DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF32

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Coastal California Gnatcatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat for the coastal California gnatcatcher pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed critical habitat unit boundaries encompasses approximately 323,726 hectares (799,916 acres) of gnatcatcher habitat in Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California. The actual area containing gnatcatcher habitat is smaller.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. The primary constituent elements for the gnatcatcher are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Areas that do not currently contain all of the primary constituent elements, but that could develop them in the future, may be essential to the conservation of the species and may be designated as critical habitat.

Proposed critical habitat does not include lands covered by an existing, legally operative, incidental take permit for the coastal California gnatcatcher under section 10(a)(1)(B) of the Act. The Habitat Conservation Plans (HCPs) provide for special management and protection under the terms of the permit and the lands covered by them are therefore not proposed for inclusion in the critical habitat.

In areas where HCPs have not yet had permits issued, we have proposed critical habitat for lands encompassing core populations of gnatcatchers and areas essential for habitat connectivity which may require special management considerations or protections.

We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation and our approaches for handling HCPs. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: *Comments:* We will consider comments received by April 7, 2000.

Public Hearings: The dates of three public hearings scheduled for this proposal are:

1. Los Angeles and Orange Counties—February 15, 2000.
2. San Diego County—February 17, 2000.
3. Riverside and San Bernardino Counties—February 23, 2000.

All public hearings will be held from 1:00 p.m. to 3:00 p.m. and 6:00 p.m. to 8:00 p.m.

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

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

You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008.

You may send comments by electronic mail (e-mail) to fw1cagn@fws.gov. Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: [RIN number]'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760–431–9440.

Public Hearings: Three public hearings are scheduled. Public hearing locations are:

1. Los Angeles and Orange Counties—Sheraton Anaheim Hotel, 1015 West Ball Road, Anaheim, California.
2. San Diego County—San Diego Hilton Mission Valley, 901 Camino del Rio South, San Diego, California.
3. Riverside and Bernardino Counties—Holiday Inn Select Riverside, 3400 Market Street, Riverside, California.

Availability of Documents: Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone: 760/431–9440; facsimile 760/431–9624). For information about western Los Angeles County, contact the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road Suite B, Ventura, California 93003 (telephone: 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

The insectivorous coastal California gnatcatcher (*Polioptila californica californica*) is a small (length 11 centimeters (4.5 inches), weight 6 grams (0.2 ounces)), long-tailed member of the old-world warbler and gnatcatcher family Sylviidae (American Ornithologist Union 1998). The bird's plumage is dark blue-gray above and grayish-white below. The tail is mostly black above and below. The male has a distinctive black cap which is absent during the winter. Both sexes have a distinctive white eye-ring.

The coastal California gnatcatcher is one of three subspecies of the California gnatcatcher (*Polioptila californica*). This taxon is restricted to coastal southern California and northwestern Baja California, Mexico, from Ventura and San Bernardino Counties, California, south to approximately El Rosario, Mexico, at about 30° north latitude (American Ornithologists' Union 1957, Atwood 1991, Banks and Gardner 1992, Garrett and Dunn 1981). 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 59 percent within Baja California, Mexico (Atwood 1990). A more detailed analysis, based on elevational limits associated with gnatcatcher locality records, reveals that a significant portion (65 to 70 percent) of the coastal California gnatcatcher's historic range may have been located in southern California rather than Baja California (Atwood 1992). The analysis suggested that the species occurs below about 912 meters (m) (3,000 feet (ft)) in elevation. Of the approximately 8,700 historic or current locations used in the analysis for this proposed rule, more than 99 percent were below 770 m (2,500 ft).

The coastal California gnatcatcher was considered locally common in the mid-1940s although a decline in the extent of its habitat was noted (Grinnell and Miller 1944). By the 1960s, this species had apparently experienced a significant population decline in the United States that has been attributed to widespread destruction of its habitat.

Pyle and Small (1961) reported that ''the California subspecies is very rare, and lack of recent records of this race compared with older records may indicate a drastic reduction in population.'' Atwood (1980) estimated that no more than 1,000 to 1,500 pairs remained in the United States. He also noted that remnant portions of its habitat were highly fragmented with nearly all being bordered on at least one side by rapidly expanding urban centers. Subsequent reviews of coastal California gnatcatcher status by Garrett and Dunn (1981) and Unitt (1984) paralleled the findings of Atwood (1980). The species was listed as threatened in March 1993, due to habitat loss and fragmentation resulting from urban and agricultural development, and the synergistic effects of cowbird parasitism and predation (58 FR 16742).

The coastal California gnatcatcher typically occurs in or near sage scrub habitat, which is a broad category of vegetation that includes the following plant communities as classified by Holland (1986): Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan (areas created when sediments from the stream are deposited) scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub. Based upon 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, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995).

The majority of plant species found in sage scrub habitat are low-growing, drought-deciduous shrubs and sub-shrubs. Generally speaking, most types of sage scrub are dominated by one or more of the following— California sagebrush (*Artemisia californica*), buckwheats (*Eriogonum fasciculatum* and *E. cinereum*), encelias (*Encelia californica* and *E. farinosa*), and various sages (commonly *Salvia mellifera, S. apiana,* and *S. leucophylla*). Sage scrub often occurs in a patchy, or mosaic, distribution pattern throughout the range of the gnatcatcher.

Gnatcatchers also use 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. These non-sage scrub habitats are used for dispersal and foraging (Atwood *et al.* 1998; Campbell *et al.* 1998). Availability of these non-sage scrub areas may be essential during certain times of the year, particularly during drought conditions, for dispersal, foraging, or nesting.

A comprehensive overview of the life history and ecology of the coastal California gnatcatcher is provided by Atwood (1990) and is the basis for much of the discussion presented below. The coastal California gnatcatcher is non-migratory and defends breeding territories ranging in size from 1 to 6 hectares (ha) (2 to 14 acres (ac)). Reported home ranges vary in size from 5 to 15 ha (13 to 39 ac) for this species (Mock and Jones 1990). The breeding season of the coastal California gnatcatcher extends from late February through July with the peak of nest initiations (startups) occurring from mid-March through mid-May. Nests are composed of grasses, bark strips, small leaves, spider webs, down, and other materials and are often located in California sagebrush about 1 m (3 ft) above the ground. Nests are constructed over a 4- to 10-day period. Clutch size averages four eggs. The incubation and nestling periods encompass about 14 and 16 days, respectively. Both sexes participate in all phases of the nesting cycle. Although the coastal California gnatcatcher may occasionally produce two broods in one nesting season, the frequency of this behavior is not known. Juveniles are dependent upon, or remain closely associated with, their parents for up to several months following departure from the nest and dispersal from their natal (place of birth) territory.

Dispersal of juveniles generally requires a corridor of native vegetation providing certain foraging and shelter requisites to link larger patches of appropriate sage scrub vegetation (Soule 1991). These dispersal corridors facilitate the exchange of genetic material and provide a path for recolonization of areas from which the species has been extirpated (Soule 1991 and Galvin 1998). It has been suggested that ''natal dispersal [through corridors] is therefore an important aspect of the biology of [a] * * * nonmigratory, territorial bird * * * [such as] the California gnatcatcher * * *'' Galvin (1998). Although it has also been suggested that juvenile coastal California gnatcatchers are capable of dispersing long distances (up to 22 kilometers (14 miles)) 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, Famolaro and Newman 1998, and Galvin 1998). Moreover, it is likely that populations will experience increased juvenile mortality in fragmented habitats where dispersal distances are greater than average (Atwood *et al.* 1998). This would be particularly true if dispersal was across non-or sub-optimal habitats that function as population sinks (areas where mortality is greater than reproduction rates) (Soule 1991).

Previous Federal Action

On March 30, 1993, we published a final rule determining the gnatcatcher to be a threatened species (58 FR 16741). In making this determination, we relied, in part, on taxonomic studies conducted by Dr. Jonathan Atwood of the Manomet Bird Observatory. As is standard practice in the scientific community, we cited the conclusions by Dr. Atwood in a peer reviewed, published scientific article pertaining to the subspecific taxonomy of the gnatcatcher (Atwood 1991).

On December 10, 1993, we published a final special rule concerning the take of the gnatcatcher pursuant to section 4(d) of the Act (58 FR 63088). This rule defines the conditions for which incidental take of the gnatcatcher resulting from certain land-use practices regulated by State and local governments through the Natural Community Conservation Planning Act of 1991 (NCCP) would not be a violation of section 9 of the Act. We found that implementation of the special 4(d) rule and the NCCP program provides for conservation and management of the gnatcatcher and its habitat in a manner consistent with the purposes of the Act.

The Endangered Species Committee of the Building Industry Association of Southern California and other plaintiffs filed a suit challenging the listing on several grounds, but primarily based on our conclusions regarding gnatcatcher taxonomy. In a Memorandum Opinion and Order filed in the U. S. District Court for the District of Columbia (District Court) on May 2, 1994, the District Court vacated the listing determination, holding that the Secretary of the Interior (Secretary) should have made available the underlying data that formed the basis of Dr. Atwood's conclusions on the taxonomy of the gnatcatcher.

Following the District Court's decision, Dr. Atwood released his data to the Service. We made these data available to the public for review and comment on June 2, 1994 (59 FR 28508). By order dated June 16, 1994, the District Court reinstated the threatened

status of the gnatcatcher pending a determination by the Secretary whether the listing should be revised or revoked in light of the public review and comment of Dr. Atwood's data. On March 27, 1995, we published a determination to retain the threatened status for the gnatcatcher (60 FR 15693).

At the time of the listing, we concluded that designation of critical habitat for the gnatcatcher was not prudent because such designation would not benefit the species and would make the species more vulnerable to activities prohibited under section 9 of the Act. We were aware of several instances of apparently intentional habitat destruction that had occurred during the listing process. In addition, most land occupied by the gnatcatcher was in private ownership, and we did not believe a designation of critical habitat to be of benefit because of a lack of a Federal nexus (critical habitat has regulatory applicability only for activities carried out, funded, or authorized by a Federal agency).

On May 21, 1997, the U.S. Court of Appeals for the Ninth Circuit issued an opinion (Natural Resources Defense Council v. U.S. Department of the Interior, 113 F. 3d 1121) that required us to issue a new decision regarding the prudency of determining critical habitat for the gnatcatcher. In this opinion, the Court held that the ''increased threat'' criterion in the regulations may justify a not prudent finding only when we have weighed the benefits of designation against the risks of designation. Secondly, with respect to the ''not beneficial'' criterion explicit in the regulations, the Court ruled that our conclusion that designation of critical habitat was not prudent because it would fail to control the majority of land-use activities within critical habitat was inconsistent with Congressional intent that the not prudent exception to designation should apply ''only in rare circumstances.'' The Court noted that a substantial portion of gnatcatcher habitat would be subject to a future Federal nexus sufficient to trigger section 7 consultation requirements regarding critical habitat. Thirdly, the Circuit Court determined that our conclusion that designation of critical habitat would be less beneficial to the species than another type of protection (e.g., State of California Natural Communities Conservation Program (NCCP) efforts) did not absolve us from the requirement to designate critical habitat. The Court also criticized the lack of specificity in our analysis.

On February 8, 1999, we published a notice of determination in the **Federal Register** (64 FR 5957) regarding the prudency of designating critical habitat for the gnatcatcher. We found that the designation of critical habitat was prudent on Federal lands within the range of the gnatcatcher and nonFederal lands where a current or likely future Federal nexus exists. We determined that designating critical habitat on private lands lacking a current or likely future Federal nexus or any lands subject to the provision of an approved HCP under section 10(a)(1)(B) of the Act and/or an approved NCCP under which the gnatcatcher is a covered species would provide no additional benefit to the species. Further, we determined that the threats (e.g., activities prohibited under section 9 of the Act) from designating critical habitat on private lands would outweigh the benefits in certain areas.

On August 4, 1999, in response to a motion filed by the Natural Resources Defense Council, the U.S. District Court for the Central District of California ordered the Service to propose critical habitat by October 4, 1999. In response to this order and in preparation of a proposal using our prudency determination (64 FR 5957), we had difficulty delineating critical habitat because of the uncertainty regarding likely future Federal nexuses. Since publication of the determination, we discovered that the Federal nexuses relied on in our prudency determination for several development projects no longer existed. Conversely, other projects were found to have current Federal nexuses, which were lacking when we developed the prudency determination. Given the unpredictability of determining whether a Federal nexus is likely to exist on any given parcel of private land, we have reevaluated our previous conclusion and now conclude that there may be a regulatory benefit from designating critical habitat for the gnatcatcher on private lands now lacking an identifiable Federal nexus because such lands may have a nexus to a Federal agency action in the future.

In our prudency determination (64 FR 5957), we described the threat posed by vandalism towards the gnatcatcher and its habitat, largely coastal sage scrub. We cited several cases under investigation by our Law Enforcement Division and various newspaper articles regarding this threat. We determined that the designation of critical habitat would increase the instances of habitat destruction and exacerbate threats to the gnatcatcher. Therefore, we concluded that the threat posed by vandalism that would result from designating private lands lacking a Federal nexus as critical habitat would outweigh the benefit that would be provided. We acknowledged that critical habitat may provide some benefit by highlighting areas where the species may occur or areas that are important to recovery. However, we stated that such locational data are well known, and designation of critical habitat on private lands may incite some members of the public and increase incidences of habitat vandalism above current levels.

We have reconsidered our evaluation in the prudency determination of the threats posed by vandalism. We have determined that the threats to the gnatcatcher and its habitat from the specific instances of habitat destruction we identified do not outweigh the broader educational, and any potential regulatory and other possible benefits, that a designation of critical habitat would provide for this species. The instances of likely vandalism, though real, were relatively isolated given the wide-ranging habitat of the gnatcatcher. Additionally, having determined that the existence of current or likely future Federal nexuses is an unreliable basis upon which to include or exclude private lands as critical habitat, we are not compelled to identify specific scattered parcels of private land with presumptive Federal nexuses. Instead, we are able to use a landscape approach in identifying areas for critical habitat designation that does not appear to highlight individual parcels of private land. Consequently, we conclude that designating critical habitat on private lands will not increase incidences of habitat vandalism above current levels for this species. In contrast, a designation of critical habitat will provide some educational benefit by formally identifying on a range-wide basis those areas essential to the conservation of the species and, thus, the areas likely to be the focus of our recovery efforts for the gnatcatcher. Therefore, we conclude that the benefits of designating critical habitat on nonFederal lands essential for the conservation of the gnatcatcher outweigh the risks of increased vandalism resulting from such designation.

The Service considered the existing status of lands in designating areas as critical habitat. Section 10(a) of the Act authorizes us to issue permits for the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. NonFederal lands that are covered by an

existing operative permit issued for California gnatcatcher under section 10(a)(1)(B) of the Act receive special management and protection under the terms of the permit and are therefore not being proposed for inclusion in critical habitat.

We expect that critical habitat may be used as a tool to help identify areas within the range of the California gnatcatcher most critical for the conservation of the species, and we will encourage development of HCPs for such areas on nonFederal lands. We consider HCPs to be one of the most important methods through which nonFederal landowners can resolve endangered species conflicts. We provide technical assistance and work closely with applicants throughout development of HCPs to help identify special management considerations for the California gnatcatcher. HCPs provide a package of protection and management measures sufficient to address the conservation needs of the species. Therefore, we have not included any lands covered by an existing legally-operative incidental take permit for California gnatcatcher in this proposed critical habitat designation.

In light of our decision to reconsider the prudency determination, we needed additional time to revise the determination (64 FR 5957) and develop a proposed critical habitat rule based on the revised determination. We therefore requested an extension of 120 days in which to reevaluate prudency and propose critical habitat, which the District Court granted. The Court also ordered us to publish a final critical habitat rule by September 30, 2000.

Critical Habitat

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

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. Areas that do not currently contain all of the primary constituent elements, but that could develop them in the future, may be essential to the conservation of the species and may be designated as critical habitat.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other nonFederal lands that do not involve a Federal nexus, critical habitat designation would not afford any protection under the Act against such activities.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not create a management plan, establish a preserve area where no actions are allowed, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery plans and management plans, and through section 7 consultation and section 10 HCPs.

Section 3(5)(C) of the Act generally requires that not all areas that can be occupied by a species be designated as critical habitat. Therefore, not all areas containing the primary constituent elements are necessarily essential to the conservation of the species. Areas that contain one or more of the primary constituent elements that may support gnatcatchers, but are not included within critical habitat boundaries, would be considered under other parts of the Act and/or other conservation laws and regulations.

Methods

In determining areas that are essential to conserve the gnatcatcher, we used the best scientific and commercial data available. This included data from research and survey observations published in peer reviewed articles; regional Geographic Information System (GIS) coverages; habitat evaluation models for the San Diego County Multiple Species Conservation Plan (MSCP), the North San Diego County Multiple Habitat Conservation Plans (MHCP), and the North County Subarea of the MSCP for Unincorporated San Diego County; approved HCPs; and data collected from reports submitted by biologists holding section 10(a)(1)(A) recovery permits. Following the listing of the species, a concerted effort was undertaken to survey significant portions of the species' range in San Diego and Orange Counties for the purpose of developing and implementing HCPs, and more recently, surveys of varying intensity have been conducted in Los Angeles, Riverside, San Bernardino, and Ventura Counties.

