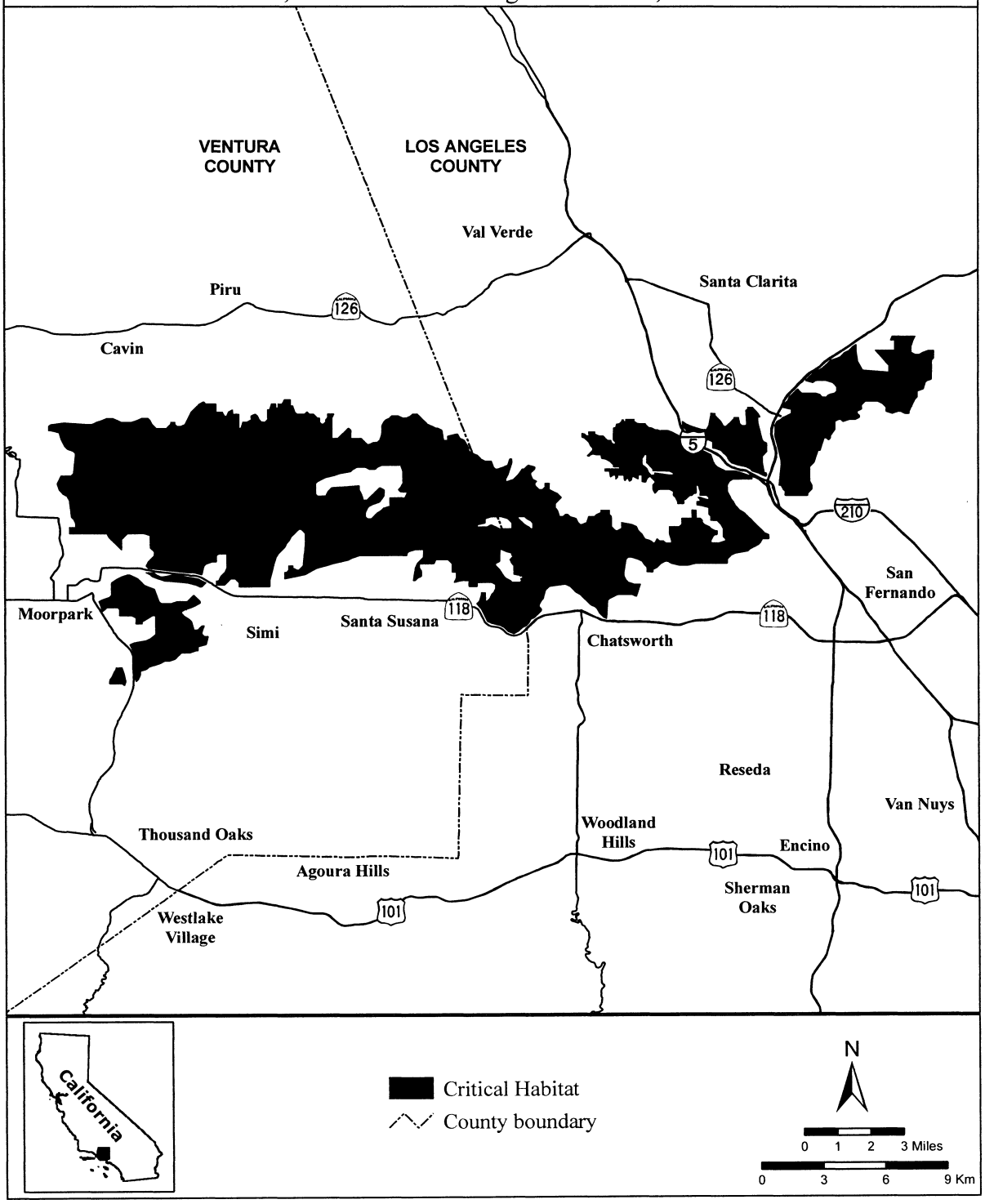
Land bounded by the following UTM NAD27 coordinates (E,N): 331305, 3791121; 331005, 3791021; 331005, 3790834; 331005, 3790821; 330905, 3790621; 330805, 3790521; 330703, 3790815; 330704, 3791122; 330704, 3791160; 330705, 3791821; 330605, 3792121; 330505, 3792321; 330705, 3792421; 331305, 3792521; 331505, 3792621; 331761, 3792820; 331749, 3793722; 331605, 3793721; 331105, 3793421; 331105, 3793321; 330805, 3793321; 330805, 3793621; 330605, 3793721; 330005, 3793721; 330005, 3794021; 329905, 3794121; 329405, 3794121; 329305, 3794021; 329175, 3793921; 329105, 3794121; 329005, 3794421; 329205, 3794521; 329505, 3794621; 329605, 3794721; 329605, 3795321; 329905, 3795521; 330105, 3795621; 330405, 3795721; 330505, 3795721; 330705, 3795621; 330905, 3795521; 331205, 3795221; 331405, 3795121; 331705, 3795021; 331905, 3794421; 332005, 3794321; 332505, 3794321; 332805, 3794421; 333305, 3794421; 333405, 3794521; 333605, 3794721; 333905, 3794421; 333905, 3794321; 333705, 3794221; 333505, 3794121; 333205, 3794021; 333005, 3793921; 333005, 3793821; 333105, 3793721; 333405, 3793521; 333505, 3793421; 333605, 3793021; 333805, 3793021; 333905, 3793121; 334005, 3793221; 334105, 3793221; 334005, 3792921; 334005, 3792821; 334105, 3792721; 334305, 3792721; 334205, 3792321; 333805, 3792221; 333805, 3792021; 333705, 3792021; 333405, 3791921; 333005, 3791921; 332705, 3791621; 332405, 3791521; 332205, 3791521; 332005, 3791421; 331405, 3791221; 331369, 3791186.

Land bounded by the following UTM NAD27 coordinates (E,N): 330105, 3790421; 329505, 3790421; 329530, 3790607; 329605, 3790721; 329705, 3790921; 329805, 3791121; 329830, 3791198; 330099, 3791198; 330253, 3790806; 330305, 3790521; 330236, 3790321.

(ii) Note: Map of Unit 13—Western Los Angeles and Ventura Counties (Map 12) follows:

BILLING CODE 4310–55–P

Map 12
Critical Habitat for Coastal California Gnatcatcher (*Polioptila californica californica*), Unit 13, Ventura and Los Angeles Counties, California



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Dated: December 4, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 07–6003 Filed 12–18–07; 8:45 am]

BILLING CODE 4310–55–C