

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-AT42

**Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Arroyo Toad (*Bufo californicus*)**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the federally endangered arroyo toad (*Bufo californicus*) pursuant to the Endangered Species Act of 1973, as amended (Act). We propose to designate a total of approximately 138,713 acres (ac) (56,133 hectares (ha)) of critical habitat in Monterey, Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, California.

We hereby solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts of designation. We may revise this proposal prior to final designation to incorporate or address new information received during the two public comment periods.

**DATES:** We will accept comments from all interested parties until May 28, 2004. We must receive requests for public hearings, in writing, at the address shown in the ADDRESSES section by May 13, 2004.

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

1. You may submit written comments and information to Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.
2. You may hand-deliver written comments to our Ventura Office, at the address given above.
3. You may submit comments by fax to our Ventura Office (facsimile 805/644-3958) or our Carlsbad Office (facsimile 760/431-9624).

4. You may send comments by electronic mail (e-mail) to: [fw1artoch@r1.fws.gov](mailto:fw1artoch@r1.fws.gov). Please see the Public Comments Solicited section below for file format and other information about electronic filing. In the event that our internet connection is not functional, please submit your

comments by the alternate methods mentioned above.

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 Ventura Fish and Wildlife Office at the address given above, or at the Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA (telephone 760/431-9440).

**FOR FURTHER INFORMATION CONTACT:** For information about Monterey, San Luis Obispo, Santa Barbara, and Ventura Counties, northern Los Angeles County, and the desert portion of San Bernardino County, contact Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, at the address given above (telephone 805/644-1766; facsimile 805/644-3958). For information about Los Angeles, San Bernardino, Riverside, Orange, and San Diego Counties, contact Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the address given above (telephone 760/431-9440; facsimile 760/431-9624).

**SUPPLEMENTARY INFORMATION:***Designation of Critical Habitat Provides Little Additional Protection to Species*

In 30 years of implementing the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we have found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. Our present system for designating critical habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs. We believe that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

*Role of Critical Habitat in Actual Practice of Administering and Implementing the Act*

While attention to, and protection of, habitat is paramount to successful conservation actions, we have consistently found that, in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation

resources. Sidle (1987) stated, "Because the ESA can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7."

Currently, only 445 species or 36 percent of the 1,244 listed species in the U.S. under our jurisdiction have designated critical habitat. We address the habitat needs of all 1,244 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, and the section 10 incidental take permit process. We believe that it is these measures that may make the difference between extinction and survival for many species.

*Procedural and Resource Difficulties in Designating Critical Habitat*

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected us to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves us with little ability to prioritize our activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, and to comply with the growing number of adverse court orders. As a result, our own proposals to list critically imperiled species, and make final listing determinations on existing proposals, are all significantly delayed.

The accelerated schedules of court-ordered designations have left us with almost no ability to provide for adequate public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals due to the risks associated with noncompliance with judicially-imposed deadlines. This, in turn, fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, is very expensive, and in the final analysis, provides relatively little additional protection to listed species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects, and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act of 1969—all are part of the cost of critical habitat designation. These costs result in minimal benefit to the species that is not already afforded by the protections of the Act enumerated earlier, and they directly reduce the funds available for direct and tangible conservation actions.

#### Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

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

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

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

(4) Any foreseeable economic or other potential impacts resulting from the proposed designation—in particular, any impacts on small entities;

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

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to [fw1artoch@r1.fws.gov](mailto:fw1artoch@r1.fws.gov) in ASCII file format and avoid the use of special characters or any form of encryption. Please also include “Attn: Arroyo toad” in your e-mail subject

header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805/644-1766. Please note that the Internet address [fw1artoch@r1.fws.gov](mailto:fw1artoch@r1.fws.gov) will be closed out at the termination of the public comment period.

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. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

#### Public Hearings

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

#### Background

Background information on the arroyo toad can be found in our final designation of critical habitat for this species, published on February 7, 2001 (66 FR 9414). That information is incorporated by reference into this proposed rule. The following new information has come to our attention since that time:

(1) Individual toads have been observed as far as 1.2 miles (mi) (2 kilometers (km)) from the streams where they breed (Service 1999; Varanus Biological Services, Inc., in litt. 1999), but are most commonly found within

650 to 3,280 feet (ft) (200 to 1,000 meters (m)) of those streams in coastal areas with broad floodplains (Griffin *et al.* 1999; Holland and Sisk 2000), and 160 to 650 ft (50 to 200 m) in more mountainous areas away from the coast (Ramirez 2002a, 2002b, 2002c, 2003). Arroyo toads typically burrow underground during periods of inactivity and thus tend to use upland habitats that have sandy, friable (readily crumbled) soils, but upland sites with extremely compact soils can also be used (D. Holland, in litt. 2000).

(2) Juvenile arroyo toads remain on or near the saturated substrate at the edges of breeding pools from a week to several months after metamorphosis (D. Holland, in litt. 2000). They are active during the day and can be exposed on the barren sand, although they are rather cryptic (*i.e.*, hidden or camouflaged) at this time. Crushing of toads by humans, livestock, or vehicles can be a substantial source of mortality at this stage (Service 1999; D. Holland, in litt. 2000).

(3) In a study using pitfall traps, Holland and Sisk (2000) reported arroyo toad captures in upland habitats averaging more than 1,640 ft (500 m) and 980 ft (300 m) from two separate coastal streams; one arroyo toad was even captured 3,940 ft (1,175 m) beyond the edge of the riparian habitat bordering the stream. However, radio telemetry and pitfall trap studies from a variety of inland streams often bordered by steep, dry terrain show arroyo toad activity typically closer to the active stream channel. Four separate studies of inland populations by Ramirez (2002a, 2002b, 2002c, 2003) showed that arroyo toads burrowed no farther than 121 to 1,062 ft (37 to 324 m) from the edge of a stream, with an overall average of approximately 52 ft (16 m) between a toad's burrow and the edge of the stream.

(4) The nonnative organisms whose introduction and spread into arroyo toad habitat can pose a particularly serious threat include, among others, giant reed (*Arundo donax*), bullfrogs (*Rana catesbeiana*), green sunfish (*Lepomis cyanellus*), and chytrid fungus (*Batrachochytrium dendrobatidis*) (Sweet 1992; Service 1999; S. Sweet, pers. comm. 2003).

(5) In addition to a variety of other human activities outlined in a previous **Federal Register** notice (66 FR 9414), off-highway vehicle use within stream channels, floodplains, and adjacent uplands and the inadvertent or intentional introduction of nonnative species may cause adverse impacts to arroyo toads.

### Previous Federal Actions

We designated a total of approximately 182,360 acres (ac) (73,780 hectares (ha)) of critical habitat for the arroyo toad on February 7, 2001 (66 FR 9414). On November 6, 2001, the Building Industry Legal Defense Foundation, Foothill/Eastern Transportation Corridor Agency, National Association of Home Builders, California Building Industry Association, and Building Industry Association of San Diego County filed a lawsuit in the District of Columbia against the Service challenging the designation of arroyo toad critical habitat and alleging errors by the Service in promulgating the final rule. *Building Industry Legal Defense Foundation, et al. v. Gale Norton, Secretary of the Interior, et al.* Civ. No. 01–2311 (JDB) (D.D.C.). On October 30, 2002, the court set aside the designation and ordered us to publish a new critical habitat designation final rule for the arroyo toad by July 30, 2004.

This proposal for critical habitat differs from the previous designation of critical habitat for the arroyo toad with respect to the mapping grid size and changes in locations of critical habitat due to new survey data. We reduced the minimum mapping unit from a 250-meter UTM grid to a 100-meter UTM grid. This allows for the grid to more closely follow watershed boundaries. Based on new survey results and reevaluation of arroyo toad habitat, additional stream reaches are included in this proposal, including sections of the Santa Clara River, Cajon Wash, Kitchen Creek, and Kinley Creek. The lengths of several streams included in proposed critical habitat are also reduced in several instances from the previous designation. These reductions occur where the likelihood of arroyo toad occupancy and the quality of arroyo toad habitat are low, such as along portions of Piru, San Francisquito, and Castaic Creeks. In addition, we have determined that habitat conditions in Arroyo Seco are not essential for the conservation of the species since closer scrutiny and comments from Forest Service biologists and USGS biologists indicate the stream gradient in Arroyo Seco is too steep for the arroyo toad. Consequently, we have not included this area in this proposal. New exclusions from critical habitat under section 4(b)(2) are contained in this proposed rule and discussed in the relevant exclusion sections.