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 propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such requirements include but are not limited to—space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The areas we are proposing to designate as critical habitat provide some or all of those habitat components essential for the primary biological needs of the gnatcatcher also called primary constituent elements.

The primary constituent elements for the gnatcatcher are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Primary constituent elements are provided in undeveloped areas, including agricultural lands, that support or have the potential to support, through natural successional processes, various types of sage scrub or chaparral, grassland, and riparian habitats where they occur proximally to sage scrub and where they may be utilized for biological needs such as breeding and foraging (Atwood *et al.* 1998, Campbell *et al.* 1998). Primary constituent elements associated with the biological

needs of dispersal are also found in undeveloped areas, including agricultural lands, that provide or could provide connectivity or linkage between or within larger core areas, including open space and disturbed areas containing introduced plant species that may receive only periodic use.

Primary constituent elements include, but are not limited to, the following plant communities—Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Holland 1986). Based upon 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, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995). Dominant plants within these communities include California sagebrush, buckwheats, encelias, and various sages (commonly *Salvia mellifera, S. apiana*, and *S. leucophylla*). Other commonly occurring plants include coast goldenbush (*Isocoma menziesii*), bush monkeyflower (*Mimulus aurantiacus*), Mexican elderberry (*Sambucus mexicana*), bladderpod (*Isomeris arborea*), deerweed (*Lotus scoparius*), chaparral mallow (*Malacothamnus fasciculatum*), laurel sumac (*Malosma laurina*), and several species of *Rhus* (*R. integrifolia*, *R. ovata*, and *R. trilobata*). Succulent species, such as boxthorn (*Lycium* spp.), cliff spurge (*Euphorbia misera*), jojoba (*Simmondsia chinensis*), and various species of cacti (*Opuntia littoralis*, *O. prolifera*, and *Ferocactus viridescens*), and live-forever (*Dudleya* spp.), are represented in maritime succulent scrub, coast prickly-pear scrub, and southern coastal bluff scrubs.

Criteria Used To Identify Critical Habitat

We considered several qualitative criteria in the selection and proposal of specific areas or units for gnatcatcher critical habitat. Such criteria focused on designating units—(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, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub; (3) in documented areas of large, contiguous blocks of occupied habitat (i.e., core population areas); and/or in areas that link core populations areas (i.e., linkage areas). These criteria are similar to criteria used to identify reserve/preserve lands in approved HCPs covering the gnatcatcher.

To identify proposed critical habitat units, we first examined those lands identified for conservation under approved HCPs covering the gnatcatcher. These planning efforts utilized habitat evaluation models, gnatcatcher occurrence data, and reserve design criteria to identify reserve systems of core gnatcatcher populations and linkage areas that are essential for the conservation of the species.

We then evaluated those areas where on-going habitat conservation planning efforts have resulted in the preparation of biological analyses that identify habitat important for the conservation of the gnatcatcher. These include—the Western Riverside County MSHCP, the Rancho Palos Verdes MSHCP, the North San Diego County MHCP, the North County Subarea of the MSCP for Unincorporated San Diego County, and the Southern Subregion of Orange County's NCCP. We used those biological analyses in concert with data regarding current gnatcatcher occurrences—(1) sage scrub vegetation, (2) elevation, and (3) connectivity to identify those lands that are essential for the conservation of the gnatcatcher within the respective planning area boundaries.

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

Proposed Critical Habitat Units are defined by specific map units that have been delineated using public land survey (PLS) sections (generally one square mile) or Universal Transverse Mercator (UTM) coordinates in Spanish Land Grant areas (areas which have not been surveyed for inclusion into PLS). On Marine Corps Base Camp Pendleton we used training area boundaries and UTM coordinates. Within the Orange County NCCP Central/Coastal Subregions we used boundaries of select Existing Land Use and North Ranch Policy Plan areas.

We did not map critical habitat in sufficient detail to exclude all developed areas such as towns, housing developments, and other lands unlikely to contain primary constituent elements essential for gnatcatcher conservation. Within the delineated critical habitat unit boundaries, only lands where one or more constituent elements are found are proposed for critical habitat. Existing features and structures within proposed areas, such as buildings, roads, aqueducts, railroads, and other features, do not contain one or more of the primary constituent elements. Therefore, these areas are not proposed for critical habitat.

Proposed Critical Habitat Designation

The approximate area of proposed critical habitat by county and land ownership is shown in Table 1. Proposed critical habitat includes gnatcatcher habitat throughout the species' range in the United States (i.e., Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California). Lands proposed are under private, State, and Federal ownership, with Federal lands including lands managed by the Bureau of Land Management (BLM), Department of Defense (DOD), Service, and Forest Service. Lands proposed as critical habitat have been divided into 15 Critical Habitat Units. A brief description of each unit and reasons for proposing it as critical habitat are presented below.

Table 1. Approximate proposed critical habitat area (hectares (acres)) by county and land ownership. Estimates reflect the total area within critical habitat unit boundaries, without regard to the presence of primary constituent elements. The area actually proposed as critical habitat is therefore less than that indicated in Table 1.

County	Federal*	Local/state	Private	Total
Los Angeles	4,407 ha ..... (10,890 ac) ..	1,066 ha ..... (2,633 ac)	28,795 ha .... (71,151 ac) ..	34,268 ha (84,675 ac)

County	Federal*	Local/state	Private	Total
Orange	1,428 ha (3,529 ac)	3,736 ha (9,232 ac)	34,128 ha (84,463 ac)	39,346 ha (97,224 ac)
Riverside	7,378 ha (18,230 ac)	7,430 ha (18,360 ac)	90,726 ha (224,181 ac)	105,534 ha (260,771 ac)
San Bernardino	2,952 ha (7,295 ac)	352 ha (870 ac)	29,666 ha (73,304 ac)	32,971 ha (81,470 ac)
San Diego	35,767 ha (88,378 ac)	2,597 ha (6,418 ac)	73,243 ha (180,981 ac)	111,607 ha (275,777 ac)
Total	51,932 ha (128,322 ac)	15,181 ha (37,513 ac)	256,558 ha (634,080 ac)	323,726 ha (799,916 ac)

*Federal lands include Bureau of Land Management, Department of Defense, National Forest, and Fish and Wildlife Service lands.

Unit 1: San Diego Multiple Species Conservation Program (MSCP)

Unit 1 encompasses approximately 20,697 ha (51,141 ac) within the MSCP planning area. Lands proposed contain core gnatcatcher populations, sage scrub and areas providing connectivity between core populations and sage scrub. Proposed critical habitat includes lands within the MSCP planning areas that have not received incidental take permits for the gnatcatcher under section 10(a)(1)(B) of the Act. This includes lands essential to the conservation of the gnatcatcher within: the cities of Chula Vista, El Cajon, and Santee; major amendment areas within the San Diego County Subarea Plan; the Otay-Sweetwater Unit of the San Diego National Wildlife Refuge Complex; and water district lands owned by Sweetwater Authority, Helix Water District and Otay Water District.

Unit 2: Marine Corps Air Station, Miramar

Unit 2 encompasses approximately 4,859 ha (12,007 ac) on Marine Corps Air Station, Miramar (Station). Lands proposed include areas identified as occupied by core gnatcatcher populations in the Station's proposed Integrated Natural Resource Management Plan as well as canyons and corridors that provide east-west and north-south linkages to defined preserve lands adjacent to this unit.

Unit 3: Multiple Habitat Conservation Open Space Program (MHCOSP) for San Diego County

Unit 3 encompasses approximately 6,014 ha (14,860 ac) within the MHCOSP. Lands proposed include a core population of gnatcatchers on the Cleveland National Forest south of State Route 78 near the upper reaches of the San Diego River. It also includes important corridors of sage scrub for connectivity.

Unit 4: North San Diego County Multiple Habitat Conservation Plan (MHCP)

Unit 4 encompasses approximately 28,542 ha (70,526 ac) within the MHCP planning area in northwestern San Diego County. Lands proposed contain core gnatcatcher populations and sage scrub identified by the San Diego Association of Governments' (SANDAG) ''Gnatcatcher Habitat Evaluation Model,'' dated March 24, 1999, as high or moderate value. In addition, areas proposed provide connectivity between habitat valued as high or moderate. This unit also provides connectivity between core gnatcatcher populations within adjacent units.

Unit 5: Marine Corps Base Camp Pendleton

Unit 5 encompasses approximately 20,613 ha (50,935 ac) on Marine Corps Base Camp Pendleton (Base). Areas proposed include 26 training areas and portions of an additional 9 training areas (refer to the legal description for this unit for the names of the training areas affected). The Base contains a substantial coastal corridor of gnatcatcher-occupied sage scrub that provides the primary linkage between San Diego populations and those in southern Orange County (Unit 8). Another corridor of gnatcatcher-occupied sage scrub occurs along the Santa Margarita River valley that branches inland, connecting with habitat in the Fallbrook Naval Weapons Station (Unit 6) and further north into southwestern Riverside County (Unit 12).

Unit 6: Fallbrook Naval Weapons Station

Unit 6 encompasses approximately 3,606 ha (8,909 ac) on Fallbrook Naval Weapons Station in northern San Diego County. The unit provides a significant segment of a corridor of sage scrub between core gnatcatcher populations on Camp Pendleton (Unit 5) and populations in southwestern Riverside County (Unit 12).

Unit 7: North County Subarea of the MSCP for Unincorporated San Diego County

Unit 7 encompasses approximately 27,295 ha (67,446 ac) within the planning area for the North County Subarea of the MSCP for San Diego County. Lands proposed contain several core gnatcatcher populations and sage scrub identified as high or moderate value. In addition, proposed areas provide connectivity between habitat valued as high or moderate. This unit constitutes the primary inland linkage between San Diego populations and those in southwestern Riverside County (Unit 12).

Unit 8: Southern NCCP Subregion of Orange County

Unit 8 encompasses approximately 27,828 ha (68,763 ac) within the planning area for the Southern NCCP Subregion of Orange County. This unit contains significant core populations and provides the primary linkage for core populations on Marine Corps Base Camp Pendleton (Unit 5) to those further north in Orange County (Unit 9).

Unit 9: Central/Coastal NCCP Subregions of Orange County (Central/Coastal NCCP)

Unit 9 encompasses approximately 2,337 ha (5,776 ac) within the Orange County Central/Coastal NCCP planning area. It includes lands containing core gnatcatcher populations and sage scrub habitat determined to be essential for the conservation and recovery of the gnatcatcher within select Existing-Use Areas, the western portion of the North Ranch Policy Plan Area (i.e., west of State Route 241), and the designated reserve (panhandle portion) of Marine Corps Air Station El Toro.

Unit 10: Palos Verdes Peninsula Subregion, Los Angeles County

Unit 10 encompasses approximately 5,588 ha (13,808 ac) within the

subregional planning area for the Palos Verdes Peninsula in Los Angeles County, including the City of Rancho Palos Verdes MSHCP area. This unit includes a core gnatcatcher population and sage scrub habitat.

Unit 11: East Los Angeles County-Matrix NCCP Subregion of Orange County

Unit 11 encompasses approximately 22,130 ha (54,682 ac) within the Montebello, Chino-Puente Hills, East Coyote Hills and West Coyote Hills area. The unit provides the primary connectivity between core gnatcatcher populations and sage scrub habitat within the Central/Coastal Subregions of the Orange County NCCP (Unit 9), the Western Riverside County MSHCP (Unit 12), and the Bonelli Regional Park core population within the North Los Angeles linkage (Unit 14).

Unit 12: Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

Unit 12 encompasses approximately 106,908 ha (264,167 ac) within the proposed planning area for the Western Riverside County MSHCP. Lands proposed include core populations within the Temecula/Murietta/Lake Skinner region and the Lake Elsinore/Lake Mathews region. Also proposed are regions of connectivity and additional core populations that occur along the I–15 corridor, the Lake Perris area, the Alessandro Heights area, the Box Spring Mountains/The Badlands, and along the foothills of the Santa Ana Mountains into the Chino-Puente Hills. These areas provide connectivity between core populations within Riverside County and to populations in San Diego, San Bernardino, Orange, and Los Angeles Counties. Unit 12 encompasses some of the Core Reserves established under the Stephens' Kangaroo Rat HCP. The Lake Mathews/Estelle Mountain, Steele Peak, Lake Perris/San Jacinto Core Reserves, the Potrero Area of Critical Environmental Concern, and the Southwestern Riverside County Multi-Species Reserve provide essential habitat for the gnatcatcher and, therefore, have been proposed for designation as critical habitat.

Unit 13: San Bernardino Valley MSHCP, San Bernardino County

Unit 13 encompasses approximately 30,076 ha (74,316 ac) along the foothills of the San Gabriel Mountains and within the Jurupa Hills on the border of San Bernardino and Riverside Counties. The unit includes lands within the San Bernardino National Forest and on Norton Air Force Base. This unit contains breeding gnatcatcher populations and constitutes a primary linkage between western Riverside County (Unit 12) and eastern Los Angeles County (Unit 11).

Unit 14: East Los Angeles County Linkage

Unit 14 encompasses approximately 3,384 ha (8,361 ac) in eastern Los Angeles County along the foothills of the San Gabriel Mountains. Its main function is in establishing the primary east-west connectivity of sage scrub habitat between core gnatcatcher populations in San Bernardino County (Unit 13) to those in southeastern Los Angeles County (Unit 11).

Unit 15: Western Los Angeles County

Unit 15 encompasses approximately 13,897 ha (34,339 ac) in western Los Angeles county along the foothills of the San Gabriel Mountains. It includes breeding gnatcatcher populations and sage scrub habitat in the Placerita, Box Springs Canyon, and Plum Canyon areas. This unit encompasses the northern distributional extreme of the gnatcatcher's current range.

Effects of Critical Habitat Designation

Section 7 Consultation

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

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory. If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation we would ensure that the permitted actions do not destroy or adversely modify critical habitat.

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

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain a biological opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is

designated, if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

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

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for both the survival and recovery of the gnatcatcher is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species. Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly adversely affect critical habitat include, but are not limited to—

(1) Removing, thinning, or destroying gnatcatcher habitat (as defined in the primary constituent elements discussion), whether by burning or mechanical, chemical, or other means (e.g., woodcutting, grubbing, grading, overgrazing, construction, road building, mining, herbicide application, etc.) and

(2) Appreciably decreasing habitat value or quality through indirect effects (e.g., noise, edge effects, invasion of exotic plants or animals, or fragmentation).

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

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. In those cases, critical habitat provides little additional protection to a species, and the ramifications of its designation are few or none. However, if occupied habitat becomes unoccupied in the future, there is a potential benefit to critical habitat in such areas.

Federal agencies already consult with us on activities in areas currently occupied by the species to ensure that their actions do not jeopardize the continued existence of the species. These actions include, but are not limited to—

(1) Regulation of activities affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Regulation of grazing, mining, and recreation by the BLM or Forest Service;

(4) Road construction and maintenance, right of way designation, and regulation of agricultural activities;

(5) Regulation of airport improvement activities by the Federal Aviation Administration jurisdiction;

(6) Military training and maneuvers on Marine Corps Base Camp Pendleton and Marine Corps Air Station, Miramar and other applicable DOD lands;

(7) Construction of roads and fences along the International Border with Mexico, and associated immigration enforcement activities by the Immigration and Naturalization Service;

(8) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency;

(9) Construction of communication sites licensed by the Federal Communications Commission; and

(10) Activities funded by the U. S. Environmental Protection Agency, Department of Energy, or any other Federal agency.

All proposed critical habitat is within the geographical area occupied by the species and is likely used by gnatcatchers, whether by reproductive, territorial birds, or by birds merely moving through the area. Thus, in a broad sense, we consider all critical habitat to be occupied by the species. Federal agencies already consult with us on activities in areas currently occupied by the species to ensure that their actions do not jeopardize the continued existence of the species, thus we do not anticipate additional regulatory protection will result from critical habitat designation.

Relationship to Incidental Take Permits Issued Under Section 10

Several habitat conservation planning efforts have been completed within the range of the gnatcatcher. Principal among these are NCCP efforts in Orange and San Diego Counties. NCCP plans completed and permitted to date have resulted in the conservation of 40,208 ha (99,310 ac) of gnatcatcher habitat.

In southwestern San Diego County, the development of the MSCP has resulted in our approval of three subarea plans under section 10(a)(1)(B) of the Act. These three southern subarea plans account for approximately 95 percent of the gnatcatcher habitat in southern San Diego County. When fully implemented, the MSCP will result in the establishment of conservation areas that collectively contain 28,844 ha (71,274 ac) of coastal sage scrub vegetation within a 69,573-ha (171,917-ac) preserve area.

Additionally, we have approved the Orange County Central-Coastal NCCP/HCP and issued an incidental take permit under section 10(a)(1)(B) of the Act. Implementation of the plan will result in the conservation of 15,677 ha (38,738 ac) of Reserve lands, which contain 7,621 ha (18,831 ac) of coastal sage scrub.

The gnatcatcher habitat in the approved planning areas in San Diego and Orange Counties was selected, with our technical assistance and that of the California Department of Fish and Game (CDFG), for permanent preservation and configuration into a biologically viable interlocking system of reserves by the local jurisdictions. The reserve system established within the approved planning areas includes those habitat areas that we consider essential to the long-term survival and recovery of the gnatcatcher. In addition, the plans detail management measures for the reserve lands that protect, restore, and enhance their value as gnatcatcher habitat.

The essential gnatcatcher habitat that is within planning areas is permanently

protected in the habitat reserves; no additional private lands within the planning areas warrant designation as critical habitat. Because the gnatcatcher habitat preserved in the planning areas is managed for the benefit of the gnatcatcher under the terms of the plans, and associated section 10 (a)(1)(B) permits there are no ''additional management considerations or protections'' required for those lands. Therefore, we have determined that private lands within approved HCP planning areas and covered by an existing section 10(a)(1)(B) permit for the gnatcatcher do not meet the definition of critical habitat in the Act, and we are not proposing designation of such lands as critical habitat.

We also have approved several smaller multiple species HCPs in San Diego Riverside, Los Angeles, and Orange Counties. These include, Bennett Property, Meadowlark Estates, Fieldstone, and Poway Subarea Plan in San Diego County; Coyote Hills East and Shell Oil in Orange County; Ocean Trails in Los Angeles County; and Lake Mathews in Riverside County. These efforts have resulted in the protection of 3,743 ha (9,250 ac) of gnatcatcher habitat.

The currently approved and permitted HCPs are designed to ensure the long-term survival of covered species, including the gnatcatcher, within the plan areas. The reserve lands and other conservation lands that require protection under these approved plans encompass those lands essential for the survival and recovery of the gnatcatcher. The HCPs and implementation agreements outline management measures and protections for the conservation lands that are crafted to protect, restore, and enhance their value as gnatcatcher habitat. Because appropriate management and protection of areas essential for the conservation of the gnatcatcher are required under these approved and permitted plans, we do not believe these areas meet the definition of critical habitat nor do we believe they require designation.

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

We provide technical assistance and work closely with applicants throughout the development of HCPs to identify appropriate conservation management and lands essential for the long-term conservation of the gnatcatcher. Several HCP efforts are now underway for the gnatcatcher and other listed and non-listed species, in Orange, Los Angeles, Riverside, San Bernardino, and San Diego Counties in areas proposed herein as critical habitat. These HCPs, coupled with appropriate adaptive management, should provide for the conservation of the species. We are soliciting comments on whether future approval of HCPs and issuance of section 10(a)(1)(B) permits for the gnatcatcher should trigger revision of designated critical habitat to exclude lands within the HCP area and, if so, by what mechanism (see Public Comments Solicited section).

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

On December 10, 1993, a final special rule concerning take of the gnatcatcher was published pursuant to section 4(d) of the Act (58 FR 63088). Under the 4(d) special rule, incidental take of gnatcatchers is not considered to be a violation of section 9 of the Act if—(1) Take results from activities conducted pursuant to the requirements of the NCCP and in accordance with an approved NCCP plan for the protection of coastal sage scrub habitat, prepared consistent with the State of California's Conservation and Process Guidelines (Guidelines) dated November 1993; 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 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 5 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 gnatcatcher. These jurisdictions are—the Southern and Matrix subregions of Orange County; the cities of Rancho Palos Verdes and San Dimas in Los Angeles County; MSCP subareas in the cities of Santee, El Cajon, Chula Vista, and Coronado; the MHCP Subregion of northwestern San Diego County; the North County Subarea of San Diego's MSCP; San Diego County's MHCOSP; and six water districts in San Diego County.

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 5 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;

(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, and

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

Because, in addition to avoiding jeopardy to the gnatcatcher, the Guidelines direct habitat loss to areas with low long-term conservation potential that will not preclude

development of adequate NCCP plans and ensure that connectivity between areas of high habitat value will be maintained, we believe that allowing a small percentage of habitat loss within designated critical habitat pursuant to the 4(d) rule is not likely to adversely modify or destroy critical habitat by appreciably reducing its value for both the survival and recovery of the species. When we make a final critical habitat determination, we will prepare a new biological opinion on the 4(d) rule to formally evaluate the effects of the rule on designated critical habitat.

Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U. S. Fish and Wildlife Service, Branch of Endangered Species, 911 NE. 11th Ave., Portland, OR 97232 (telephone 503–231–2063, facsimile 503–231–6143).

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination 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. Although we could not identify any incremental effects of this proposed critical habitat designation above those impacts of listing, we will conduct an economic analysis to further evaluate this finding. We will conduct the economic analysis for this proposal prior to a final determination. When the draft economic analysis is completed, we will announce its availability with a notice in the **Federal Register**, and we will reopen the comment period for 30 days at that time to accept comments on the economic analysis or further comment on the proposed rule.

Public Comments Solicited

It is our intent that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry or any other interested party concerning this proposed rule.

In this proposed rule, we do not propose to designate critical habitat on nonFederal lands within the boundaries of an existing approved HCP and covered by an existing legally operative incidental take permit for California gnatcatchers issued under section 10(a)(1)(B) of the Act because the existing HCPs provide for development in nonessential areas and establish long-term commitments to conserve the species and areas essential to the conservation of the gnatcatcher. Therefore, we believe that such areas do not meet the definition of critical habitat because they do not need special management considerations or protection. However, we are specifically soliciting comments on the appropriateness of this approach and on the following or other alternative approaches for critical habitat designation in areas covered by existing approved HCPs:

(1) Designate critical habitat without regard to existing HCP boundaries and allow the section 7 consultation process on the issuance of the incidental take permit to ensure that any take we authorized will not destroy or adversely modify critical habitat;

(2) Designate reserves, preserves, and other conservation lands identified by approved HCPs, on the premise that they encompass areas that are essential to conservation of the species within the HCP area and that will continue to require special management protection in the future. Under this approach, all other lands covered by existing approved HCPs where incidental take for the gnatcatcher is authorized under a legally operative permit pursuant to section 10(a)(1)(B) of the Act would be excluded from critical habitat.

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

Additionally, we are seeking comments on critical habitat designation relative to future HCPs. Several conservation planning efforts are now underway for the gnatcatcher (and other listed and nonlisted species) in Orange, Los Angeles, Riverside, San Bernardino, and San Diego Counties in areas we are proposing as critical habitat. For areas where HCPs are currently under development, we are proposing to designate critical habitat for areas that we believe are essential to the conservation of the species and need special management or protection. We invite comments on the appropriateness of this approach.

In addition, we invite comments on the following or other approaches for addressing critical habitat within the boundaries of future approved HCPs upon issuance of section 10(a)(1)(B) permits for the gnatcatcher—

(1) Retain critical habitat designation within the HCP boundaries and use the section 7 consultation process on the issuance of the incidental take permit to ensure that any take we authorize will not destroy or adversely modify critical habitat;

(2) Revise the critical habitat designation upon approval of the HCP and issuance of the section 10(a)(1)(B) permit to retain only preserve areas, on the premise that they encompass areas essential for the conservation of the species within the HCP area and require special management and protection in the future. Assuming that we conclude, at the time an HCP is approved and the associated incidental take permit is issued, that the plan protects those areas essential to the conservation of the gnatcatcher, we would revise the critical habitat designation to exclude areas outside the reserves, preserves, or other conservation lands established under the plan. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries;

(3) As in (2) above, retain only preserve lands within the critical habitat designation, on the premise that they encompass areas essential for conservation of the species within the HCP area and require special management and protection in the future. However, under this approach, the exclusion of areas outside the preserve lands from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the boundaries of the preserve lands and the revision of designated critical habitat during the public review and comment process for HCP approval and permitting;

(4) Remove designated critical habitat entirely from within the boundaries of an HCP when the plan is approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no further special management or protection is required. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries; or

(5) Remove designated critical habitat entirely from within the boundaries of HCPs when the plans are approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no additional special management or protection is required.

This exclusion from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the revision of designated critical habitat during the public notification process for HCP approval and permitting.

Additionally, we are seeking comments on the following—

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

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

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

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

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

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

Peer Review

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

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

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Given the large geographic extent covered by this proposal, the high likelihood of multiple requests, and the need to publish the final determination by September 30, 2000, we have scheduled three hearings. The hearings are scheduled to be held in Anaheim for Los Angeles and Orange Counties on February 15, 2000; in San Diego for San Diego County on February 17, 2000; and in Riverside for Riverside and San Bernardino Counties on February 23, 2000. Written comments submitted during the comment period will receive equal consideration as comments presented at a public hearing. For additional information on public hearings see the **ADDRESSES** section.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand including answers to questions such as the following—(1) Are the requirements in the document clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the document? (5) What else could we do to make the proposed rule easier to understand?

Required Determinations

Regulatory Planning and Review

This document has been reviewed by the Office of Management and Budget (OMB), in accordance with Executive Order 12866. OMB makes the final determination under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. The coastal California gnatcatcher was listed as a threatened species in 1993. In fiscal years 1998 through 2000 we have conducted 50 formal section 7 consultations with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the gnatcatcher. We have also issued an estimated 15 section 10(a)(1)(B) incidental take permits for entities that have prepared HCPs for areas where the species occurs.

The areas proposed for critical habitat are currently occupied by the coastal California gnatcatcher. Under the Act, critical habitat may not be adversely modified by a Federal agency action; it does not impose any restrictions on nonFederal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2 below). Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based upon our experience with the species and its needs, we conclude that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat would currently be considered as ''jeopardy'' under the Act. Accordingly, the designation of currently occupied areas as critical habitat does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or nonFederal persons that receive Federal authorization or funding. NonFederal persons that do not have a Federal ''sponsorship'' of their actions are not restricted by the designation of critical habitat (they continue to be bound by the provisions of the Act concerning ''take'' of the species).

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the coastal California gnatcatcher since the listing in 1993. The prohibition against adverse modification of critical habitat is not

expected to impose any additional restrictions to those that currently exist because all proposed critical habitat is occupied. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

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

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

TABLE 2.—IMPACTS OF GNATCATCHER LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only [1]	Additional activities potentially affected by critical habitat designation [2]
Federal Activities Potentially Affected [3].	Activities such as removing, thinning, or destroying gnatcatcher habitat (as defined in the primary constituent elements discussion), whether by burning or mechanical, chemical, or other means (*e.g.* woodcutting, grubbing, grading, overgrazing, construction, road building, mining, herbicide application, etc.) and appreciably decreasing habitat value or quality through indirect effects (*e.g.* noise, edge effects, invasion of exotic plants or animals, or fragmentation that the Federal Government carries out.	None
Private Activities Potentially Affected [4].	Activities such as removing, thinning, or destroying gnatcatcher habitat (as defined in the primary constituent elements discussion), whether by burning or mechanical, chemical, or other means (*e.g.* woodcutting, grubbing, grading, overgrazing, construction, road building, mining, herbicide application, etc.) and appreciably decreasing habitat value or quality through indirect effects (*e.g.* noise, edge effects, invasion of exotic plants or animals, or fragmentation that require a Federal action (permit, authorization, or funding).	None

[1] This column represents the activities potentially affected by listing the gnatcatcher as a threatened species (March 30, 1993; 58 FR 16741) under the Endangered Species Act.
[2] This column represents the activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[3] Activities initiated by a Federal agency.
[4] Activities initiated by a private entity that may need Federal authorization or funding.

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

In the economic analysis, we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence. As indicated on Table 1 (see Proposed Critical Habitat Designation section) we have designated property owned by Federal, State and local governments, and private property.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are:

(1) Regulation of activities affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Regulation of grazing, mining, and recreation by the BLM or Forest Service;

(4) Road construction and maintenance, right of way designation, and regulation of agricultural activities;

(5) Regulation of airport improvement activities by the Federal Aviation Administration jurisdiction;

(6) Military training and maneuvers on Marine Corps Base Camp Pendleton and Marine Corps Air Station, Miramar and other applicable DOD lands;

(7) Construction of roads and fences along the International Border with Mexico, and associated immigration enforcement activities by the Immigration and Naturalization Service;

(8) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency;

(9) Construction of communication sites licensed by the Federal Communications Commission; and

(10) Activities funded by the U.S. Environmental Protection Agency, Department of Energy, or any other Federal agency.

Many of these activities sponsored by Federal agencies within the proposed critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization. As discussed in section 1 above, these actions are currently required to comply with the listing protections of the Act, and the designation of critical habitat is not anticipated to have any additional effects on these activities.

For actions on nonFederal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

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

In the economic analysis, we will determine whether designation of critical habitat will cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions in the economic analysis, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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

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

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will only be affected to the extent that any Federal funds, permits or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, as discussed in

section 1, these actions are currently subject to equivalent restrictions through the listing protections of the species, and no further restrictions are anticipated.

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

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of the coastal California gnatcatcher. Due to current public knowledge of the species protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provides no incremental restrictions, we do not anticipate that property values will be affected by the critical habitat designation. Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival of the gnatcatcher.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. The designation of critical habitat in areas currently occupied by the coastal California gnatcatcher imposes no additional restrictions to those currently in place, and therefore has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long range planning (rather than waiting for case by case section 7 consultations to occur).

Civil Justice Reform

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

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

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

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) and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. The Appendix to Secretarial Order 3206 ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (1997) provides that critical habitat shall not be designated in an area that may impact Tribal trust resources unless it is determined essential to conserve a listed species. The Appendix further provides that in designating critical habitat; ''the Service shall evaluate and document the extent to which the conservation needs of a listed species can be achieved by limiting the designation to other lands.''

We have determined that there are no Tribal lands essential for the conservation of the gnatcatcher because they do not support core gnatcatcher populations, nor do they provide essential linkages between core populations. Therefore, we are not proposing to designate critical habitat for the gnatcatcher on Tribal lands.

References Cited

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

Author. The primary author of this notice is Douglas Krofta (see **ADDRESSES** section)

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to 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 § 17.11(h) revise the entry for ''Gnatcatcher, coastal California''' under ''BIRDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * * * *							
BIRDS							
* * * * * * *							
Gnatcatcher, coastal California.	*Polioptila californica californica*	U.S.A. (CA), Mexico	do	T	496	17.95(b)	17.41(b)
* * * * * * *							

3. In § 17.95 add critical habitat for the coastal California gnatcatcher (*Polioptila californica californica*) under paragraph (b) in the same alphabetical order as this species occurs in § 17.11(h), to read 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, and San Diego Counties, California, on the maps below.