### Critical Habitat

Critical habitat is defined in section 3 of the Act. It receives protection under

section 7 of the Act. Further information regarding the definition of critical habitat and how we implement related policies and regulations can be found in the **Federal Register** at 66 FR 9414.

### Methods

Our methods for identifying the arroyo toad critical habitat included in this proposal are identical to the methods we used to make our final designation for this species on February 7, 2001 (66 FR 9414).

### Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species, and that may require special management considerations or protection. These features are used for all listed species and include, but are not limited to: Space for individual and population growth and for normal behavior; food, water, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historic and geographical and ecological distributions of a species.

The specific biological and physical features, otherwise referred to as the primary constituent elements (PCEs), which comprise essential arroyo toad habitat are described below. These lands provide aquatic and terrestrial habitat essential for the maintenance of self-sustaining populations and metapopulations (a set of local populations or breeding sites within an area, where typically migration from one local population or breeding site to other areas containing suitable habitat is possible, but not routine) of arroyo toads throughout its range.

### Space for Individual and Population Growth, and for Normal Behavior

The arroyo toad is found along medium-to-large-sized streams in coastal and desert drainages in central and southern California and Baja, Mexico. It occupies aquatic, riparian (areas near a source of water), and upland habitats in a reduced number of suitable drainages within its range. Essential habitat for the arroyo toad is created and maintained by the fluctuating hydrological, geological, and ecological processes operating in riparian ecosystems and the adjacent uplands. Periodic flooding that modifies stream channels, redistributes channel

sediments, and alters pool location and form, coupled with upper terrace stabilization by vegetation, is required to keep a stream segment suitable for all life stages of the arroyo toad. Periodic flooding helps maintain areas of open, sparsely vegetated, sandy stream channels and terraces.

Eggs and tadpoles require aquatic habitat, as described below. Juvenile and adult arroyo toads require and spend much of their lives in riparian and upland habitats adjacent to breeding locations. Riparian habitats used by subadults and adults for foraging and burrowing include sand bars, alluvial terraces, and streamside benches that lack vegetation, or are sparsely to moderately vegetated. Upland habitats used by arroyo toads during both the breeding and nonbreeding seasons include alluvial scrub, coastal sage scrub, chaparral (shrubby plants adapted to dry summers and moist winters), grassland, and oak woodland. Arroyo toads also have been found in agricultural fields (Griffin *et al.* 1999), but these lands may constitute sinks (areas where mortality rates are higher than reproduction rates) over the long term, due to tilling, pesticide and fertilizer applications, and heavy equipment use (Griffin and Case 2001).

The substrate in habitats preferred by arroyo toads consists primarily of sand, fine gravel, or pliable soil, with varying amounts of large gravel, cobble, and boulders. Areas that are damp and have less than 10 percent vegetation cover provide the best conditions for juvenile survival and rapid growth (Service 1999). Arroyo toads must be able to move between the stream and upland foraging sites, as well as up and down the stream corridor.

### Food, Water, and Physiological Requirements

Arroyo toad tadpoles eat microscopic algae, bacteria, and protozoans sucked up from the spaces among pebbles, gravel, and sand or abraded from stones (Sweet 1992). Juveniles and adults feed on insects, but specialize on ants. When foraging, arroyo toads are often found around the driplines of oak trees. These areas often lack vegetation, yet have sufficient levels of prey. When active at night, toads often can be observed near ant trails feeding on ants, beetles, and other prey.

### Cover or Shelter

During the day and other periods of inactivity, arroyo toads seek shelter by burrowing into the sand. Thus, areas of sandy or friable (readily crumbled) soils are necessary to burrow, but these soils can be interspersed with gravel or

cobble deposits. Arroyo toads may also seek temporary shelter under rocks or debris and have been found in mammal burrows on occasion. Upland sites with extremely compact soils can also be used for foraging and dispersal (D. Holland, in litt. 2000).

#### **Sites for Breeding, Reproduction and Rearing of Offspring**

The arroyo toad has specialized breeding habitat requirements. They favor shallow pools and open sand and gravel channels along low-gradient (typically less than 6 percent) reaches of medium-to-large-sized streams (Service 1999). These streams can have either intermittent or perennial streamflow and typically experience periodic flooding that scours vegetation and replenishes fine sediments. In at least some portions of its range, the species also breeds in smaller streams and canyons where low-gradient breeding sites are more sporadically distributed. Breeding pools must persist long enough for the completion of larval development (at least in most years), which is generally March through June, depending on location and weather. Sweet (1992) measured the average age to metamorphosis of arroyo toad larvae on the Los Padres National Forest at 71 days, with a predicted minimum of 62 days. Peak metamorphosis occurs during June and July in the northern part of the toad's range, and from late April through June further south, although it may be later, particularly at higher elevations (D. Holland, in litt. 2000).

Breeding arroyo toads lay their eggs in water over substrates of sand, gravel, or cobble in open sites such as overflow pools, old flood channels, and shallow pools along streams. Such habitats rarely have closed canopies over the lower banks of the stream channel due to periodic flood events. Heavily shaded pools are generally unsuitable for larval and juvenile arroyo toads because of lower water and soil temperatures and poor algal mat development. Pools less than 12 inches (30 centimeters (cm)) deep with clear water, flow rates less than 0.2 ft per second (5 cm per second), and bottoms composed of sand or well-sorted fine gravel are favored by adults for breeding and egg deposition (Sweet 1992). Larvae usually hatch in 4 to 6 days at water temperatures of 54 to 59 degrees Fahrenheit (12 to 16 degrees Celsius). Although egg strings are laid in very slow moving water, larvae (tadpoles) can be found in water velocities of up to 1.0 to 1.3 ft per second (30 to 40 cm per second) (Sweet 1992).

#### **Disturbance, Protection, and the Historical Geographical Distributions**

As a result of agriculture and urbanization, and the construction, operation, and maintenance of water storage reservoirs, flood control structures, roads, and recreational facilities such as campgrounds and off-highway vehicle parks, many arroyo toad populations have been reduced in size or extirpated (eliminated) due to extensive habitat loss from the 1920s into the 1990s. Although these factors have not dramatically reduced the range of the arroyo toad, within its range many of the habitats that were historically capable of supporting large numbers of arroyo toads have been lost in the last 100 years. Jennings and Hayes (1994) believe that the loss of habitat, coupled with the manipulation of water levels in many central and southern California streams and rivers, predation from introduced aquatic species, and habitat degradation from introduced plant species, caused arroyo toads to be extirpated from 76 percent of their previously occupied habitat in California. Through focused survey efforts over the past few years, a few new arroyo toad populations have been discovered. Because of these recent efforts, however, it is unlikely that many more populations remain undiscovered. The conservation and subsequent protection of the remaining arroyo toad populations are essential for its conservation (Service 1999).

Pursuant to our regulations, we are required to identify the known physical and biological features, *i.e.*, PCEs, essential to the conservation of the arroyo toad, together with a description of any critical habitat that is proposed. In identifying the PCEs, we used the best available scientific and commercial data available. The physical ranges described in the PCEs may not capture all of the variability that is inherent in natural systems that support arroyo toads. The PCEs determined essential to the conservation of arroyo toad include, but are not limited to:

1. Rivers or streams with hydrologic regimes that supply water to provide space, food, and cover needed to sustain eggs, tadpoles, metamorphosing juveniles, and adult breeding toads. Specifically, the conditions necessary to allow for successful reproduction of arroyo toads are:

- a. breeding pools with areas less than 12 in (30 cm) deep;
- b. areas of flowing water with current velocities less than 1.3 ft per second (40 cm per second); and
- c. surface water that lasts for a minimum length of 2 months in most

years, *i.e.*, a sufficient wet period in the spring months to allow arroyo toad larvae to hatch, mature, and metamorphose.