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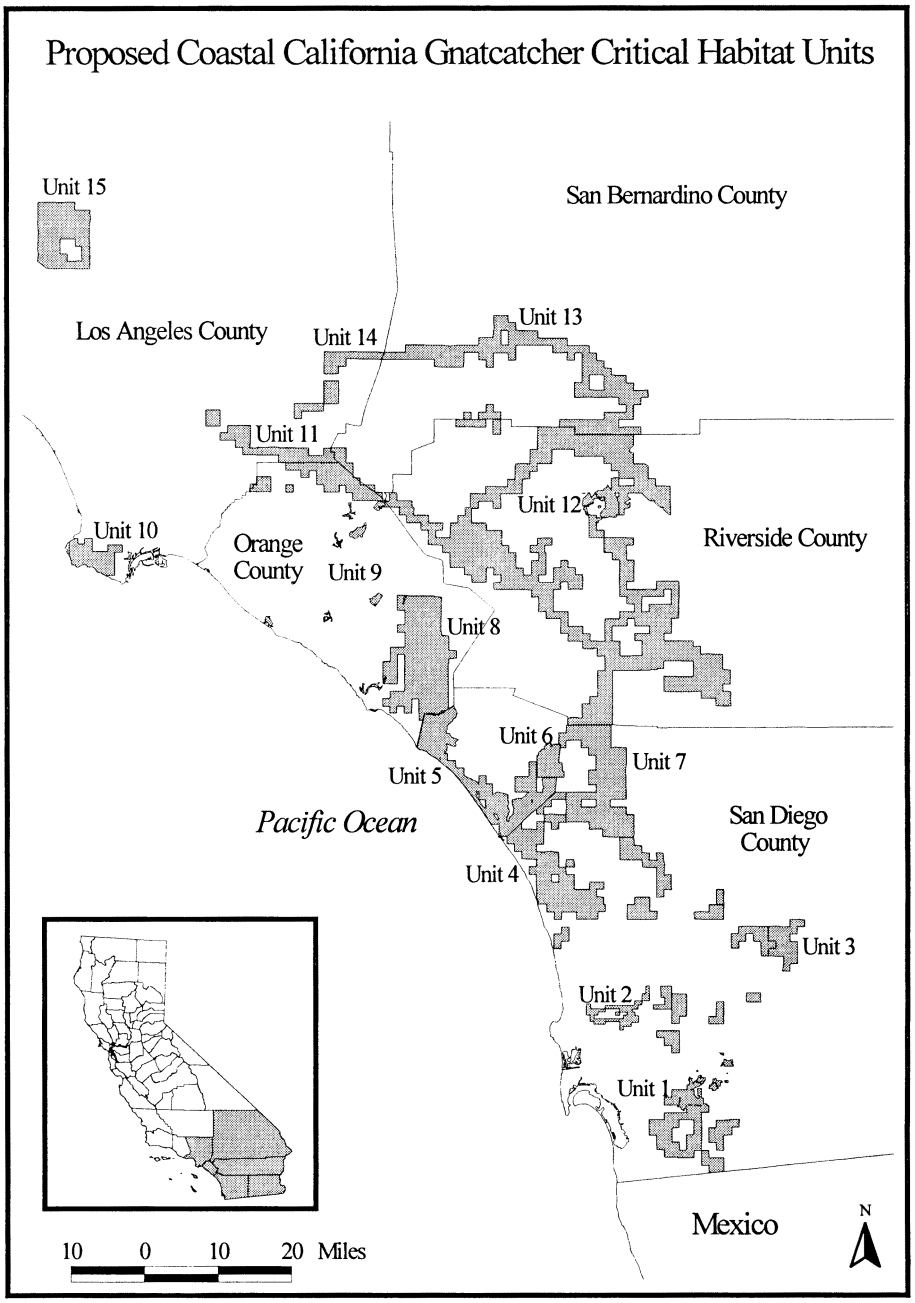
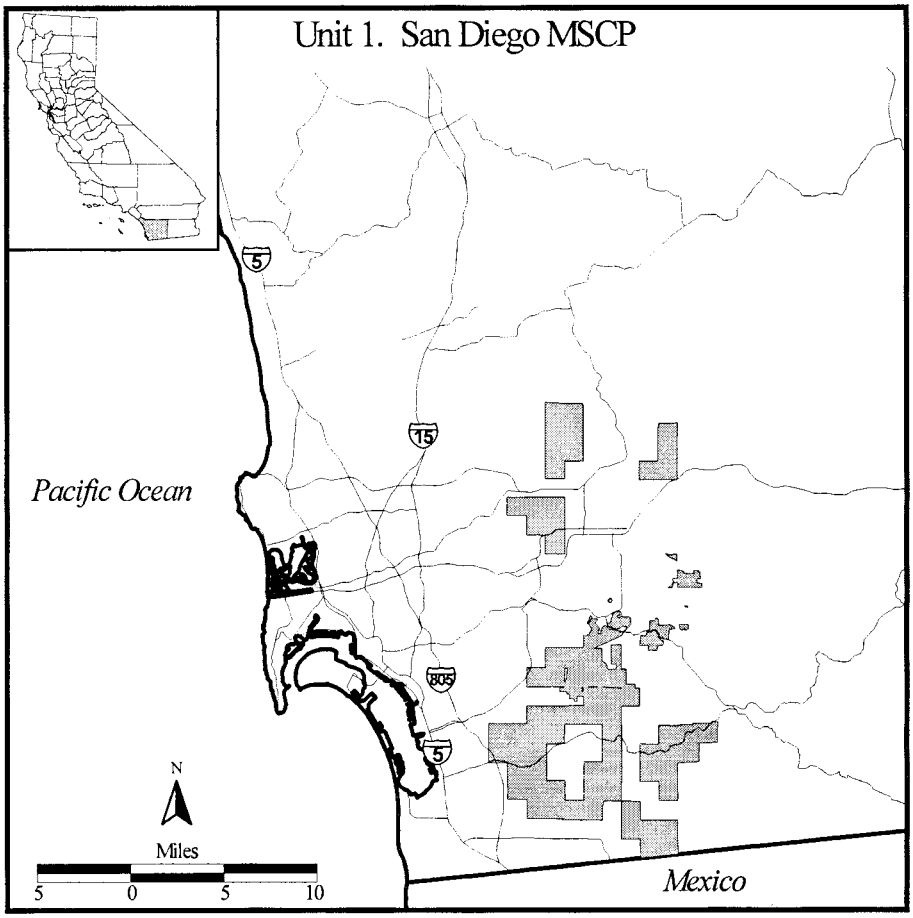


2. Within these areas, the primary constituent elements for the gnatcatcher are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering (Atwood 1990). Primary constituent elements are provided in undeveloped areas, including agricultural lands, that support or have the potential to support, through natural successional processes, various types of sage scrub or support chaparral, grassland, and riparian habitats where they occur proximal to sage scrub and where they may be utilized for biological needs such as breeding and foraging (Atwood *et al.* 1998, Campbell *et al.* 1998). Primary constituent elements associated with the biological needs of dispersal are also found in undeveloped areas, including agricultural lands, that provide or could provide connectivity or linkage between or within larger core areas, including open space and disturbed areas that may receive only periodic use.

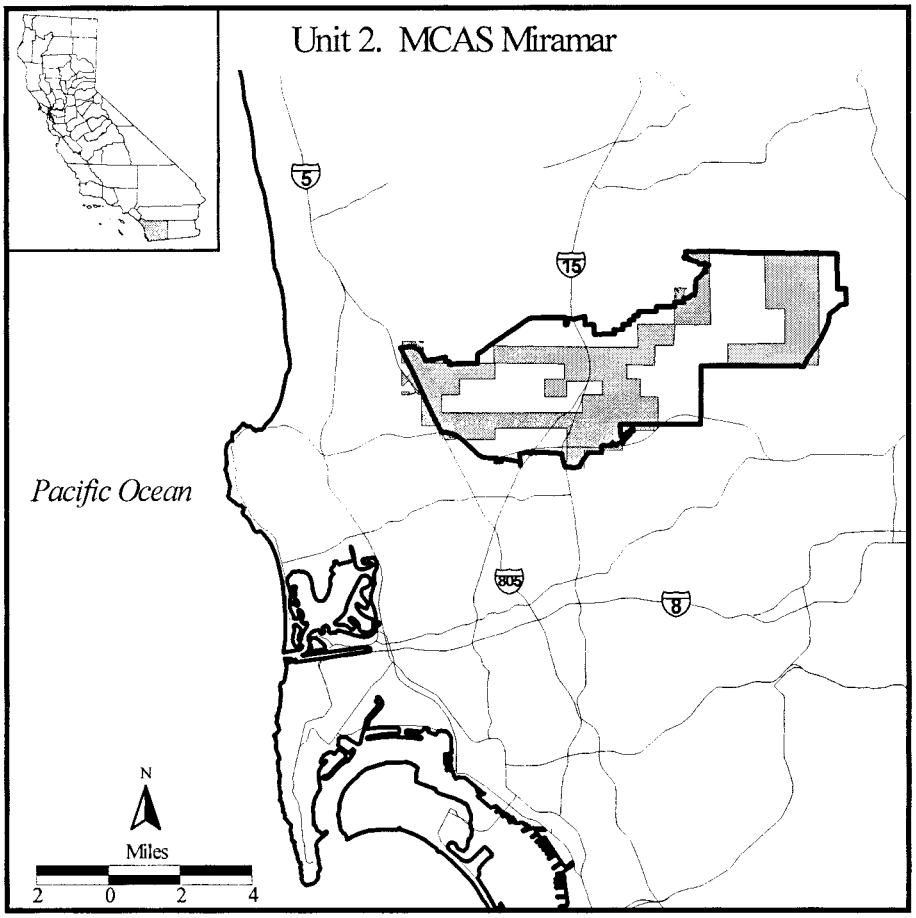
Primary constituent elements include, but are not limited to, the following plant communities: Venturan coastal sage scrub, Diegan coastal sage scrub, maritime succulent scrub, Riversidean sage scrub, Riversidean alluvial fan scrub, southern coastal bluff scrub, and coastal sage-chaparral scrub (Holland 1986). Based upon 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, coast prickly-pear, mixed sage, purple sage, scalebroom, and white sage (Sawyer and Keeler-Wolf 1995). Dominant species within these plant communities include California sagebrush (*Artemisia californica*), buckwheats (*Eriogonum fasciculatum* and *E. cinereum*), encelias (*Encelia californica* and *E. farinosa*), and various sages (commonly *Salvia mellifera, S. apiana,* and *S. leucophylla*). Other commonly occurring plants include coast goldenbush (*Isocoma menziesii*), bush monkeyflower (*Mimulus aurantiacus*), Mexican elderberry (*Sambucus mexicana*), bladderpod (*Isomeris arborea*), deerweed (*Lotus scoparius*), chaparral mallow (*Malacothamnus fasciculatum)*, and laurel sumac (*Malosma laurina*), and several species of *Rhus* (*R. integrifolia, R. ovata,* and *R. trilobata*). Succulent species, such as boxthorn (*Lycium spp.*), cliff spurge (*Euphorbia misera*), jojoba (*Simmondsia chinensis*), and various species of cacti (*Opuntia littoralis, O. prolifera, and Ferocactus viridescens*), and live-forever (*Dudleya spp.*), are represented in maritime succulent scrub, coast prickly-pear scrub, and southern coastal bluff scrubs.

3. Critical habitat does not include nonFederal lands covered by a legally operative incidental take permit for the coastal California gnatcatcher issued under section 10(a)(1)(B) of the Act on or before February 7, 2000.

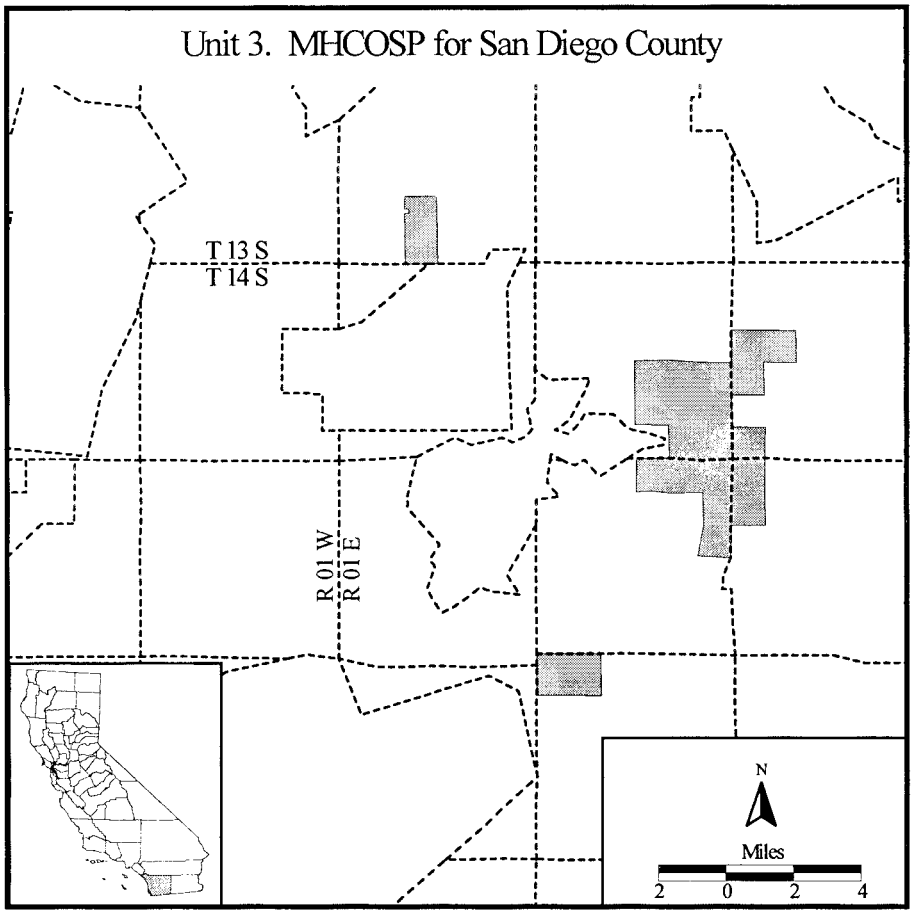


Map Unit 1: San Diego County MSCP, San Diego County, California. From USGS 1:100,000 quadrangle maps San Diego (1980) and El Cajon (1982), California. Lands defined by the boundaries of the Otay-Sweetwater Unit of the San Diego National Wildlife Refuge Complex and the San Miguel Major Amendment Area for the San Diego Multiple Species Conservation Program. Lands within T. 12 S., R. 01 E., San Bernardino Principal Meridian, secs. 28 and 33; T. 12 S., R. 01 W., San Bernardino Principal Meridian, secs. 20 and 30; T. 13 S., R. 01 E., San Bernardino Principal Meridian, sec. 5; T. 13 S., R. 02 W., San Bernardino Principal Meridian, sec. 12; T. 13 S., R. 03 W., San Bernardino Principal Meridian, secs. 2, 10, and 13; T. 14 S., R. 01 W., San Bernardino Principal Meridian, secs. 29 and 32; T. 14 S., R. 02 W., San Bernardino Principal Meridian, sec. 35; T. 15 S., R. 01 E., San Bernardino Principal Meridian, sec. 9; T. 15 S., R. 01 W., San Bernardino Principal Meridian, secs. 3–5; T. 15 S., R. 02 E., San Bernardino Principal Meridian, sec. 6; T. 15 S., R. 02 W., San Bernardino Principal Meridian, secs. 2, 3, and 12; T. 15 S., R. 03 W., San Bernardino Principal Meridian, sec. 9; T. 16 S., R. 01 W., San Bernardino Principal Meridian, sec. 5; T. 17 S., R. 01 E., San Bernardino Principal Meridian, secs. 19, 27, and 33–35; T. 17 S., R. 01 W., San Bernardino Principal Meridian, secs. 5, 10, 11, 15–17, 23–28, and 33; T. 18 S., R. 01 E., San Bernardino Principal Meridian, secs. 3–5, 8, 9, 16, 19, 28–30, 32, and 33; T. 18 S., R. 01 W., San Bernardino Principal Meridian, secs. 13, 17, 18, and 20–23. The following lands within Rincon del Diablo Land Grant: UTM coordinates (X, Y) 497000, 3667600; 497100, 3667600; 500000, 3664000; 497000, 3662400; 497000, 3667600. The following lands within San Bernardino (Snook) Land Grant: UTM coordinates (X, Y) 492200, 3661600; 495500, 3661600; 495500, 3658500; 497200, 3658500; 497000, 3657000; 496600, 3656700; 490600, 3656700; 490600, 3660000; 492200, 3660000; 492200, 3661600. The following lands within Canada de San Vicente y Mesa del Padre Barona Land Grant: UTM coordinates (X, Y) 515000, 3651400; 515000, 3650400; 513300, 3650400; 513300, 3651100; 515000, 3651400. The following lands within El Cajon Land Grant: UTM coordinates (X, Y) 501000, 3640000; 503600, 3640400; 503600, 3635600; 502000, 3635600; 502000, 3634100; 500300, 3634100; 500300, 3637200; 498100, 3637200; 501000, 3640000; 511600, 3638900; 511700, 3638900; 511700, 3634000; 508400, 3634000; 508400, 3635600; 510000, 3635600; 510000, 3638500; 511600, 3638900; 497000, 3632500; 502000, 3632500; 502000, 3627600; 500300, 3627600; 500300, 3629200; 498700, 3629200; 498700, 3630900; 497000, 3630900; 497000, 3632500. The following lands within Mission San Diego Land Grant: UTM coordinates (X, Y) 497000, 3632500; 502000, 3632500; 502000, 3627600; 500300, 3627600; 500300, 3629200; 498700, 3629200; 498700, 3630900; 497000, 3630900; 497000, 3632500. The following lands within Mission San Diego and Pueblo Lands of San Diego Land Grants: UTM coordinates (X, Y) 481600, 3637800; 485800, 3637400; 485800, 3636600; 484200, 3636600; 484200, 3635900; 483400, 3635900; 483400, 3635100; 489700, 3635100; 489700, 3635900; 490600, 3635900; 490600, 3636500; 489000, 3636500; 489000, 3635800; 488000, 3635800; 488000, 3636600; 488900, 3636600; 488900, 3637300; 491700, 3637300; 491700, 3636600; 492300, 3636600; 492300, 3635800; 493100, 3635800; 493100, 3634300; 491500, 3634300; 491500, 3633400; 489800, 3633400; 489800, 3632600; 489000, 3632600; 489000, 3634400; 485800, 3634400; 485800, 3633900; 483300, 3633900; 483300, 3634500; 482500, 3634500; 482500, 3635900; 481600, 3635900; 481600, 3637800. The following lands within Jamacho and La Nacion Land Grants: UTM coordinates (X, Y) 500300, 3619600; 504500, 3619600; 504500, 3619500; 504000, 3618000; 503000, 3617800; 502000, 3617800; 502000, 3617200; 500300, 3616200; 498700, 3616200; 498700, 3617900; 500300, 3617900; 500300, 3619600. The following lands within La Nacion, Otay (Dominguez), and Otay (Estudillo) Land Grants: UTM coordinates (X, Y) 498700, 3614600; 500500, 3614600; 501500, 3611300; 500400, 3611300; 500400, 3608200; 502000, 3608200; 502000, 3606500; 503600, 3606500; 503600, 3609800; 505200, 3609800; 505200, 3613000; 506900, 3613000; 506900, 3608000; 507000, 3607000; 507000, 3606000; 506300, 3606400; 505300, 3606400; 505300, 3606000; 501900, 3604900; 499900, 3604900; 497000,

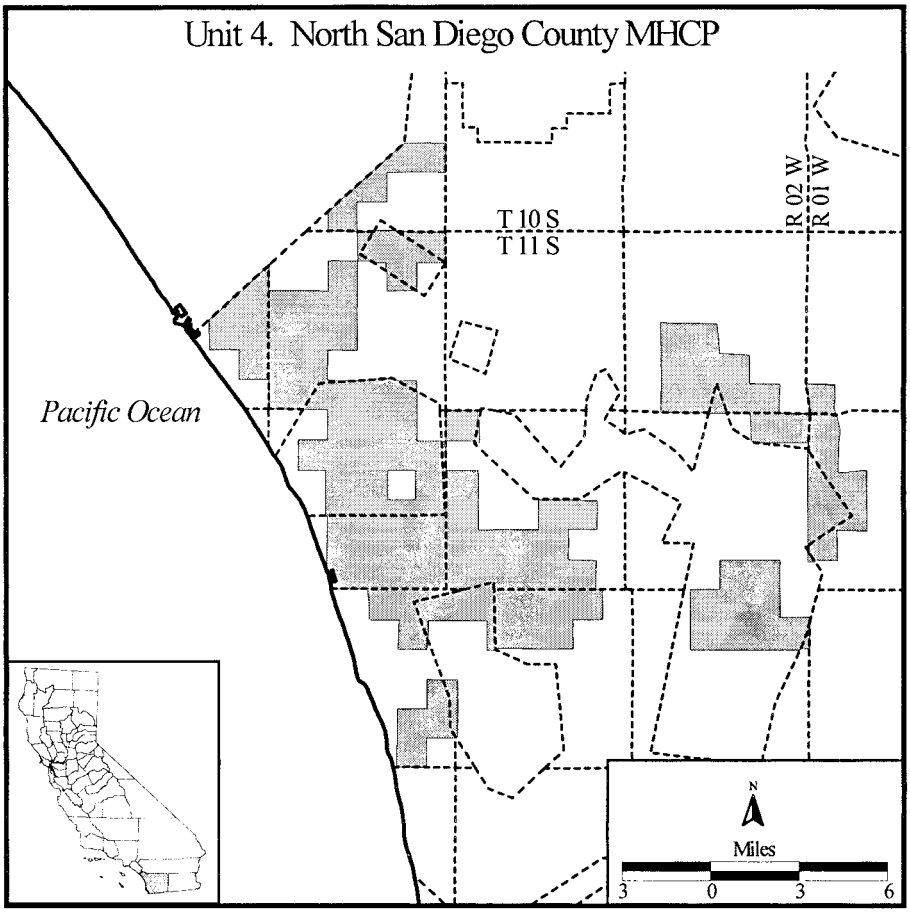
3607600; 497000, 3609700; 495400, 3609700; 495400, 3613100; 498700, 3613100; 498700, 3614600. The following lands within Jamul Land Grant: UTM coordinates (X, Y) 514600, 3613200; 515200, 3613200; 515200, 3612700; 514000, 3611000; 510000, 3610000; 510000, 3612000; 511900, 3613000; 513000, 3613000; 513000, 3613100; 514600, 3613100; 514600, 3613200.



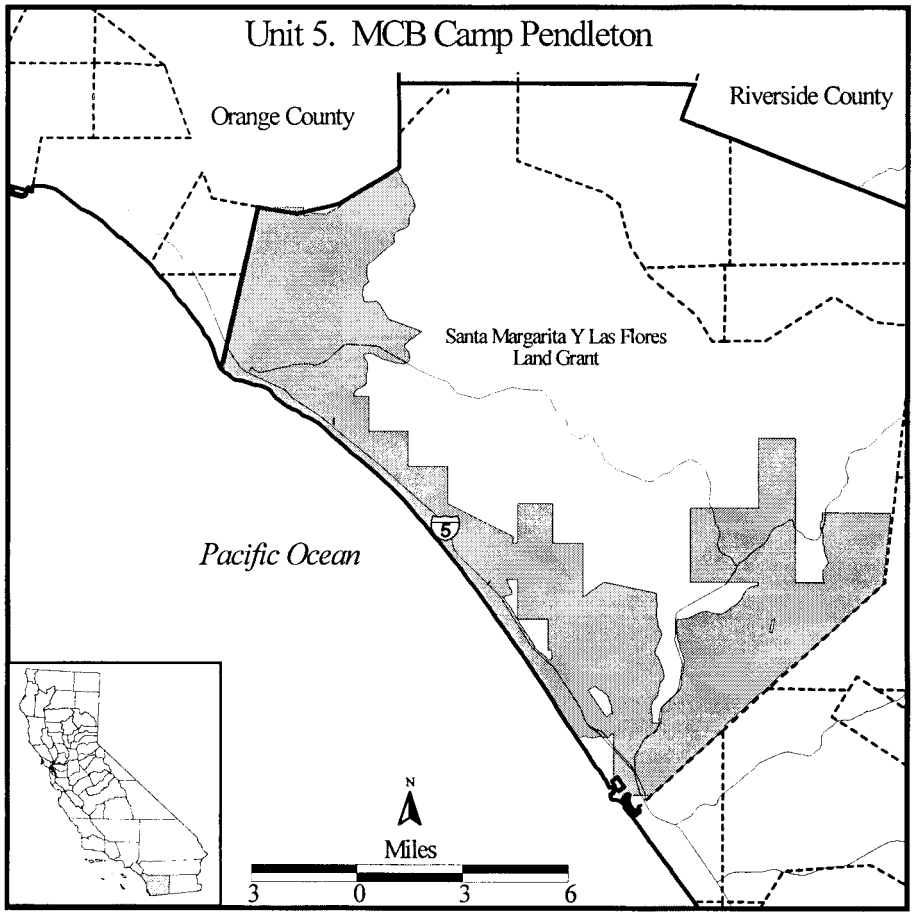
Map Unit 2: Marine Corps Station, Miramar, San Diego County, California. From USGS 1:100,000 quadrangle maps El Cajon (1982) and San Diego (1980), California. Lands within the following: T. 15 S., R. 3 W., San Bernardino Principal Meridian, SE. ¼ sec. 9; S. ½ sec. 12. Lands within T. 14 S., R. 2 W., San Bernardino Principal Meridian, E.½ sec. 35. Federal lands within T. 15 S., R. 2 W., San Bernardino Principal Meridian, sec. 2; S. ½ sec. 7; S. ½ sec. 8; S½ sec. 9; sec. 10 except SE. ¼. Lands within T. 14 S., R. 1 W., San Bernardino Principal Meridian, E. ½ sec. 31; sec. 32. Lands within T. 15 S., R. 1 W., San Bernardino Principal Meridian, NE. ¼ sec. 6; sec. 5; S. ½ sec. 7; and sec. 8. Lands within T. 15 S., R. 2 W., San Bernardino Principal Meridian, SE. ¼ sec. 12. The following lands within El Cajon Land Grant: UTM coordinates (X, Y) 501000, 3640000; 503600, 3640400; 503600, 3635600; 502000, 3635600; 502000, 3634100; 500300, 3634100; 500300, 3637200; 498100, 3637200; 501000, 3640000. The following lands within Mission San Diego and Pueblo Lands of San Diego Land Grants: UTM coordinates (X, Y) 481600, 3637800; 485800, 3637400; 485800, 3636600; 484200, 3636600; 484200, 3635900; 483400, 3635900; 483400, 3635100; 489700, 3635100; 489700, 3635900; 490600, 3635900; 490600, 3636500; 489000, 3636500; 489000, 3635800; 488000, 3635800; 488000, 3636600; 488900, 3636600; 488900, 3637300; 491700, 3637300; 491700, 3636600; 492300, 3636600; 492300, 3635800; 493100, 3635800; 493100, 3634300; 491500, 3634300; 491500, 3633400; 489800, 3633400; 489800, 3632600; 489000, 3632600; 489000, 3634400; 485800, 3634400; 485800, 3633900; 483300, 3633900; 483300, 3634500; 482500, 3634500; 482500, 3635900; 481600, 3635900; 481600, 3637800.



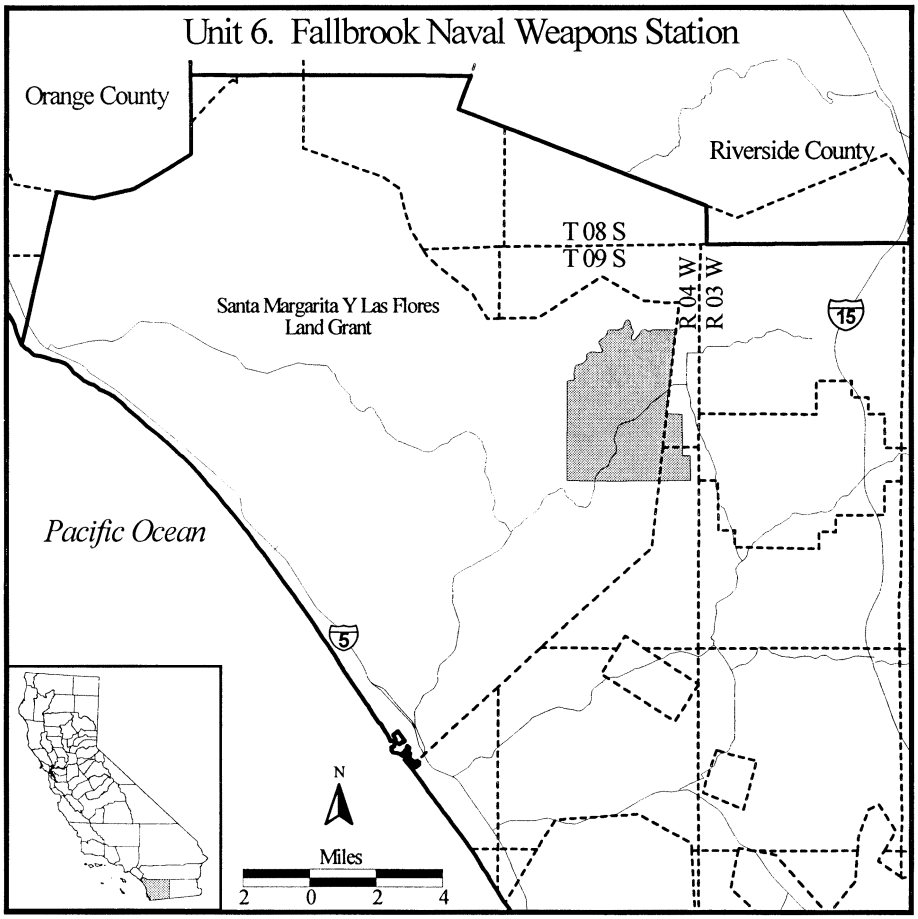
Map Unit 3: Multiple Habitat Conservation Open Space Program (MHCOSP), San Diego County, California. From USGS 1:100,000 quadrangle map Borrego Valley, California (1983). Lands within T. 12 S., R. 01 E., San Bernardino Principal Meridian, secs. 28 and 33; T. 13 S., R. 02 E., San Bernardino Principal Meridian, secs. 22–27, 35, and 36; T. 13 S., R. 03 E., San Bernardino Principal Meridian, secs. 17–19, and 31; T. 14 S., R. 02 E., San Bernardino Principal Meridian, secs. 1–3, 12, and 13; T. 14 S., R. 03 E., San Bernardino Principal Meridian, secs. 6 and 7; T. 15 S., R. 02 E., San Bernardino Principal Meridian, secs. 5 and 6.



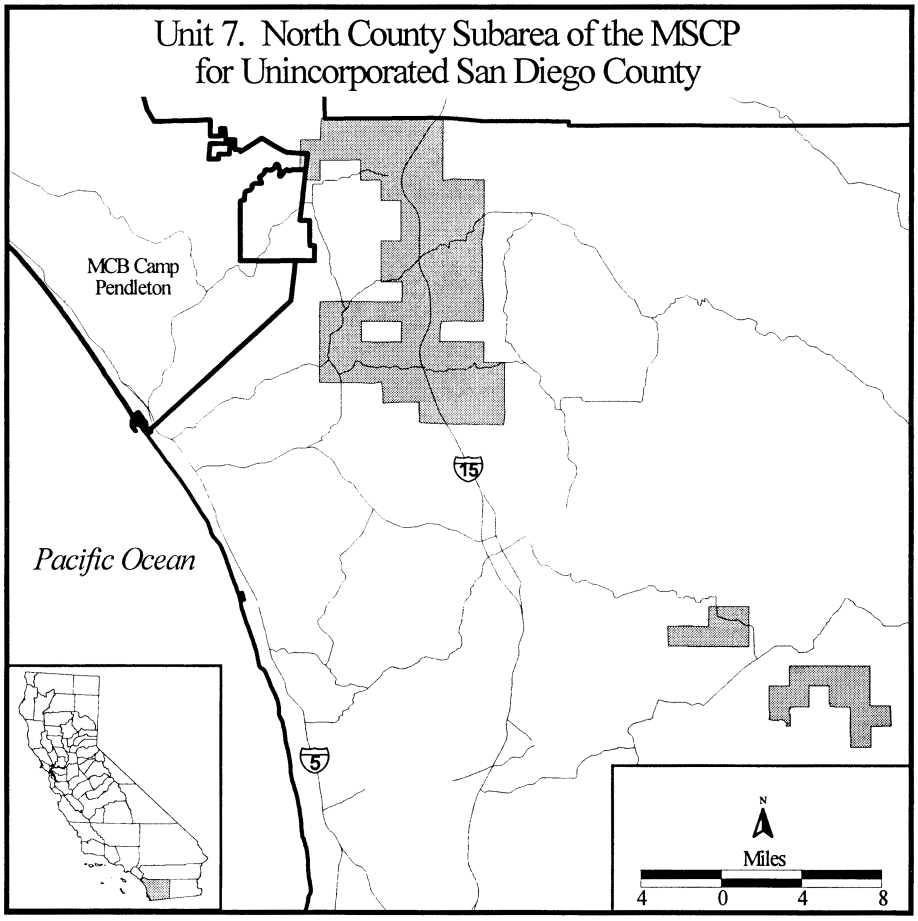
Map Unit 4: North San Diego County MHCP, San Diego County, California. From USGS 1:100,000 quadrangle map Oceanside, California (1984). Lands within T. 10 S., R. 04 W., San Bernardino Principal Meridian, secs. 22–24, 27, 28, and 33; T. 11 S., R. 01 W., San Bernardino Principal Meridian, sec. 31; T. 11 S., R. 02 W., San Bernardino Principal Meridian, secs. 20, 21, 27–29, and 32–35; T. 11 S., R. 04 W., San Bernardino Principal Meridian, secs. 1–3, 9, 11, 12, 16–21, 29–33, and 35; T. 11 S., R. 05 W., San Bernardino Principal Meridian, secs. 12–14, and 23–25; T. 12 S., R. 01 W., San Bernardino Principal Meridian, secs. 6, 7, 17–20, and 30; T. 12 S., R. 02 W., San Bernardino Principal Meridian, secs. 1 and 2; T. 12 S., R. 03 W., San Bernardino Principal Meridian, secs. 6, 18, 19, 22, 23, and 27-35; T. 12 S., R. 04 W., San Bernardino Principal Meridian, secs. 12, 13, 21–28, and 33–36; T. 13 S., R. 02 W., San Bernardino Principal Meridian, sec. 12; T. 13 S., R. 03 W., San Bernardino Principal Meridian, secs. 2–6, 8–10, and 13; T. 13 S., R. 04 W., San Bernardino Principal Meridian, secs. 1–3, 11, 24–26, and 35. The following lands within Guajome Land Grant: UTM coordinates (X, Y) 473300, 3679600; 474600, 3679600; 477300, 3677800; 477200, 3677700; 477200, 3677800; 475700, 3677800; 475700, 3676300; 475600, 3676300; 474000, 3677300; 474000, 3677800; 473300, 3677800; 472000, 3678000; 473300, 3679600. The following lands within Agua Hedionda Land Grant: UTM coordinates (X, Y) 474000, 3672000; 475700, 3670900; 475700, 3668100; 477100, 3668100; 478000, 3664000; 470700, 3664000; 470700, 3666500; 469200, 3666500; 469200, 3668200; 470800, 3668200; 470800, 3669800; 469400, 3669800; 470000, 3672000; 474000, 3672000; excluding UTM coordinates (X, Y) 474100, 3666500; 474100, 3664900; 475600, 3664900; 475600, 3666500; 474100, 3666500. The following lands within Rincon del Diablo Land Grant: UTM coordinates (X, Y) 492000, 3672000; 492700, 3669600; 491600, 3669600; 492000, 3672000; 497000, 3667600; 497100, 3667600; 500000, 3664000; 497000, 3662400; 497000, 3667600; 497000, 3662100; 497100, 3662100; 497400, 3661600; 497400, 3661500; 497000, 3661500; 497000, 3662100; 492200, 3661600; 495500, 3661600; 495500, 3658500; 497200, 3658500; 497000, 3657000; 496600, 3656700; 490600, 3656700; 490600, 3660000; 492200, 3660000; 492200, 3661600. The following lands within Los Vallecitos de San Marcos Land Grant: UTM coordinates (X, Y) 479000, 3669000; 479100, 3669000; 479100, 3668000; 478800, 3668000; 479000, 3669000. The following lands within San Bernardino (Snook) Land Grant: UTM coordinates (X, Y) 492200, 3661600; 495500, 3661600; 495500, 3658500; 497200, 3658500; 497000, 3657000; 496600, 3656700; 490600, 3656700; 490600, 3660000; 492200, 3660000; 492200, 3661600. The following lands within Los Encinitos and San Dieguito Land Grants: UTM coordinates (X, Y) 475000, 3660000; 480000, 3661000; 480000, 3656700; 479500, 3656700; 479500, 3658300; 476300, 3658300; 476300, 3657400; 476200, 3657400; 475000, 3660000; 477000, 3655100; 477900, 3655100; 477900, 3652000; 477800, 3652000; 477000, 3653000.