2. Low-gradient stream segments (typically less than 6 percent) with sandy or fine gravel substrates that support the formation of shallow pools and sparsely vegetated sand and gravel bars for breeding and rearing of tadpoles and juveniles.

3. A natural flooding regime, or one sufficiently corresponding to a natural regime, that will periodically scour riparian vegetation, rework stream channels and terraces, and redistribute sands and sediments, such that breeding pools and terrace habitats with scattered vegetation are maintained.

4. Riparian and adjacent upland habitats (particularly alluvial streamside terraces and adjacent valley bottomlands that include areas of loose soil where toads can burrow underground) to provide foraging and living areas for subadult and adult arroyo toads.

5. Stream channels and adjacent upland habitats that allow for migration to foraging areas, overwintering sites, dispersal between populations, and recolonization of areas that contain suitable habitat.

Arroyo toads are not distributed uniformly throughout the critical habitat units. Arroyo toad breeding habitat is patchily distributed along the stream courses, and the same is true of appropriate upland habitat. Some areas primarily provide for migration and dispersal between breeding and foraging habitats or allow for dispersal to additional breeding pools that will accommodate increased populations during favorable years. Habitat conditions within streams can change rapidly in response to streamflows and other factors, such as the development and shifting of sand and gravel bars, and creation and disappearance of pools. Terrace and upland habitats, although more stable than streambed and riparian habitats, may change as a result of rainfall, earthquakes, fires, and other natural events. These factors may cause the habitat suitability of given areas to vary over time, thus affecting the distribution of arroyo toads.

The combination of appropriate aquatic, riparian, and upland habitats forms ecologically functional units. These features and the lands that they represent are essential to the conservation of the arroyo toad. All lands identified as essential and proposed as critical habitat contain one or more of the PCEs for the arroyo toad.

### Criteria Used To Identify Critical Habitat

The criteria we used to identify critical habitat are identical to the criteria outlined in the final designation previously published in the **Federal Register** on February 7, 2001 (66 FR 9414).

To evaluate our critical habitat model, we assessed its effectiveness at capturing documented toad locations from studies that focused specifically on surveying toads in upland habitats and studies involving radio telemetry. Holland and Sisk (2000) established extensive pitfall trap arrays at discrete distances from two stream courses and operated these arrays at various periods throughout the year. They had 466

captures of arroyo toads, 35 (7.5 percent) of which were identified as being in upland areas. Those toads were captured at distances that ranged from 49 to 3,855 ft (15 to 1,175 m) from the upland-riparian ecotone (boundary) (Holland and Sisk 2000). For the two areas sampled in that study (Cristianitos Creek and the upper Santa Margarita River), we found that our critical habitat boundaries encompassed an average of 76 percent of the pitfall trapping stations where arroyo toads were detected.

We also assessed studies that involved the tracking of arroyo toads with radio telemetry equipment. For example, in a number of studies by Ramirez (2002a, 2002b, 2002c, 2003),

arroyo toads were tracked from the end of breeding activity until the commencement of aestivation, generally May through September. Cumulatively, these four studies involved the tracking of 77 adult arroyo toads in three separate critical habitat units in Orange, San Bernardino, and Los Angeles Counties. All but one of the numerous burrow sites chosen by these arroyo toads fell within our proposed critical habitat boundaries.

### Proposed Critical Habitat Designation

The approximate area encompassing the proposed critical habitat by county and land ownership is shown in Table 1, and proposed critical habitat units for the arroyo toad in Table 2.

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

County	Forest Service	BLM	FWS	Military	State/Local	Tribal	Private	Total
Monterey .....	0 .....	0 .....	0 .....	6,453 ac (2,612 ha).	0 .....	0 .....	93 ac (38 ha) ...	6,546 ac (2,650 ha).
Santa Barbara ....	6,435 ac (2,604 ha).	0 .....	0 .....	0 .....	0 .....	0 .....	4,553 ac (1,842 ha).	10,988 ac (4,446 ha).
Ventura .....	6,538 ac (2,645 ha).	0 .....	0 .....	0 .....	0 .....	0 .....	1,105 ac (447 ha).	7,643 ac (3,092 ha).
Los Angeles .....	5,299 ac (2,144 ha).	27 ac (11 ha) ...	0 .....	0 .....	0 .....	0 .....	7,688 ac (3,111 ha).	13,014 ac (5,266 ha).
San Bernardino ..	2,631 ac (1,065 ha).	117 ac (47 ha)	0 .....	2,594 ac (1,050 ha).	1,166 ac (472 ha).	0 .....	9,306 ac (3,766 ha).	15,814 ac (6,400 ha).
Riverside .....	1,457 ac (589 ha).	1,047 ac (424 ha).	0 .....	0 .....	16 ac (6 ha) ....	0 .....	966 ac (391 ha)	3,486 ac (1,410 ha).
Orange .....	483 ac (195 ha)	0 .....	0 .....	107 ac (43 ha)	2,135 ac (864 ha).	0 .....	4,932 ac (1,996 ha).	7,657 ac (3,099 ha).
San Diego .....	9,949 ac (4,026 ha).	284 ac (115 ha)	755 ac (305 ha)	3,338 ac (1,351 ha).	3,544 ac (1,434 ha).	3,082 ac (1,247 ha).	52,613 ac (21,292 ha).	73,565 ac (29,770 ha).
Total .....	32,792 ac (13,269 ha).	1,475 ac (597 ha).	755 ac (305 ha)	12,492 ac (5,056 ha).	6,861 ac (2,775 ha).	3,082 ac (1,247 ha).	81,256 ac (32,882 ha).	138,713 ac (56,133 ha).

TABLE 2.—CRITICAL HABITAT UNITS PROPOSED FOR THE ARROYO TOAD

Critical habitat unit	County	Acres	Ha
<b>Northern</b>			
1. San Antonio River .....	Monterey .....	6,546	2,649
2. Sisquoc River .....	Santa Barbara .....	6,574	2,660
3. Upper Santa Ynez River Basin (including Indian Barbara and Mono Creeks) .....	Santa Barbara .....	4,414	1,786
4. Sespe Creek .....	Ventura .....	4,138	1,675
5. Piru Creek (Upper and Lower) .....	Ventura, L.A. ....	3,966	1,605
6. Upper Santa Clara River Basin (Castaic, San Francisquito Creeks) .....	Los Angeles .....	7,398	2,994
7. Upper Los Angeles River Basin (Big Tujunga, Mill, Alder Creeks) .....	Los Angeles .....	4,213	1,705
<b>Southern</b>			
8. Black Star and Baker Creeks .....	Orange .....	172	69
9. San Jacinto River Basin/Bautista Creek .....	Riverside .....	683	277
10. San Juan Creek Basin (including Trabuco Creek) .....	Orange, Riverside .....	6,285	2,543
11. San Mateo Basin (Christianitos, Talega, Gabino, La Paz Creeks) .....	Orange, San Diego .....	4,580	1,853
12. Lower Santa Margarita Basin (De Luz, Roblar, Sandia) .....	San Diego .....	1,840	744
13. Upper Santa Margarita Basin (including Temecula and Arroyo Seco Creeks) .....	Riverside, San Diego .....	3,628	1,468
14. Lower and Middle San Luis Rey Basin (Pala, Keys Creeks) .....	San Diego .....	15,376	6,222
15. Upper San Luis Rey Basin (above Lake Henshaw) .....	San Diego .....	11,725	4,745
16. Santa Ysabel Creek (Santa Maria, Guejito, Temescal Creeks) .....	San Diego .....	11,080	4,484
17. San Diego River Basin (including San Vicente Creek) .....	San Diego .....	2,309	934
18. Sweetwater River Basin (Viejas and Peterson Creeks) .....	San Diego .....	9,235	3,737
19. Cottonwood Creek Basin (many tributaries) .....	San Diego .....	15,800	6,394
20. Upper Santa Anna River Basin/Cajon Wash .....	San Bernardino .....	1,263	511

TABLE 2.—CRITICAL HABITAT UNITS PROPOSED FOR THE ARROYO TOAD—Continued

Critical habitat unit	County	Acres	Ha
<b>Desert</b>			
21. Little Rock Creek (including Santiago Creek) .....	Los Angeles .....	941	381
22. Upper Mojave (West Fork, Deep, Horsethief, Little Horsethief) .....	San Bernardino .....	14,550	5,848
23. Whitewater River .....	Riverside .....	1,997	808

Critical habitat includes arroyo toad habitat throughout the species' range in the United States (*i.e.*, Monterey, Santa Barbara, Ventura, Los Angeles, Riverside, San Bernardino, Orange, and San Diego Counties, CA). Lands proposed for critical habitat designation are under private, local agency, county, State, Tribal, and Federal ownership, and have been divided into 23 Critical Habitat Units. Although all of the units we are proposing for critical habitat are within the geographic range of the species, we are not proposing all of the areas known to be occupied by the arroyo toad. We are not proposing any areas outside of the geographical area occupied by the species at the time it was listed. A brief description of each unit, and reasons why it is essential for the conservation of the arroyo toad, are presented below. The units are generally based on geographically distinct river basins. In several instances, a river basin has been broken into two or more units based on human or natural landscape features that effectively separate portions of the basin (*e.g.*, a large reservoir or gorge). Based on observations recorded since 1985, each unit is occupied by arroyo toads.