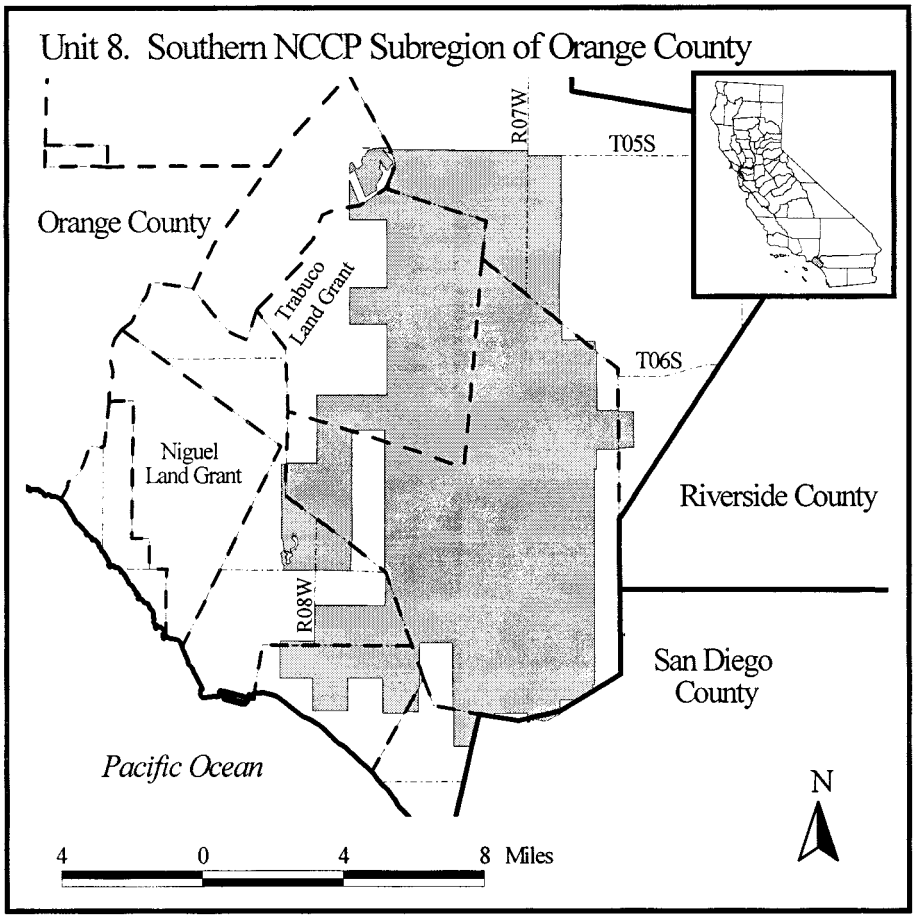
Map Unit 5: Marine Corps Base Camp Pendleton, San Diego County, California. From USGS 1:100,000 quadrangle map Oceanside, California (1984). Lands within T. 11 S., R. 05 W., San Bernardino Principal Meridian, sec. 22. The following lands within Santa Margarita y Las Flores Land Grant: UTM coordinates (X, Y) 440400, 3727400; 442300, 3727400; 447000, 3724000; 450100, 3719400; 450100, 3718600; 451100, 3718600; 451700, 3718100; 451700, 3715400; 452700, 3715400; 452700, 3713600; 451700, 3713600; 451700, 3712700; 451600, 3712700; 451600, 3702900; 451500, 3702900; 451500, 3702200; 450000, 3702200; 450000, 3700700; 448500, 3700700; 448500, 3701600; 447000, 3701600; 447000, 3700100; 445900, 3700100; 445100, 3701700; 445100, 3704800; 443600, 3704800; 443600, 3702700; 443000, 3701600; 441900, 3701600; 441900, 3703200; 440300, 3703200; 440300, 3701700; 438700, 3701700; 438700, 3703200; 437200, 3703200; 437200, 3704700; 443200, 3704700; 442000, 3708000; 442000, 3714500; 440500, 3714500; 440500, 3709200; 437000, 3711000; 437500, 3713000; 438900, 3713000; 438900, 3716100; 442100, 3716100; 442100, 3719300; 440400, 3719300; 440400, 3721000; 442100, 3721000; 442100, 3724100; 440400, 3724100; 440400, 3727400; 449800, 3692900; 451400, 3692900; 451400, 3691300; 453200, 3691300; 453200, 3689700; 455000, 3689700; 455000, 3688000; 453000, 3688000; 449800, 3690900; 449800, 3692900; 469200, 3691000; 470900, 3691000; 470900, 3684400; 475100, 3684400; 470800, 3680600; 470800, 3682700; 469200, 3682700; 469200, 3684400; 466100, 3684400; 466100, 3687800; 469200, 3687800; 469200, 3691000; 458200, 3688000; 459800, 3688000; 459800, 3686200; 461200, 3686200; 461200, 3681300; 459600, 3681300; 459600, 3682700; 458200, 3682700; 458200, 3684500; 456500, 3684500; 456500, 3686200; 458200, 3686200; 458200, 3688000; 462600, 3678000; 467700, 3678000; 467700, 3677700; 464400, 3674700; 462400, 3674700; 462600, 3675400. The Camp Pendleton Marine Corps Station Designated Areas (1996); Alpha One; Alpha Two; Bravo One; Bravo Two; Bravo Three; Juliett; Lima; Mike; November; Oscar One; Tango; Uniform; Victor; Agriculture Lease Area (North); 52 Area; 62 Area; 63 Area; 64 Area; San Onofre Housing Area; State Park Lease Area; Red Beach, White Beach; Asistencia de Las Flores; Edson Range Impact Area; Agriculture Lease Area (South); Mass 3; and Golf Course.



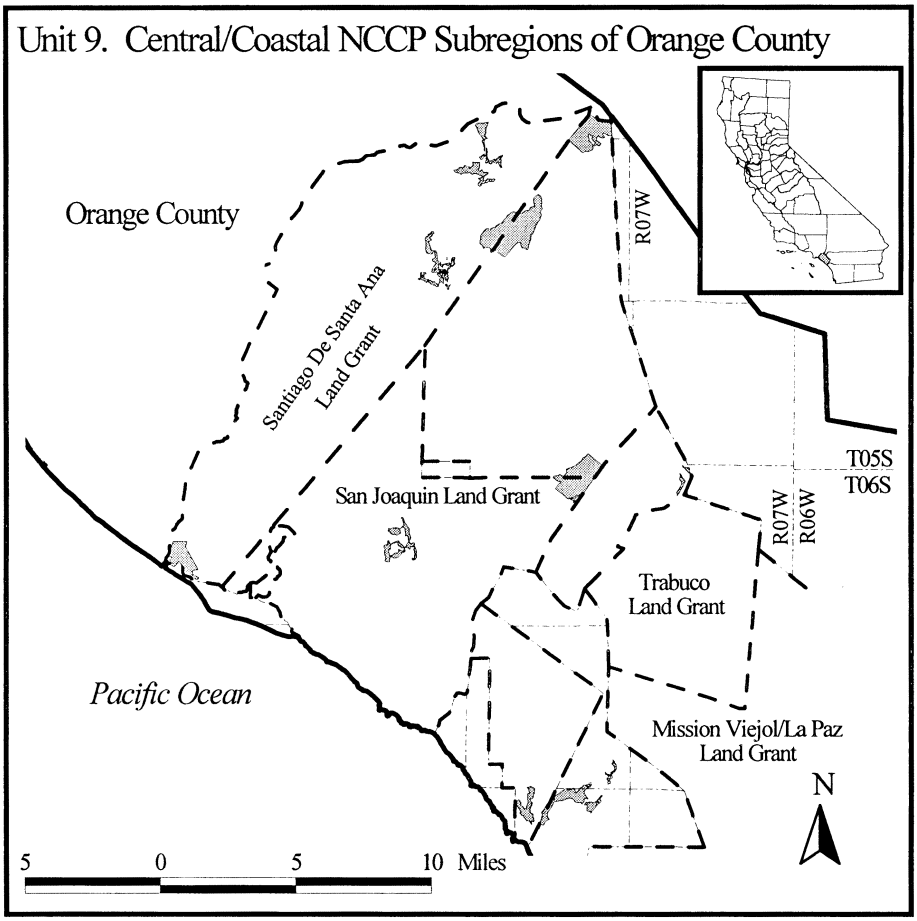
Map Unit 6: Fallbrook Naval Weapons Station, San Diego County, California. From USGS 1:100,000 quadrangle map Oceanside, California (1984): The following lands within the Santa Margarita y Las Flores Land Grant: Fallbrook Naval Weapons Station. The following Federal Lands associated with the Fallbrook Naval Weapons Station within T. 9 S., R. 4 W., San Bernardino Principal Meridian, secs. 35 and 36; T. 10 S., R. 4 W., San Bernardino Principal Meridian, secs. 1 and 2.



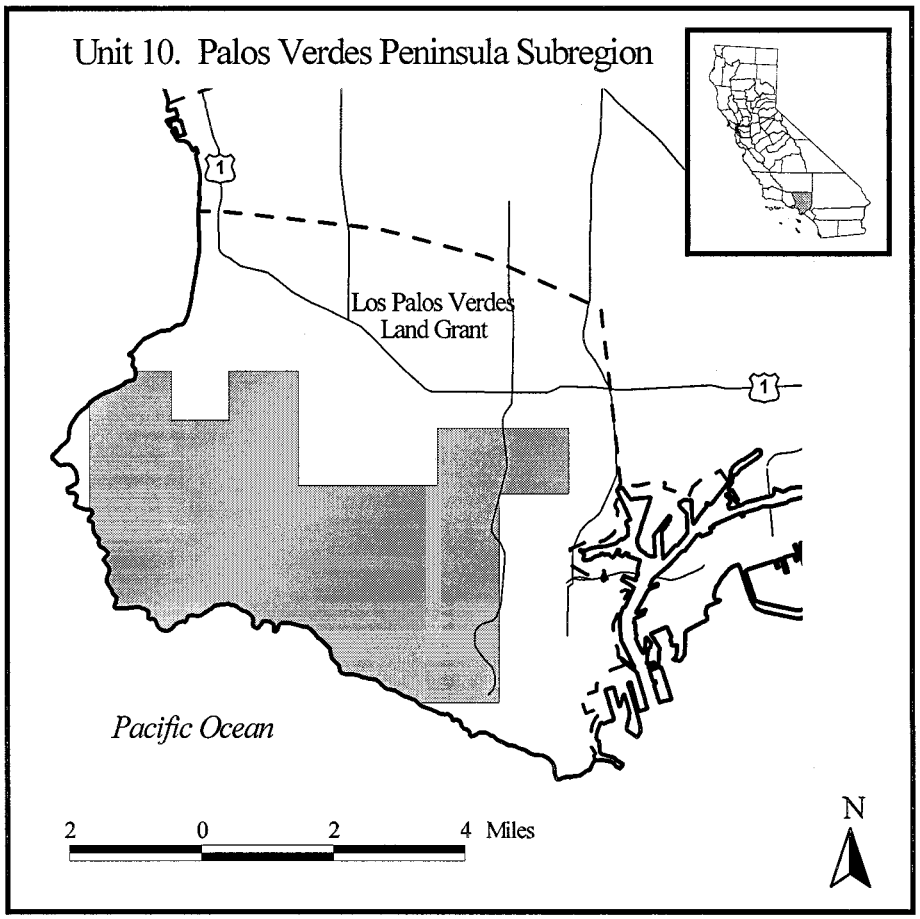
Map Unit 7: North County Subarea of the MSCP for Unincorporated San Diego County, California. From USGS 1:100,000 quadrangle map Oceanside, California (1984). Lands within T. 09 S., R. 02 W., San Bernardino Principal Meridian, secs. 19, 20, and 29–32; T. 09 S., R. 03 W., San Bernardino Principal Meridian, secs. 1–16, 22–26, and 36; T. 09 S., R. 04 W., San Bernardino Principal Meridian, secs. 12 and 13; T. 10 S., R. 02 W., San Bernardino Principal Meridian, secs. 5–8, 17–20, 31, and 32; T. 10 S., R. 03 W., San Bernardino Principal Meridian, secs. 12–14, 19-26, and 29–36; T. 11 S., R. 02 W., San Bernardino Principal Meridian, secs. 4–9 and 16–18; T. 11 S., R. 03 W., San Bernardino Principal Meridian, secs. 1–6 and 10–13; T. 13 S., R. 01 E., San Bernardino Principal Meridian, secs. 4, 5, 7, 8, 24, 25, 35, and 36; T. 13 S., R. 01 W., San Bernardino Principal Meridian, sec. 12; T. 13 S., R. 02 E., San Bernardino Principal Meridian, secs. 19–21, 28–30, 33, and 34; T. 14 S., R. 02 E., San Bernardino Principal Meridian, sec. 4. The following lands within Santa Margarita y Las Flores Land Grant: UTM coordinates (X, Y) 477000, 3697000; 476100, 3694000; 475700, 3694000; 475700, 3696200; 477000, 3697000. The following lands within Monserate Land Grant: UTM coordinates (X ,Y) 485000, 3693000; 488000, 3689000; 487000, 3685000; 484000, 3685900; 482200, 3685900; 482200, 3689200; 483800, 3689200; 483800, 3692500; 485000, 3693000. The following lands within Valle de Paro (or Santa Maria) Land Grant: UTM coordinates (X, Y) 511700, 3660000; 511700, 3656700; 506800, 3656700; 506800, 3656800; 511000, 3660000; 511700, 3660000; 514900, 3655200; 515300, 3655200; 515400, 3651900; 515000, 3651900; 515000, 3651700; 513300, 3651700; 513300, 3653600; 514900, 3653600; 514900, 3655200. The following lands within Canada de San Vicente y Mesa del Padre Barona Land Grant: UTM coordinates (X, Y) 516000, 3655000; 520000, 3655000; 519000, 3653000; 518100, 3652200; 518100, 3653600; 516400, 3653600; 516500, 3653300; 516500, 3651900; 516300, 3651900; 516000, 3653000; 519000, 3653000; 523000, 3652000; 523000, 3651000; 519800, 3649500; 519800, 3651900; 518500, 3651900; 518500, 3652000; 515000, 3651400; 515000, 3650400; 513300, 3650400; 513300, 3651100.



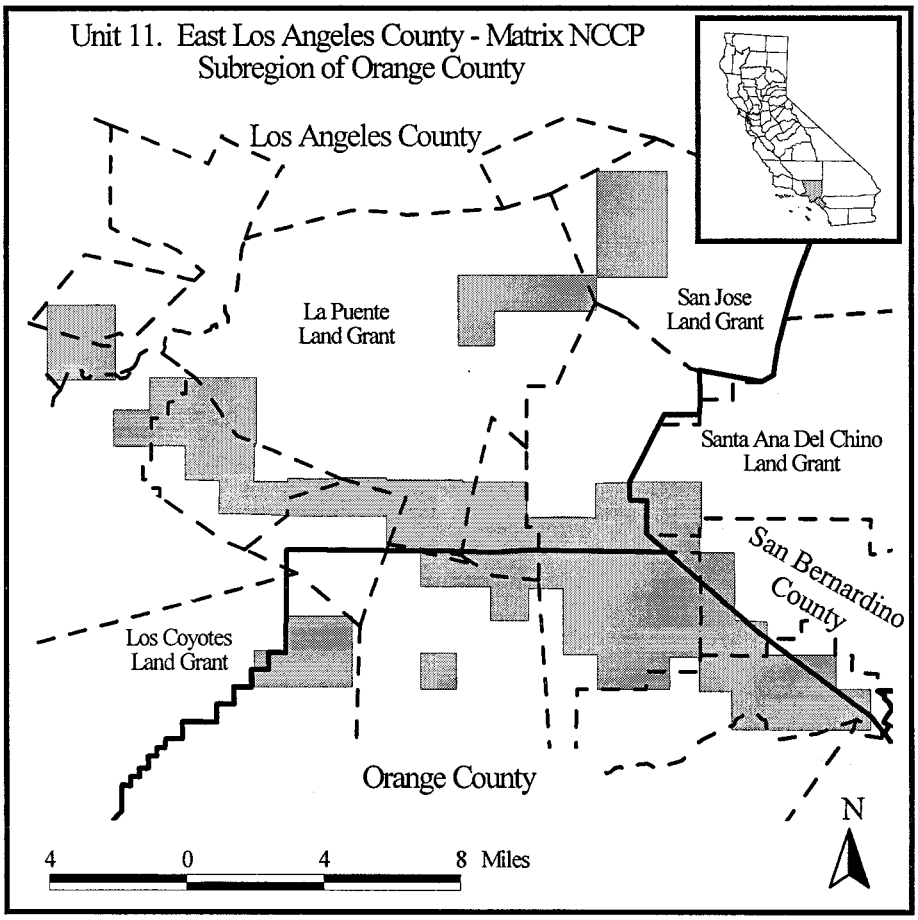
Map Unit 8: Southern NCCP Subregion of Orange County, California. From USGS 1:100,000 quadrangle maps Oceanside (1984) and Santa Ana (1985), California. Lands within T. 06 S., R. 06 W., San Bernardino Principal Meridian, secs. 6, 7, 18, 19, 30, and 32; T. 06 S., R. 07 W., San Bernardino Principal Meridian, secs. 1–4, 9–14, and 23–25; T. 07 S., R. 06 W., San Bernardino Principal Meridian, sec. 9; T. 07 S., R. 07 W., San Bernardino Principal Meridian, secs. 30 and 31; T. 07 S., R. 08 W., San Bernardino Principal Meridian, secs. 24, 25, and 36; T. 08 S., R. 07 W., San Bernardino Principal Meridian, secs. 4, 7–9, 16–18, 21, 23, and 26; T. 08 S., R. 068 W., San Bernardino Principal Meridian, sec. 13. The following lands within Boca de La Playa, Canada de Los Alisos, Mission Viejo/La Paz, and Trabuco Land Grants: UTM coordinates (X, Y) 440400, 3727400; 442300, 3727400; 447000, 3724000; 450100, 3719400; 450100, 3718600; 451100, 3718600; 451700, 3718100; 451700, 3715400; 452700, 3715400; 452700, 3713600; 451700, 3713600; 451700, 3712700; 451600, 3712700; 451600, 3702900; 451500, 3702900; 451500, 3702200; 450000, 3702200; 450000, 3700700; 448500, 3700700; 448500, 3701600; 447000, 3701600; 447000, 3700100; 445900, 3700100; 445100, 3701700; 445100, 3704800; 443600, 3704800; 443600, 3702700; 443000, 3701600; 441900, 3701600; 441900, 3703200; 440300, 3703200; 440300, 3701700; 438700, 3701700; 438700, 3703200; 437200, 3703200; 437200, 3704700; 443200, 3704700; 442000, 3708000; 442000, 3714500; 440500, 3714500; 440500, 3709200; 437000, 3711000; 437500, 3713000; 438900, 3713000; 438900, 3716100; 442100, 3716100; 442100, 3719300; 440400, 3719300; 440400, 3721000; 442100, 3721000; 442100, 3724100; 440400, 3724100; 440400, 3727400.