Jennings and Hayes (1994) estimate that arroyo toads have lost 76 percent of their historic habitat. Although the linear measure of historically occupied streams may not be 4 times what is currently occupied, museum records and data on extant populations indicate that the habitats capable of supporting large numbers of arroyo toads have decreased dramatically in the last 100 years. The reaches that typically support, or historically supported, the highest densities of toads are those in the lower and middle portions of river basins, usually associated with third order (a stream characterization based on size) or larger streams. Many of those reaches have been lost to, or degraded by, urban development, intensive agriculture, water diversions, sand and gravel mining operations, and reservoirs. As discussed in more detail below, with respect to the individual units, we find that all of the areas we are proposing for designation may require special management considerations or protections due to

threats to the species and/or its habitat. Such management considerations and protections would benefit the arroyo toad and its habitat because: Exotic predators and pets may eat or injure arroyo toads; unnatural water releases from dams can wash away arroyo toad eggs and tadpoles, promote the growth of exotic species, or reduce the availability of open sand bar habitat; water diversions can dry a streambed prior to the completion of metamorphosis from tadpole to toad; toads can be crushed by channel maintenance, road construction, or the plowing of agricultural fields with heavy machinery; toads can be trampled during recreational activities; arroyo toad habitat can be adversely affected by agricultural practices, the invasion of exotic species, inundation from water impoundments, or frequent human use; and water quality can be compromised by runoff from urban, industrial, or agricultural land uses. However, the designation of critical habitat does not carry with it any requirement that landowners or land managers implement any special management or protection programs.

#### *Northern Region*

The following seven critical habitat units are located in the Northern Region for the arroyo toad, as discussed in the Recovery Plan (Service 1999). Most of the lands are federally owned, and special management considerations and protections for the toad will likely be addressed through the section 7 consultation process and the development of management plans and conservation strategies. Because the toad populations in this unit have been reduced in size, and their habitat fragmented by road construction, dams, agriculture, and urbanization, it is essential to protect them to reduce further loss of genetic diversity and safeguard against the loss of any one population due to random natural or human-caused events. The Forest Service is the primary landowner of proposed critical habitat within the Northern Region. However, a very small proportion of Forest Service land in this region falls within critical habitat proposed for the arroyo toad.

#### *Unit 1: San Antonio River, Monterey County*

Unit 1 consists of the San Antonio River and adjacent uplands, from about 2 mi (3 km) upstream of the confluence with Mission Creek downstream to San Antonio Reservoir, a distance of about 17 mi (27 km), and includes small portions of Mission Creek and other tributaries. The unit encompasses approximately 6,546 ac (2,649 ha), of which more than 98 percent is on the Fort Hunter Liggett Military Reservation and the other 2 percent is privately owned.

The northernmost known population of arroyo toads is located here, and is approximately 100 mi (160 km) north of the nearest documented extant population. The onset of breeding activity along the San Antonio River has not been documented prior to the last week in April (Liz Clark, U.S. Army Reserve, pers. comm. 2003), which is several weeks later than the onset of breeding activity documented for arroyo toad populations on the Los Padres National Forest to the south (Sweet 1992). Arroyo toads in this unit may experience climatic conditions not faced by toads at sites found farther south. The protection of this area is essential to maintaining the complete genetic variability of the species and the full range of ecological settings within which it is found, which is essential to the ability of the arroyo toad to adapt to changing environmental conditions. Arroyo toads can be found along the entire length of this segment of the San Antonio River (Service 1999), which is still in a relatively natural state, consists of high-quality arroyo toad habitat, and supports probably one of the largest populations within the Northern Region. This area contains all the primary constituent elements, including breeding pools in low-gradient stream segments, sandy substrates, seasonal flood flows, and relatively undisturbed riparian habitat and upland benches for foraging and dispersal.

We consider other areas along the San Antonio River within Fort Hunter Liggett as essential for the conservation of the species, but excluded them from this proposal because they are within

mission-essential training areas (see Exclusions Under Section 4(b)(2)). Thus, we are proposing the majority of the essential lands along the San Antonio River as critical habitat, but we are excluding a portion of the essential lands (less than 50 percent), which are within mission-essential training areas on Fort Hunter Liggett (Army 2003). Military operations (including occasional troop movements and weed control) in and near the riparian zone, yet outside of mapped mission-essential training areas, may create the need for special management considerations in this unit.

#### *Unit 2: Sisquoc River, Santa Barbara County*

Unit 2 consists of 27 mi (43 km) of the Sisquoc River and adjacent uplands, from Sycamore Campground downstream to just below the confluence with La Brea Creek. The unit encompasses approximately 6,574 ac (2,660 ha), of which 61 percent is private land and 39 percent is within the Los Padres National Forest. Upper stretches of the river are within the National Forest and mostly within the San Rafael Wilderness Area. Below the National Forest boundary, the river and adjacent uplands are on rural private lands. This long, undammed stream is occupied arroyo toad habitat and is one of the few remaining major rivers in southern California with a natural flow regime. This area contains all of the primary constituent elements, including breeding pools in low-gradient stream segments, sandy or fine gravel substrates, seasonal flood flows, and relatively undisturbed riparian/upland habitat for foraging and dispersal. This area is essential to maintaining genetic diversity of the species. The protection of this population is essential as it is a core population. Grazing, sand and gravel mining, and limited recreational activities are the primary disturbances to arroyo toad habitat in this unit that may require special management considerations.

#### *Unit 3: Upper Santa Ynez River Basin, Santa Barbara County*

Unit 3 is located upstream of Gibraltar Reservoir and incorporates portions of the upper Santa Ynez River, Indian Creek, Mono Creek, and adjacent uplands. The unit encompasses approximately 4,414 ac (1,786 ha) within the boundaries of Los Padres National Forest, with 88 percent on National Forest lands and 12 percent on private non-residential inholdings. The segment of the upper Santa Ynez River proposed for designation extends 10 mi (16 km) from Jameson Reservoir

downstream to Gibraltar Reservoir. Indian Creek is proposed from the Buckthorn Creek confluence down to its confluence with Mono Creek, a distance of approximately 5 mi (8 km). Mono Creek and associated uplands are proposed for designation for 7.5 mi (12 km) from the first unnamed stream below The Narrows to its confluence with the Santa Ynez River. This area contains all of the primary constituent elements, including breeding pools in low-gradient stream segments, sandy or fine gravel substrates, seasonal flood flows, and relatively undisturbed riparian/upland habitat for foraging and dispersal.

A large and well-studied arroyo toad population occurs in this area (Sweet 1992, 1993). It is likely a remnant of a much larger population that historically extended downstream below what is now Lake Cachuma and upstream into the area occupied by Jameson Reservoir. The population along Mono Creek is one of the more robust populations of arroyo toads on the Los Padres National Forest and is free of exotic vertebrate predators for much of its length (Jamie Uyehara, Forest Service, pers. comm. 2003). Unit 3 is also the wettest area occupied by arroyo toads in the Northern Region (Teale Data Center 1998; California Irrigation Management Information System 2000).