Map Unit 9: NCCP for Central/Coastal Subregions of Orange County (Central/Coastal NCCP), Orange County, California. From USGS 1:100,000 quadrangle maps Santa Ana (1985) and Oceanside (1984), California. Lands defined by the boundary of the designated reserve within Marine Corps Air Station El Toro within the Natural Communities Conservation Plan for the Central/Coastal Subregions. Lands within T. 06 S., R. 07 W., San Bernardino Principal Meridian, sec. 4; T. 07 S., R. 08 W., San Bernardino Principal Meridian, secs. 25 and 36. The following lands within Canon de Santa Ana and Lomas de Santiago Land Grants: UTM coordinates (X, Y) 412300, 3759800; 414500, 3759800; 414500, 3759700; 418100, 3759700; 418100, 3759600; 421100, 3759600; 421700, 3757500; 429300, 3756300; 429300, 3751500; 435600, 3751500; 435600, 3749900; 437200, 3749900; 437200, 3748000; 438000, 3748000; 437800, 3746600; 437100, 3746600; 437100, 3748000; 430700, 3748000; 430700, 3749800; 429200, 3749800; 429200, 3751400; 427800, 3751400; 427800, 3749900; 424400, 3749900; 424400, 3751500; 422800, 3751500; 422800, 3754600; 421200, 3754600; 421200, 3753100; 419400, 3753100; 419400, 3754700; 416100, 3754700; 416100, 3756400; 414500, 3756400; 414500, 3758000; 409800, 3758000; 409000, 3759000; 412300, 3759700; 412300, 3759800. The following lands within Canada de Los Alisos and Trabuco Land Grants: UTM coordinates (X, Y) 440400, 3727400; 442300, 3727400; 447000, 3724000; 450100, 3719400; 450100, 3718600; 451100, 3718600; 451700, 3718100; 451700, 3715400; 452700, 3715400; 452700, 3713600; 451700, 3713600; 451700, 3712700; 451600, 3712700; 451600, 3702900; 451500, 3702900; 451500, 3702200; 450000, 3702200; 450000, 3700700; 448500, 3700700; 448500, 3701600; 447000, 3701600; 447000, 3700100; 445900, 3700100; 445100, 3701700; 445100, 3704800; 443600, 3704800; 443600, 3702700; 443000, 3701600; 441900, 3701600; 441900, 3703200; 440300, 3703200; 440300, 3701700; 438700, 3701700; 438700, 3703200; 437200, 3703200; 437200, 3704700; 443200, 3704700; 442000, 3708000; 442000, 3714500; 440500, 3714500; 440500, 3709200; 437000, 3711000; 437500, 3713000; 438900, 3713000; 438900, 3716100; 442100, 3716100; 442100, 3719300; 440400, 3719300; 440400, 3721000; 442100, 3721000; 442100, 3724100; 440400, 3724100; 440400, 3727400.

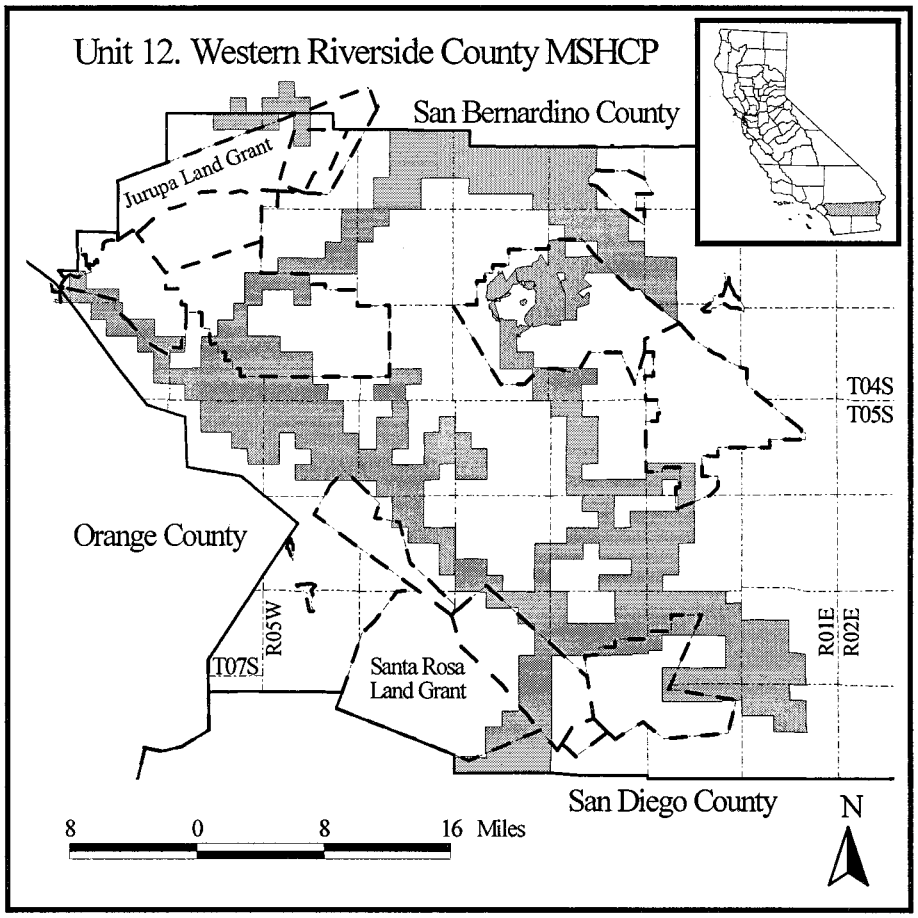


Map Unit 10: Palos Verdes Peninsula Subregion, Los Angeles County, California. From USGS 1:100,000 quadrangle map Long Beach, California (1981). The following lands within Los Palos Verdes Land Grant: UTM coordinates (X, Y) 369800, 3739900; 370700, 3739900; 370700, 3738700; 372100, 3738700; 372100, 3739900; 373800, 3739900; 373800, 3737100; 377200, 3737100; 377200, 3738500; 380400, 3738500; 380400, 3736900; 378700, 3736900; 378700, 3731800; 376500, 3731800; 369000, 3734000; 368700, 3735900; 368700, 3739300; 369800, 3739900.



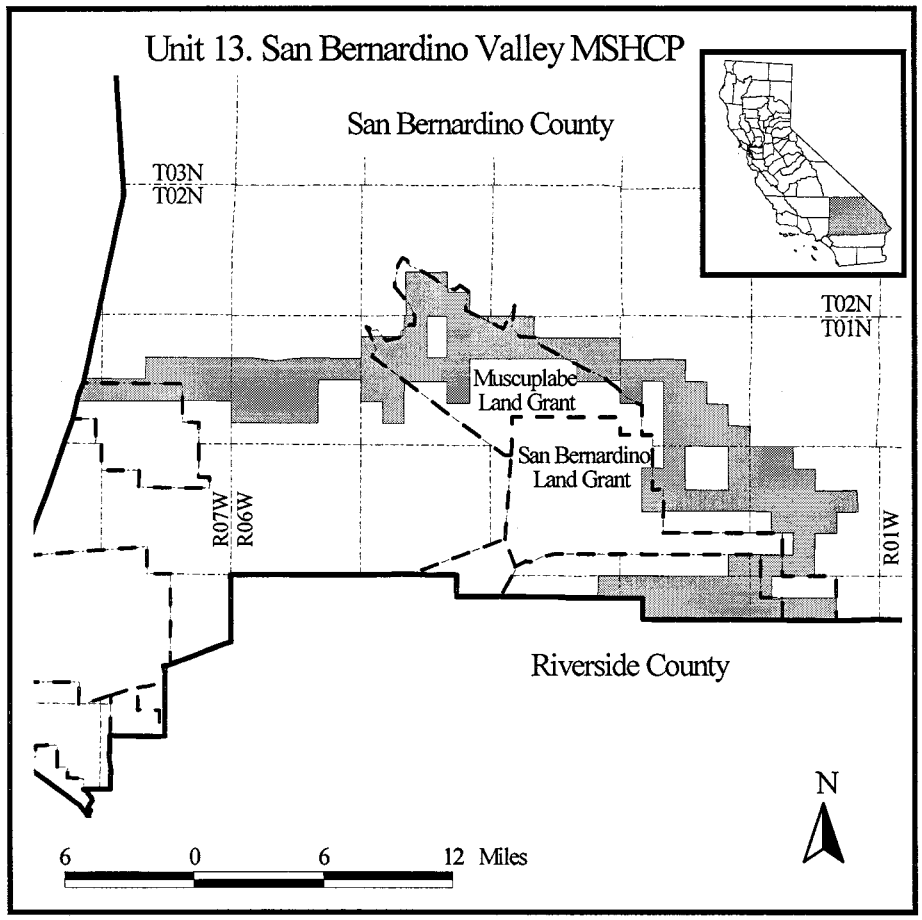
Map Unit 11: East Los Angeles-Orange County Matrix NCCP Subregion of Orange County, Los Angeles County and Orange County, California. From USGS 1:100,000 quadrangle maps Long Beach (1981), Los Angeles (1983), San Bernardino (1982), and Santa Ana (1985), California. Lands within T. 01 S., R. 09 W., San Bernardino Principal Meridian, secs. 28 and 33; T. 02 S., R. 08 W., San Bernardino Principal Meridian, sec. 31; T. 02 S., R. 09 W., San Bernardino Principal Meridian, secs. 20, 22, 23, 26, 27, 29, and 32–36; T. 02 S., R. 10 W., San Bernardino Principal Meridian, secs. 20, 29, and 30; T. 02 S., R. 11 W., San Bernardino Principal Meridian, secs. 3, 9, 10, 13–16, 21–23, 25, 26, and 36; T. 03 S., R. 08 W., San Bernardino Principal Meridian, secs. 6, 7, 14, 17, and 18; T. 03 S., R. 10 W., San Bernardino Principal Meridian, secs. 1–3. The following lands within La Puente and San Jose Dalton et al. Land Grants: UTM coordinates (X, Y) 424400, 3774200; 427700, 3774200; 427700, 3769200; 424400, 3769200; 424400, 3767900; 424200, 3767600; 419600, 3767600; 419600, 3766000; 417900, 3766000; 417900, 3769300; 424400, 3769300; 424400, 3774200. The following lands within Paso de Bartolo (Pico), Potrero Grande, San Antonion (Lugo), San Francisquito (Dalton), and unnamed Land Grants: UTM coordinates (X, Y) 401800, 3767900; 401800, 3764400; 398600, 3764400; 398600, 3767900; 401800, 3767900. The following lands within Paso de Bartolo (Pico) Land Grant: UTM coordinates (X, Y) 403400, 3764500; 405100, 3764500; 405000, 3762000; 403500, 3761300; 401700, 3761300; 401700, 3763000; 403400, 3763000; 403400, 3764500. The following lands within La Puente Land Grant: UTM coordinates (X, Y) 405500, 3764500; 408400, 3764500; 408400, 3761400; 406000, 3762000; 406000, 3763000; 405500, 3764500. The following lands within Canon de Santa Ana, La Habra, La Puente, Lomas de Santiago, Rincon de La Brea, San Juan Cajon de Santa Ana, Santiago de Santa Ana, and unnamed Land Grants: UTM coordinates (X, Y) 412300, 3759800; 414500, 3759800; 414500, 3759700; 418100, 3759700; 418100, 3759600; 421100, 3759600; 421700, 3757500; 429300, 3756300; 429300, 3751500; 435600, 3751500; 435600, 3749900; 437200, 3749900; 437200, 3748000; 438000, 3748000; 437800, 3746600; 437100, 3746600; 437100, 3748000; 430700, 3748000; 430700, 3749800; 429200, 3749800; 429200, 3751400; 427800, 3751400; 427800, 3749900; 424400, 3749900; 424400, 3751500; 422800, 3751500; 422800, 3754600; 421200, 3754600; 421200, 3753100; 419400, 3753100; 419400, 3754700; 416100, 3754700;

416100, 3756400; 414500, 3756400; 414500, 3758000; 409800, 3758000; 409000, 3759000; 412300, 3759700; 412300, 3759800. The following lands within Santa Ana del Chino (addition to) Land Grants: UTM coordinates (X, Y) 425900, 3759600; 429300, 3759600; 429300, 3757000; 426700, 3757100; 425900, 3758700; 425900, 3759600. The following lands within La Habra and Los Coyotes Land Grants: UTM coordinates (X, Y) 409700, 3753300; 412900, 3753300; 412900, 3750000; 408300, 3750000; 408300, 3751700; 409700, 3751700; 409700, 3753300. The following lands within San Juan Cajon de Santa Ana Land Grant: UTM coordinates (X, Y) 416100, 3751600; 417800, 3751600; 417800, 3749900; 416100, 3749900; 416100, 3751600.