Arroyo toads in this unit likely experience precipitation and soil moisture conditions not faced by toads at drier sites. Potential adaptations to these conditions make the protection of this area essential to maintaining the genetic diversity of the species. Because it is within, or is surrounded by, National Forest land, this area has favorable habitat conditions for population persistence. The arroyo toad population inhabiting Mono and Indian Creeks is particularly healthy and could be used as a source for the reestablishment of arroyo toads in downstream reaches of the Santa Ynez River, if warranted. The leading threats to arroyo toads in this area, primarily along the lower Santa Ynez River and lower Mono Creek, are from exotic species, recreation, and problems associated with an upstream dam (e.g., sediment trapping, altered hydrological regime, temperature changes). To ensure arroyo toad habitat in this unit is protected, special management considerations or protections may be needed.

#### *Unit 4: Sespe Creek, Ventura County*

Unit 4 includes 22 mi (35 km) of Sespe Creek and adjacent uplands, from the lower end of Sespe Gorge (elevation approximately 3,530 ft (1,076 m))

downstream to the confluence with Alder Creek. The unit encompasses approximately 4,138 ac (1,675 ha), of which 87 percent is on the Los Padres National Forest, primarily within the Sespe Wilderness. The remainder is in remote, private inholdings. One of the largest arroyo toad populations on the Los Padres National Forest occurs in this unit along Sespe Creek (Forest Service, in litt. 1999), which is undammed and retains its natural flooding regime. This core population is spread over large areas of excellent habitat, including numerous high-quality breeding pools, an abundance of sandy substrates, unimpeded seasonal flood flows, and relatively undisturbed riparian habitat and upland benches for foraging and dispersal (Service 1999). Up to several hundred adult arroyo toads inhabit this reach of the Sespe River (Sweet 1992, 1993), and during years of successful reproduction, such as 2003, thousands of juveniles can be found as well (Tom Murphy, Forest Service, pers. comm. 2003).

Arroyo toads have been found up to 3,300 ft (1,000 m) in elevation in this area, which is one of the highest known occurrences in the Northern Region. The arroyo toads in this unit likely experience temperature extremes or other environmental conditions not faced by toads at lower elevations. Potential adaptations to these conditions make the protection of this area essential for the maintenance of the genetic diversity of the species. In all likelihood, arroyo toad populations in units 4, 5, and 6 historically were part of a large Santa Clara River Basin metapopulation. Ecologically, these units provided a link between the more coastal populations on the Sisquoc and Santa Ynez Rivers, and populations in the Desert Region. Substantial barriers to toad movement now exist between these units, including dams, agriculture, and urban development. Impacts to the Sespe Creek habitat come from recreational activities and exotic predators. Special management considerations or protection may be needed to control and reverse these threats.

#### *Unit 5: Piru Creek, Ventura and Los Angeles Counties*

Unit 5 includes Piru Creek and adjacent uplands from the confluence with Lockwood Creek downstream to Pyramid Reservoir (Subunit 5a), and from the confluence with Fish Creek downstream to Lake Piru (Subunit 5b). Subunit 5b also includes Agua Blanca Creek from Devil's Gateway downstream to the confluence with Piru Creek. The unit encompasses approximately 3,966



ac (1,605 ha), 85 percent of which is within the Los Padres and Angeles National Forests, with the remaining on a few private inholdings. Subunit 5a is in a remote setting within the Los Padres National Forest, and most of subunit 5b is within the Sespe Wilderness.

Although much of the historical arroyo toad habitat along Piru Creek is now inundated by the two reservoirs, a substantial arroyo toad population occurs in this unit (Service 1999). The upper portion of subunit 5a is free of exotic vertebrate predators and the arroyo toad population there has been increasing and expanding over the past several years (J. Uyebara, pers. comm. 2003). The expansion of the population is likely due, in part, to seasonal campground closures and the elimination of suction-dredge mining. Because lower Piru Creek (subunit 5b) is below a large dam, the habitat there has experienced some degradation over the years from perennial water releases, rapid changes in flow volume, excessive flows during the breeding season, and an increased presence of exotic predators. However, future releases from Pyramid Dam are scheduled to more closely mimic natural flows and benefit the arroyo toad (Eva Begley, California State Division of Water Resources, pers. comm. 2003). This should result in an expanded, stable population distributed over areas of good-to-excellent habitat that is generally undisturbed by human activities. Both upper and lower Piru Creek contain all of the primary constituent elements, including breeding pools in low-gradient stream segments, sandy substrate, seasonal flood flows (modified to some extent below Pyramid Dam), and riparian habitat and upland benches for foraging and dispersal. Special management considerations may be required above and beyond those currently in place to address threats posed by horse and cattle grazing, recreation, and unnatural flows that could potentially be released from Pyramid Dam.

#### *Unit 6: Upper Santa Clara River Basin, Los Angeles County*

Unit 6 includes portions the Santa Clara River, Castaic Creek, San Francisquito Creek, and adjacent uplands. The unit encompasses approximately 7,398 ac (2,994 ha) of which 83 percent is private land and 17 percent is within the Angeles National Forest. Subunit 6a, predominantly within the Angeles National Forest, includes Castaic Creek from Bear Canyon downstream to Castaic Lake, and Fish Creek from Cienaga Spring to the confluence with Castaic Creek.

Subunit 6b includes Castaic Creek from the downstream edge of The Old Road right-of-way (adjacent to Interstate 5) down to the confluence with the Santa Clara River, the Santa Clara River from the confluence with Bouquet Creek down to the confluence with Castaic Creek, and San Francisquito Creek from Drinkwater Canyon downstream to the confluence with the Santa Clara River. Subunit 6c includes the upper Santa Clara River from Arrastre Canyon downstream to the confluence with Bee Canyon Creek.

A healthy population of arroyo toads can be found on Castaic Creek above the reservoir (subunit 6a) (Bill Brown, Forest Service, pers. comm. 2003). Although unknown at the time the Recovery Plan was published (Service 1999), arroyo toads also occupy subunit 6b along the Santa Clara River. This portion of the Santa Clara River was originally excluded from designation as critical habitat for the arroyo toad, in part because we believed that a breeding population of arroyo toads could not be sustained in this area. Recent observations of arroyo toads, including eggs, prove this to be incorrect (Ruben Ramirez, Cadre Environmental, pers. comm. 2003). We had also previously stated (66 FR 9414) that the Natural River Management Plan (NRMP) (Valencia Company 1998) adequately protected this section of the Santa Clara River as a dispersal corridor. However, uplands along this section of the Santa Clara River remain unprotected and threatened by development. Because this section of the Santa Clara River supports a breeding population of arroyo toads, connects arroyo toad habitat in Castaic Creek with San Francisquito Creek, and is in need of further protection, we believe it is essential habitat for the arroyo toad metapopulation in the upper Santa Clara River Basin and, in turn, is essential for the conservation of the species.

Although not detected during a recent survey (Impact Sciences 2001), the Castaic Creek portion of subunit 6b contains high-quality arroyo toad habitat within its meandering floodplain and is connected to the occupied reach of the Santa Clara River. The habitat in this river segment is important to the long-term persistence of the Santa Clara River population by allowing for natural population expansion and fluctuation. Although previously included as critical habitat for the arroyo toad, the portion of Castaic Creek from The Old Road Bridge (adjacent to Interstate 5) upstream to Castaic Lagoon contains largely marginal to moderate quality habitat and is not included in this

proposal. Arroyo toads have not been detected in this reach during recent surveys (Impact Sciences 2001). Although the habitat looks suitable for arroyo toads, they have not been detected during recent surveys in San Francisquito Creek, which empties into the Santa Clara River (Ed Ervin, U.S. Geological Survey (USGS), pers. comm. 2003). However, in 1997, calling arroyo toad males were heard along San Francisquito Creek near the old St. Francis Dam (Ian Swift, Mountains Recreation and Conservation Authority, pers. comm. 2003). In any event, lower San Francisquito Creek offers an excellent opportunity for further expansion of the arroyo toad population in subunit 6b and is important for the long-term persistence of the Santa Clara River population. The upper portion of the Santa Clara River (subunit 6c) supports a breeding population of arroyo toads (N. Sandburg, in litt. 2001; Rick Farris, Service, pers. comm. 2001; Frank Hovore, Hovore and Associates, in litt. 2001) and has the potential to greatly increase in size with appropriate protection.

Subunits 6a, 6b, and 6c contain all the primary constituent elements, including breeding pools in low-gradient stream segments, sandy substrates, seasonal flood flows, and riparian and upland habitats for foraging and dispersal. The majority of the lands within unit 6 are private, and arroyo toad habitat is adversely affected by urban development, agriculture, recreation, and mining. Exotic species are a concern here as well. Special management considerations or protection may be required in this unit to address these threats. This unit is the easternmost population in the Northern Region, and as such, provides the final link in the range of ecological settings for this region the maintenance of which is essential to the conservation of the species.

#### *Unit 7: Upper Los Angeles River Basin, Los Angeles County*

Unit 7 includes portions of Big Tujunga, Mill, and Alder Creeks, and adjacent uplands in the upper Los Angeles River Basin. The unit encompasses approximately 4,213 ac (1,705 ha), of which 64 percent is within the Angeles National Forest and 36 percent is on private lands. This unit is divided into two subunits. Subunit 7a includes 11.8 mi (19 km) of Big Tujunga Creek from below Big Tujunga Dam downstream to Hansen Lake. Subunit 7b encompasses: (1) Approximately 8 mi (13 km) of upper Big Tujunga Creek from immediately above Big Tujunga Reservoir upstream to 1.2 mi (2 km)



above the confluence with Alder Creek, (2) almost 3.7 mi (6 km) of Mill Creek from the Monte Cristo Creek confluence downstream to Big Tujunga Creek, and (3) 1.9 mi (3 km) of Alder Creek from the Mule Fork confluence downstream to Big Tujunga Creek.

Within the last 15 years, the drainages in this unit have been reported to be occupied by arroyo toads (Forest Service, in litt. 1996; Forest Service 2000; California Natural Diversity Data Base (CNDDB) 2003), and, collectively, these toads represent the only significant known population remaining in the coastal foothills of the San Gabriel Mountains. This unit is essential because it is occupied and contains several primary constituent elements including sandy low-gradient stream segments and highly braided river channels supporting sparse vegetation indicating periodic scouring (USGS 2002). Threats that may require special management considerations include adverse (*i.e.*, timing, amount) water releases from Big Tujunga Dam, exotic predators, such as crayfish and bullfrogs, and exotic plants, such as *Arundo donax*. This unit also contains populations that occur in high-elevation environments that are atypical for arroyo toad and that belong to a metapopulation of the species in the Northern Region.

#### *Southern Region*

The following 13 critical habitat units are located in the Southern Region for the arroyo toad and consist of a range of geographic locations from coastal regions to interior mountains. Arroyo toads probably occurred throughout the up- and downstream portions of each of these rivers and creek basins, but are now found only in segments of the rivers and creeks, due to loss or change of habitat and exotic predators. Each of these critical habitat units contains river basins that are identified in the Southern Region of the Recovery Plan (Service 1999). Conserving arroyo toad populations in these river basins is necessary for preserving the species' full range of genetic and phenotypic variation and is essential to the conservation of the species and may require special management considerations or protection.

#### *Unit 8: Lower Santa Ana River Basin/Black Star and Baker Creeks, Orange County*

Unit 8 includes portions of Black Star and Baker Creeks and adjacent uplands in the lower Santa Ana River Basin. The unit encompasses approximately 172 ac (70 ha) just above Irvine Lake, of which 92 percent is private land and 8 percent

is within the Cleveland National Forest. We are proposing a 0.7 mi (1 km) stretch of Black Star Creek and associated uplands and a 1.5-mi (0.9-km) stretch of lower Baker Canyon and associated uplands upstream from the Cleveland National Forest boundary as critical habitat. We consider other high-quality habitats along Santiago Creek as essential but excluded them from this proposed rule because they are within the approved Orange County Central Coastal Subregion Natural Community Conservation Plan (NCCP)/Habitat Conservation Plan (HCP) area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2)).

Unit 8 is considered essential because it contains several primary constituent elements including shallow, exposed pools and open habitat with sandy terraces (Harmsworth Associates 2001), low-gradient stream segments with sandy washes, a natural flooding regime that periodically scours riparian vegetation and reworks stream channels and terraces, and riparian and adjacent uplands habitats that provide for foraging habitat and living areas for adult and subadult toads and dispersal between areas containing suitable habitat. Maintaining a population in this unit would enhance the viability of the larger arroyo toad metapopulation that extends across the lower coastal mountain slopes of the Santa Ana Mountains from Santiago Creek to San Mateo Creek (crossing into Units 10 and 11). Toads in this unit are significant to the overall conservation of the species because they are likely a relict population of a larger historical population that existed along the lower Santa Ana River Basin prior to the urbanization of the greater Los Angeles area. This relict population may contain unique genetic variation from a greater Santa Ana River Basin population that, with adequate protection and intermittent gene flow, would promote greater genetic diversity within the metapopulation. Toads were observed in lower Baker Canyon and at the confluence of Silverado Creek and Santiago Creek during the 1970s and 1980s (Robert Fisher, USGS, in litt. 1985; CNDDB 2003). However, surveys performed along Santiago Creek in 1997 failed to detect arroyo toads (Harmsworth Associates 1998), and reportedly no arroyo toads were detected in 2000 during surveys on Irvine Company land within this unit (Harmsworth Associates 2001). These survey efforts, however, did not cover all of the high-quality habitats that still exist within this unit (*e.g.*, upper

reaches of Baker Canyon). Additional surveys are needed to determine the occupancy status of toads in this unit and their population size. Since suitable habitat still exists, special management considerations, such as augmenting or reestablishing toad populations, may be required for this unit. Threats that may require special management considerations include residential activities near the streams and past commercial sand and gravel removal operations.

#### *Unit 9: San Jacinto River Basin /Bautista Creek, Riverside County*

Unit 9 includes portions of Bautista Creek and adjacent uplands in the San Jacinto River Basin. The unit encompasses approximately 683 ac (276 ha), of which 98 percent is within the San Bernardino National Forest and the remaining 2 percent is on State land. We are proposing a 3.1-mi (5.1-km) discontinuous stretch of Bautista Creek as critical habitat. We also consider high-quality habitat along the San Jacinto River as essential from the Sand Canyon confluence downstream to the Soboba Indian Reservation border and along Bautista Creek from the San Bernardino National Forest boundary downstream to near the middle of section 27 (T5S, R1E), where the stream enters a debris basin, but excluded that area from the proposed critical habitat because it is within the Western Riverside MSHCP planning area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2)). There is also high-quality habitat on the Soboba Indian Reservation along the San Jacinto River and Indian Creek, as well as records of arroyo toads upstream from the Reservation along the San Jacinto River. However, there is uncertainty regarding the amount of high-quality habitat and its occupancy by arroyo toads on the Reservation, and therefore, whether this habitat is essential to the conservation of the species. As a consequence, we have not included lands within the Soboba Indian Reservation in the proposed rule. We are interested in working with the Soboba Indian Tribe in determining the occupancy of these areas and in developing a management plan that will address the conservation needs of the arroyo toad.

Unit 9 is comprised of a substantial arroyo toad population in Bautista Creek within the San Bernardino National Forest (USGS 2000, 2001). This population, along with another smaller population on the San Jacinto River (Brock Ortega, Dudek and Associates, in litt. 2001) which is being excluded from proposed critical habitat due to the

Western Riverside MSHCP, likely extends downstream onto Tribal and other private lands, and represents one of the easternmost populations within the species' range. Unit 9 is essential for arroyo toad conservation because it contains several primary constituent elements including low gradient sandy streambeds with slow moving water suitable for arroyo toad breeding and adjacent upland terrace for foraging and burrowing. The arroyo toad population in this unit is one of the easternmost populations and is isolated from other known populations to the south in the Santa Margarita Watershed, to the west in the San Juan Watershed, and from populations to the north in the Santa Ana Watershed. Therefore, conserving this population is important for the species' recovery because it may contain unique genetic, phenotypic and/or behavioral characteristics. The threats that may require special management considerations for this unit include destruction of habitat and mortality of individual toads from recreation and vehicular traffic from nearby roadways (USGS 2001).