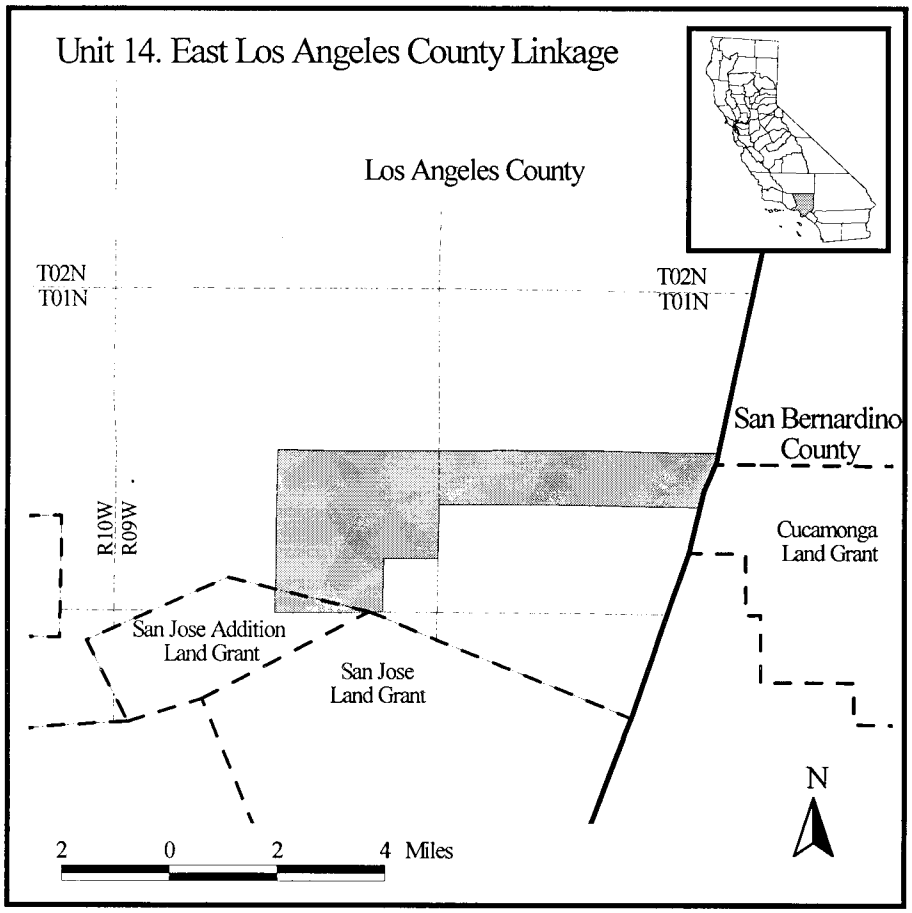


Map Unit 12: Western Riverside County MSHCP, Riverside County, California. From USGS 1:100,000 quadrangle maps Santa Ana (1985) and San Bernardino (1982), California. Lands defined by the boundary of the Lake Perris/San Jacinto Core Reserve. Lands within T. 01 S., R. 05 W., San Bernardino Principal Meridian, secs. 29 and 31–33; T. 01 S., R. 06 W., San Bernardino Principal Meridian, sec. 35; T. 02 S., R. 02 W., San Bernardino Principal Meridian, secs. 8, 16–21, and 28–33; T. 02 S., R. 03 W., San Bernardino Principal Meridian, secs. 7, 8, 13–29, and 36; T. 02 S., R. 04 W., San Bernardino Principal Meridian, secs. 9–16, 21–24, 27–29, and 32–34; T. 02 S., R. 05 W., San Bernardino Principal Meridian, secs. 4 and 6; T. 02 S., R. 06 W., San Bernardino Principal Meridian, secs. 1–3; T. 03 S., R. 01 W., San Bernardino Principal Meridian, secs. 19, 20, and 29–32; T. 03 S., R. 02 W., San Bernardino Principal Meridian, secs. 2–6, 8–11, 13–15, 21–26, and 36; T. 03 S., R. 03 W., San Bernardino Principal Meridian, secs. 21and 29; T. 03 S., R. 04 W., San Bernardino Principal Meridian, secs. 5–7; T. 03 S., R. 05 W., San Bernardino Principal Meridian, secs. 1, 12–1420–24, and 27; T. 03 S., R. 07 W., San Bernardino Principal Meridian, secs. 29–33; T. 03 S., R. 08 W.,

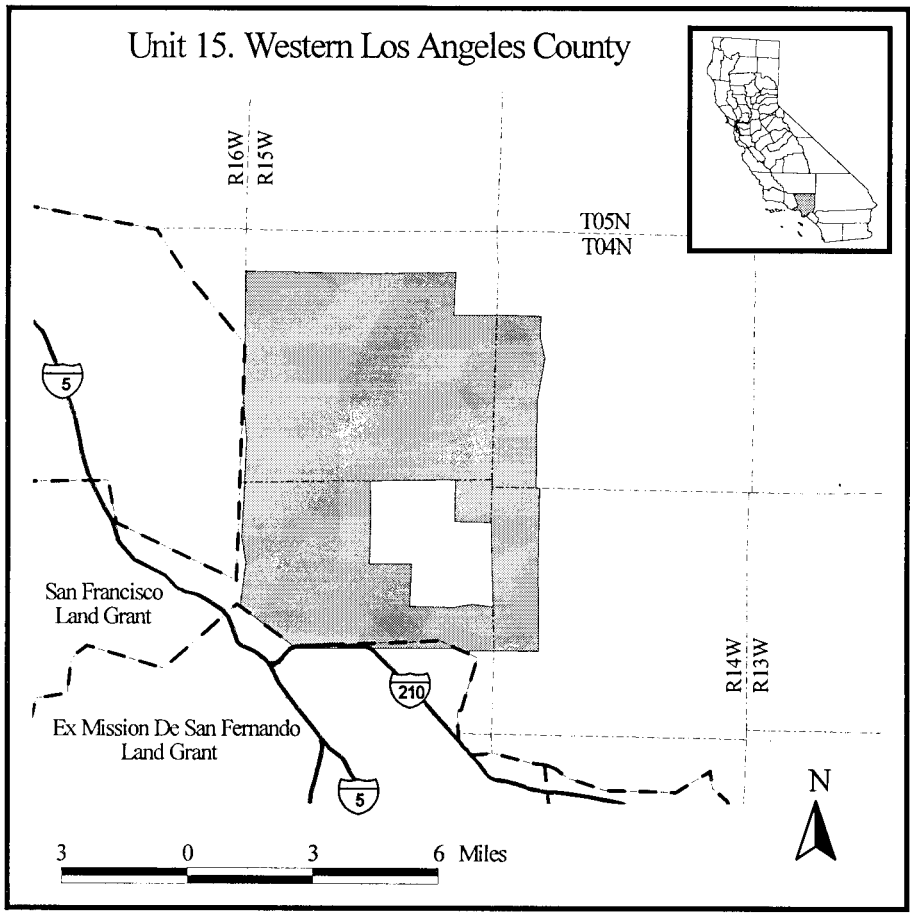
San Bernardino Principal Meridian, secs. 25 and 36; T. 04 S., R. 01 W., San Bernardino Principal Meridian, sec. 5; T. 04 S., R. 02 W., San Bernardino Principal Meridian, secs. 20 and 28–32; T. 04 S., R. 03 W., San Bernardino Principal Meridian, secs. 25 and 36; T. 04 S., R. 04 W., San Bernardino Principal Meridian, secs. 27, 28, 32, and 33; T. 04 S., R. 05 W., San Bernardino Principal Meridian, secs. 28–34; T. 04 S., R. 06 W., San Bernardino Principal Meridian, secs. 16, 18, 21, 22, 25–30, and 32–36; T. 04 S., R. 07 W., San Bernardino Principal Meridian, secs. 4, 5, 9–11, 13, 14, 24, and 25; T. 05 S., R. 01 W., San Bernardino Principal Meridian, secs. 28–31 and 33; T. 05 S., R. 02 W., San Bernardino Principal Meridian, secs. 5, 6, 8, 9, 16, 17, 20, 21, 29, and 33–36; T. 05 S., R. 03 W., San Bernardino Principal Meridian, secs. 18–20, 29, and 30; T. 05 S., R. 04 W., San Bernardino Principal Meridian, secs. 4, 8, 9, 12–14, 16, 17, 19, 20, 23, 24, 26–30, and 32–34; T. 05 S., R. 05 W., San Bernardino Principal Meridian, secs. 2–11, 13–16, 18, 19, and 22–28; T. 05 S., R. 06 W., San Bernardino Principal Meridian, secs. 1–4, 9–14, and 24; T. 06 S., R. 01 W., San Bernardino Principal Meridian, secs. 4, 7–9, 16–20, and 29–31; T. 06 S., R. 02 W., San Bernardino Principal Meridian, secs. 3, 4, 10, 12–17, 19, 20, 22–25, and 34–36; T. 06 S., R. 03 W., San Bernardino Principal Meridian, secs. 24, 25, 29–33, and 36; T. 06 S., R. 04 W., San Bernardino Principal Meridian, secs. 3, 4, 9, 10, 13–15, 24, and 25; T. 07 S., R. 01 E., San Bernardino Principal Meridian, secs. 16–21 and 27–34; T. 07 S., R. 01 W., San Bernardino Principal Meridian, secs. 2–18, 24, 25, and 32–36; T. 07 S., R. 02 W., San Bernardino Principal Meridian, secs. 1, 2, 6, 7, and 11–22; T. 07 S., R. 03 W., San Bernardino Principal Meridian, secs. 1–4, 11–13, and 24; T. 08 S., R. 01 E., San Bernardino Principal Meridian, secs. 4–10, 15, and 16; T. 08 S., R. 01 W., San Bernardino Principal Meridian, secs. 1–5; T. 08 S., R. 03 W., San Bernardino Principal Meridian, secs. 23–28 and 31–36. The following lands within Jurupa (Rubidoux) and Jurupa (Stearns) Land Grants: UTM coordinates (X, Y) 463100, 3766300; 463100, 3762500; 461400, 3762500; 461400, 3765700; 463100, 3766300; 459900, 3765100; 459900, 3764100; 457400, 3764100; 457400, 3764200; 459900, 3765100. The following lands within Canon de Santa Ana, Lomas de Santiago Land Grants: UTM coordinates (X, Y) 412300, 3759800; 414500, 3759800; 414500, 3759700; 418100, 3759700; 418100, 3759600; 421100, 3759600; 421700, 3757500; 429300, 3756300; 429300, 3751500; 435600, 3751500; 435600, 3749900; 437200, 3749900; 437200, 3748000; 438000, 3748000; 437800, 3746600; 437100, 3746600; 437100, 3748000; 430700, 3748000; 430700, 3749800; 429200, 3749800; 429200, 3751400; 427800, 3751400; 427800, 3749900; 424400, 3749900; 424400, 3751500; 422800, 3751500; 422800, 3754600; 421200, 3754600; 421200, 3753100; 419400, 3753100; 419400, 3754700; 416100, 3754700; 416100, 3756400; 414500, 3756400; 414500, 3758000; 409800, 3758000; 409000, 3759000; 412300, 3759700; 412300, 3759800. The following lands within El Sobrante de San Jacinto Land Grant: UTM coordinates (X, Y) 463000, 3750000; 463100, 3748500; 463100, 3746300; 461400, 3746300; 461400, 3747900; 458200, 3747900; 458200, 3746300; 456700, 3746300; 456700, 3743200; 460000, 3743200; 460000, 3741600; 463300, 3741600; 463300, 3739000; 456000, 3739000; 452000, 3742000; 452800, 3743200; 453700, 3743200; 453700, 3744800; 455300, 3744800; 455300, 3746500; 456400, 3746500; 456400, 3749600; 458100, 3749600; 463000, 3750000. The following lands within La Sierra (Yorba) Land Grant: UTM coordinates (X, Y) 440400, 3749500; 440400, 3748000; 443700, 3748000; 443700, 3746600; 444100, 3746600; 444100, 3745300; 443900, 3745300; 438700, 3747900; 438700, 3749500; 440400, 3749500; 444500, 3744900; 447300, 3744900; 447300, 3743200; 450500, 3743200; 450000, 3741000; 448000, 3741000; 444500, 3744800; 444500, 3744900. The following lands within San Jacinto Viejo Land Grant: UTM coordinates (X, Y) 497000, 3730400; 502000, 3730400; 502000, 3726400; 500300, 3725800; 500300, 3728000; 497000, 3729000; 497000, 3730400. The following lands within La Laguna (Stearns) Land Grant: UTM coordinates (X, Y) 466000, 3730000; 467000, 3730000; 467600, 3728600; 465500, 3728600; 466000, 3730000; 472000, 3725000; 472200, 3723900; 472200, 3723800; 471300, 3723800; 471300, 3724500. The following lands within Temecula Land Grant: UTM coordinates (X, Y) 480000, 3718000; 481000, 3718000; 483400, 3715700; 480900, 3715700; 480900, 3717300; 480200, 3717300; 480200, 3717400; 480000, 3718000; 484100, 3714100; 484100, 3715100; 485200, 3714100; 484100, 3714100; 488000, 3712000; 488700, 3710900; 487500, 3710900; 487500, 3702000; 480800, 3701000; 480800, 3703700; 482500, 3703700; 482500, 3705300; 484200, 3705300; 484200, 3710900; 485800, 3710900; 485800, 3713600; 488000, 3712000. The following lands within Santa Rosa (Morino) Land Grant: UTM coordinates (X, Y) 488000, 3712000; 488700, 3710900; 487500, 3710900; 487500, 3702000; 480800, 3701000; 480800, 3703700; 482500, 3703700; 482500, 3705300; 484200, 3705300; 484200, 3710900; 485800, 3710900; 485800, 3713600; 488000, 3712000; 478300, 3700700; 479900, 3700700; 479900, 3700600; 479000, 3700000; 478300, 3700600. The following lands within San Jacinto Neuvo y Potrero Land Grant: UTM coordinates (X, Y) 490000, 3754000; 490900, 3752800; 488900, 3752800; 488900, 3749600; 487200, 3749600; 487200, 3753000; 490000, 3754000; 490500, 3751300; 492100, 3751300; 493900, 3749600; 490500, 3749600; 490500, 3751300; 482300, 3744800; 484000, 3744800; 484000, 3741600; 485700, 3741600; 485700, 3740000; 490400, 3740000; 489000, 3739000; 485600, 3739100; 485600, 3739900; 482300, 3739900; 482300, 3744800. The following lands within Pauba Land Grant: UTM coordinates (X, Y) 503000, 3715000; 501800, 3713000; 498700, 3713000; 498700, 3711400; 497300, 3711400; 497300, 3711100; 495700, 3711100; 495700, 3711000; 493500, 3711000; 493500, 3710900; 492300, 3710900; 492300, 3711000; 492000, 3712000; 502000, 3716000; 503000, 3715000; 498700, 3709700; 500400, 3709700; 506000, 3707000; 506300, 3706400; 504800, 3706400; 504800, 3706300; 498700, 3706300.



Map Unit 13: San Bernardino Valley MSHCP, San Bernardino County, California. From USGS 1:100,000 quadrangle map San Bernardino, California (1982). Lands within T. 01 N., R. 03 W., San Bernardino Principal Meridian, secs. 16–19, 21, 22, 26–28, 30, and 33–36; T. 01 N., R. 04 W., San Bernardino Principal Meridian, secs. 5, 6, 9–15, and 24; T. 01 N., R. 05 W., San Bernardino Principal Meridian, secs. 1, 4, 7, 8, 17–20, and 29; T. 01 N., R. 06 W., San Bernardino Principal Meridian, secs. 13–22 and 27–30; T. 01 N., R. 07 W., San Bernardino Principal Meridian, secs. 13–16, and 19–24. T. 01 N., R. 08 W., San Bernardino Principal Meridian, sec. 24; T. 01 S., R. 02 W., San Bernardino Principal Meridian, secs. 5–9, 14–18, 20–22, 28, and 31–33; T. 01 S., R. 03 W., San Bernardino Principal Meridian, secs. 1, 4, 8, 9, 12–16, and 36; T. 02 N., R. 05 W., San Bernardino Principal Meridian, secs. 21, 27, 28, 33, and 35; T. 02 S., R. 02 W., San Bernardino Principal Meridian, secs. 6–10; T. 02 S., R. 03 W., San Bernardino Principal Meridian, secs. 1–6 and 8–12; T. 02 S., R. 04 W., San Bernardino Principal Meridian, sec. 1. The following lands within Muscupiabe Land Grant: UTM coordinates (X, Y) 461600, 3788400; 463000, 3788400; 464800, 3787300; 464800, 3786900; 466300, 3786900; 466400, 3785500; 466400, 3785200; 467000, 3785200; 469300, 3785100; 469700, 3785100; 472000, 3784000; 473700, 3781900; 466400, 3781900; 466400, 3778600; 464700, 3778600; 464700, 3780200; 461400, 3780200; 459000, 3782000; 459000, 3783600; 461400, 3783600; 461400, 3784200; 461600, 3786200; 461600, 3788400; excluding UTM coordinates 463200, 3785100; 463200, 3782000; 464700, 3782000; 464700, 3785100; 463200, 3785100. The following lands within Cucamonga Land Grant: UTM coordinates (X, Y) 437000, 3781000; 445000, 3781000; 445000, 3778800; 437000, 3778800; 437000, 3781000. The following lands within San Bernardino Land Grant: UTM coordinates (X, Y) 479200, 3773800; 480100, 3773800; 480100, 3772200; 480900, 3772200; 480900, 3770500; 479200, 3770500; 479200, 3773800; 488000, 3767300; 489700, 3767300; 489700, 3765700; 488900, 3765700; 488900, 3764100; 488000, 3764100; 488000, 3767300; 489700, 3764100; 493700, 3764100; 493700, 3762400; 489600, 3762400; 489700, 3764100.



Map Unit 14: East Los Angeles County Linkage, Los Angeles County, California. From USGS 1:100,000 quadrangle map Los Angeles, California (1983). Lands within T. 01 N., R. 08 W., San Bernardino Principal Meridian, secs. 19–24; T. 01 N., R. 09 W., San Bernardino Principal Meridian, secs. 22–27, 34, and 35; T. 01 S., R. 09 W., San Bernardino Principal Meridian, sec. 2. The following lands within Cucamonga Land Grant: UTM coordinates (X, Y) 437000, 3781000; 445000, 3781000; 445000, 3778800; 437000, 3778800; 437000, 3781000. The following lands within San Jose (Dalton et al.) and San Jose Addition Land Grants: UTM coordinates (X, Y) 427000, 3776000; 427300, 3775700; 424400, 3775700; 424400, 3776500; 427000, 3776000.



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Map Unit 15: Western Los Angeles County, California. From USGS 1:100,000 quadrangle map Los Angeles, California (1983). Lands within T. 03 N., R. 14 W., San Bernardino Principal Meridian, secs. 6, 7, 18, and 19; T. 03 N., R. 15 W., San Bernardino Principal Meridian, secs. 1, 4–9, and 15–24; T. 04 N., R. 14 W., San Bernardino Principal Meridian, secs. 18, 19, 30, and 31; T. 04 N., R. 15 W., San Bernardino Principal Meridian, secs. 7–11, 13–36. The following lands within Ex Mission de San Fernando Land Grant: UTM coordinates (X, Y) 369500, 3799000; 369600, 3799000; 370200, 3798700; 364300, 3798700; 364300, 3798800; 369500, 3799000.

Dated: February 1, 2000.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–2600 Filed 2–2–00; 1:12 pm]

BILLING CODE 4310–55–P