*Unit 10: San Juan Creek Basin, Orange County*

Unit 10 includes portions of San Juan Creek, Bell Canyon, Trabuco Creek, and adjacent uplands in the San Juan Creek Basin. The unit encompasses approximately 6,285 ac (2,544 ha), of which 54 percent is private land, 34 percent is Orange County Park Land (Caspers Wilderness Park and O'Neill Regional Park), and 12 percent is within the Cleveland National Forest. Subunit 10a covers approximately 20.5 mi (33 km) of San Juan Creek from the bottom of Decker Canyon downstream to Interstate 5 and includes about 2.5 mi (4 km) of Bell Canyon from just below Crow Canyon downstream to the confluence with San Juan Creek. Subunit 10b covers approximately 5 mi (8 km) of Trabuco Creek from Falls Canyon to approximately 0.9 mi (1.4 km) downstream of the State Route 241 (Foothill Transportation Corridor) bridge.

Unit 10 supports a large core population in San Juan and Bell Creeks (P. Bloom, environmental consultant, in litt. 1998; USGS, in litt. 1999a; CNDDDB 2003) that is concentrated within Caspers Wilderness Park and private lands downstream (P. Bloom in litt. 1998), the protection of which is essential for the conservation of the species. These areas contain several primary constituent elements, such as low-gradient stream segments with sandy or fine gravel substrates that support shallow pools and alluvial

scrub habitat that provides foraging habitat. This unit also supports a population along a stretch of Trabuco Creek (D. Holland, in litt. 2000) where conditions such as low-gradient streams with shallow pools and adjacent upland habitat for foraging and burrowing are favorable for population persistence. Arroyo toad populations in this unit possibly belong to a greater arroyo toad metapopulation in the Santa Ana Mountains and may serve as an important linkage between toads in Santiago Creek (Unit 8) to the north and the San Mateo Creek Basin to the south. Threats to this population that may require special management considerations include exotic predators (bullfrogs), increased water diversions, and residual effects of recent gravel mining operations (Bloom 1998).

*Unit 11: San Mateo Creek Basin, San Diego and Orange Counties*

Unit 11 includes portions of San Mateo, Cristianitos, Talega, Gabino, and La Paz Creeks, and adjacent uplands in the San Mateo Creek Basin. The unit encompasses approximately 4,580 ac (1,854 ha), of which 68 percent is within portions of Marine Corps Base, Camp Pendleton (Camp Pendleton), including areas leased to outside parties for other land uses (i.e., San Onofre State Park and agricultural lands) and adjacent cantonment areas; 1 percent is within the Cleveland National Forest; and 31 percent is on private land. This unit is divided into three subunits. Subunit 11a extends about 3.1 mi (5 km) from the Cristianitos Creek confluence downstream to just below Interstate 5. Subunit 11a also includes portions of Cristianitos Creek from just above Gabino Creek downstream to the confluence with San Mateo Creek. This subunit also includes approximately 3.1 mi (5 km) of Gabino Creek upstream from its confluence with Cristianitos Creek, including about 0.6 mi (1 km) of La Paz Creek, as well as approximately 2.7 mi (4.3 km) of Talega Creek upstream from its confluence with Cristianitos Creek and beyond the boundaries of Camp Pendleton. Subunit 11b covers approximately 0.4 mi (0.7 km) of San Mateo Creek beyond the boundaries of Camp Pendleton within the Cleveland National Forest near Devils Canyon, and subunit 11c covers approximately 3.9 mi (6.3 km) on San Onofre Creek within cantonment areas in Camp Pendleton. We consider other high-quality habitats along San Mateo, San Onofre, and Talega Creeks within Camp Pendleton as essential, but excluded them from this proposed rule because they are within mission-

essential training areas (see Discussion of Exclusions Under Section 4(b)(2)).

This unit contains several primary constituent elements, including low-gradient stream segments with sandy or fine gravel substrates, shallow pools for breeding and rearing of tadpoles and juveniles, and riparian and adjacent uplands habitats for foraging and dispersal to other populations. With so many favorable habitat conditions, Unit 11 is able to support large core populations in San Mateo and Cristianitos Creeks (Holland and Goodman 1998; CNDDDB 2003) and is essential for the species. An unusual and important aspect of this unit is its close proximity to the coast because nearly all of the historic near-coastal populations have been extirpated due to extensive urbanization and river channelization along the coastal regions of southern California. Distinctive climatic conditions near the coast may provide different selective pressures on toads in this area, and favor specific genetic characteristics that help maintain the genetic diversity of the species. Threats to this arroyo toad essential habitat that may require special management considerations include cumulative impacts from military and other human activities, including direct mortality from vehicle collisions and vehicular crossings of stream beds, fire, exotic predators, and invasive plants (Holland and Goodman 1998).

*Unit 12: Lower Santa Margarita River Basin, San Diego County*

Unit 12 includes approximately 8.7 mi (14 km) of the Santa Margarita River and adjacent uplands, including almost 2.1 mi (3.4 km) of De Luz Creek from the town of De Luz to the boundary of Camp Pendleton (Subunit 12a) in the lower Santa Margarita River Basin, and from the lower end of Temecula Canyon along the lower Santa Margarita River to the westernmost boundary between Camp Pendleton and the Naval Weapons Station Seal Beach Detachment Fallbrook (Fallbrook Naval Weapons Station) (Subunit 12b). The unit encompasses approximately 1,840 ac (745 ha), of which 17 percent is within the Fallbrook Naval Weapons Station, 1 percent is on State land, and 82 percent is on private land. We consider other high-quality habitats along the Santa Margarita River in the very northeastern corner of Camp Pendleton as well as further downstream from the Camp Pendleton/Fallbrook boundary as essential, but excluded them from this proposed rule because they are within mission-essential training areas on Camp

Pendleton (see Discussion of Exclusions Under Section 4(b)(2)).

Recent surveys of the Santa Margarita River and De Luz Creek immediately downstream of this unit on Camp Pendleton have documented what is probably the largest known population of arroyo toads (Holland 1995; Holland and Goodman 1998; Varanus Biological Services, Inc. 1999; Holland and Sisk 2001; CNDDDB 2003). This unit contains several primary constituent elements including rivers with suitable hydrologic regimes, low-gradient stream segments with sandy substrates supporting shallow pools and gravel bars for breeding and rearing tadpoles and juveniles, and riparian and adjacent upland habitat to provide foraging and living areas for subadult and adult toads. This unit is important for the recovery of the species because of its size, proximity to other large populations on Camp Pendleton, and potential connectivity to populations in the upper Santa Margarita River Basin (Unit 13). Threats to this habitat that may require special management considerations include cumulative impacts to the species' habitat from military and other human activities, including direct mortality from vehicle collisions and vehicular crossings of stream beds, fire, exotic predators, and invasive plants (Holland and Goodman 1998).

*Unit 13: Upper Santa Margarita River Basin, San Diego and Riverside Counties*

Unit 13 is located upstream from Vail Lake and includes portions of Temecula and Arroyo Seco Creeks, and adjacent uplands in the upper Santa Margarita Basin. The unit encompasses approximately 3,627 ac (1,468 ha), of which 82 percent is private land, 17 percent is within the Cleveland National Forest, and 1 percent is BLM land. This unit is divided into two subunits. Subunit 13a includes 3.7 mi (5.9 km) of Arroyo Seco Creek from Crosley Homestead downstream to just north of the Riverside/San Diego County boundary and further downstream within the Cleveland National Forest. Subunit 13b includes approximately 7.2 mi (11.6 km) of Temecula Creek from Dodge Valley downstream to the Riverside/San Diego County boundary. We consider other high-quality habitats along Temecula, Wilson, and Arroyo Seco Creeks as essential, but excluded them from this proposed rule because they are within the Western Riverside MSHCP planning area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under 4(b)(2)).

Unit 13 contains documented occurrences in Temecula, Wilson, and

Arroyo Seco Creeks (AMEC Earth and Environmental, Inc. 2001; CNDDDB 2003) and is essential because it contains high-quality habitat, such as broad, flat alluvial valleys with good foraging habitat, loose soils for burrowing, and shallow pools for breeding. The habitat conditions are favorable for population expansion and long-term persistence, and the unit provides a potential link to populations in the lower Santa Margarita River Basin (Unit 12). Sand mining operations and exotic predators (CNDDDB 2003) threaten arroyo toad habitat in this unit and may require special management considerations.

*Unit 14: Lower and Middle San Luis Rey River Basin, San Diego County*

Unit 14 includes portions of the San Luis Rey River below Lake Henshaw and adjacent uplands, and includes sections of Pala and Keys Creeks in the lower and middle San Luis Rey River Basin. The unit encompasses approximately 15,376 ac (6,222 ha), of which 82 percent is private land, 12 percent (1856 ac (751 ha)) is on the Pala Indian Reservation, and 7 percent (1021 ac (413 ha)) is on the Rincon Indian Reservation. Approximately 30 mi (48 km) of the San Luis Rey River from the western edge of the La Jolla Indian Reservation downstream to the confluence with Guajome Creek near the City of Oceanside are proposed for designation. It also includes approximately 3.4 mi (5.5 km) of Pala Creek and 1.7 mi (2.7 km) of Keys Creek upstream from their confluence with the San Luis Rey River.

This long, low-elevation (all below 1,000 ft (305 m) in elevation) unit is situated in a broad, flat valley with a low-gradient river that supports shallow pools and sandy substrates in adjacent upland terraces for foraging and burrowing. This unit is essential for the recovery of the arroyo toad because it supports one of the largest core populations within the species' range (Dudek and Associates, Inc. in litt. 1995; Tierra Madre Consultants, Inc., in litt. 1995; California Department of Transportation (Caltrans) 1998; Varanus Biological Services, Inc., in litt. 1999; KEA Environmental, Inc., in litt. 2000). Special management considerations that are required in this unit include minimizing impacts from intensive urbanization, agriculture, exotic predators, and plants, and addressing issues regarding dams and water diversions in the upper end of the unit.

We are including lands on the Pala and Rincon Indian Reservations because they consist of some of the highest quality occupied habitat, such as low-gradient rivers containing shallow pools

for breeding and upland habitat for foraging, in this unit (Tierra Environmental Services 1999; Varanus Biological Services, Inc. 1999). If these high-quality habitats on the Reservations are lost, the migration of individuals and continuity of gene flow along the San Luis Rey River would be precluded, resulting in fragmentation of remaining toad populations outside of the Reservations and their greater susceptibility to extirpation. The Service will be attempting to work closely with the Pala and Rincon Band of Mission Indians prior to the final designation of critical habitat to achieve necessary conservation measures for the species and to subsequently exclude the these Reservation lands from critical habitat. Designation of these Reservation lands is essential to the conservation of the species and may require special management considerations, such as minimizing development impacts in riparian areas and adjacent upland habitat.

*Unit 15: Upper San Luis Rey River Basin, San Diego County*

Unit 15 includes the upper San Luis Rey River above Lake Henshaw, two of its headwater tributaries, and adjacent uplands in the upper San Luis Rey River Basin. The unit encompasses approximately 11,725 ac (4,745 ha), of which 86 percent is private land and 14 percent is within the Cleveland National Forest. This unit consists of two subunits. Subunit 14a covers almost 8.7 mi (14 km) of the upper San Luis Rey River from the Indian Flats area downstream to the upper end of Lake Henshaw and includes about 7.8 mi (12.5 km) of Agua Caliente Creek from the western edge of section 13 (T10S, R3E) to the confluence with the San Luis Rey. Subunit 14b includes approximately 1.6 mi (2.5 km) of the West Fork of the San Luis Rey River, where it runs through Barker Valley. Arroyo toads occur in each of these drainages, with the largest concentration found along Agua Caliente Creek.

This unit is essential because it contains several primary constituent elements including low-gradient stream segments with sandy substrates supporting shallow pools, and riparian and adjacent upland habitats to provide areas foraging and burrowing. This unit is important for the recovery of the species because it contains a unique assemblage of several small, disjunct, high-elevation arroyo toad populations and one large, core population on Agua Caliente Creek (E. Gergus, San Diego State University, in litt. 1992; CNDDDB 2003) in an area where in-stream and/or overland dispersal between

populations is likely still possible. Maintaining adequate genetic connectivity within this population increases the probability of these populations' long term persistence. Groundwater pumping on private lands, exotic predators, and grazing are the primary disturbances to arroyo toad habitat that may require special management in this unit.

*Unit 16: Santa Ysabel Creek Basin, San Diego County*

Unit 16 includes portions of Santa Ysabel Creek and adjacent uplands, and includes portions of Santa Maria Creek, Guejito Creek, and Temescal Creek (Pamo Valley) in the San Dieguito River/ Santa Ysabel Creek Basin. The unit encompasses approximately 11,080 ac (4,484 ha), of which 93 percent is private land, 6 percent is within the Cleveland National Forest, and 1 percent is on the Mesa Grande Indian Reservation. The unit consists of four subunits. Subunit 16a includes approximately 7.9 mi (12.7 km) of Santa Ysabel Creek and adjacent uplands from the Mesa Grande Indian Reservation downstream to the western boundary of the Cleveland National Forest near Boden Canyon (which is the eastern boundary of the San Diego MSCP area). This subunit also includes approximately 4.3 mi (7 km) of Temescal Creek from the northern edge of Pamo Valley to the confluence with Santa Ysabel Creek and 0.1 mi (0.1 km) of Boden Canyon and adjacent uplands on the Cleveland National Forest at approximately 0.75 mi (1.2 km) upstream from the Santa Ysabel Creek confluence. Subunit 16b includes approximately 7.5 mi (12 km) of Guejito Creek from the 2,000-ft (610-m) elevation contour downstream to the San Diego MSCP boundary near San Pasqual Valley. Subunit 16c covers approximately 5.3 mi (8.5 km) of Santa Maria Creek from the west side of Ramona to the San Diego MSCP boundary near San Pasqual Valley. Subunit 16d includes approximately 5.2 mi (8.3 km) of Santa Ysabel Creek and adjacent uplands from approximately 0.5 mi (0.8 km) east of Highway 79 downstream to approximately 0.25 mi (0.4 km) downstream of the confluence with Witch Creek. We consider other high-quality habitats along Santa Ysabel, Santa Maria, and Guejito Creeks as essential, but excluded them from this proposed rule because they are within the approved San Diego MSCP plan area (see discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2) of the Act).

All of the drainages included in this unit are occupied by arroyo toads, and

a large population exists along Temescal and Santa Ysabel Creeks within Pamo Valley (Varanus Biological Services, Inc. 1999; Tierra Environmental Services, in litt. 2001; USGS, in litt. 2002; CNDDDB 2003). This unit is essential because it contains several primary constituent elements including low-gradient sandy stream segments with shallow pools for breeding and rearing of tadpoles, and upland sandy terraces that provide foraging and burrowing habitat. This unit is also essential for the species' recovery because it supports a large core population and contains several additional populations that are interconnected. In addition, this unit provides an important linkage for genetic interchange with a core arroyo toad population in the San Pasqual Valley, which is within the San Diego MSCP. A population of arroyo toads was recently discovered in high-quality habitat along Santa Ysabel Creek upstream from Lake Sutherland (USGS, in litt. 2002). Protection of this population, on the Santa Ysabel Open Space Preserve, and another population in Witch Creek (E. Gergus, in litt. 1992), a tributary of Santa Ysabel Creek, is essential for the recovery of the species because they exist in an undammed portion of the Santa Ysabel Creek drainage above Lake Sutherland and are thus subject to a more natural flooding regime. Within this portion of the upper Santa Ysabel Creek, approximately 40 ac (16 ha) of Mesa Grande Indian Reservation is included as critical habitat. This Reservation is located between occupied areas on the Santa Ysabel Open Space Preserve and the confluence of Witch and Santa Ysabel Creeks, which is downstream from where toads were discovered in Witch Creek in the early 1990s. Conserving habitat on the Mesa Grande Reservation is essential to allow for the migration of toads to support the genetic and demographic continuity within this population along the upper portions of Santa Ysabel Creek. Grazing, exotic predators, and urbanization (Tierra Environmental Services, in litt. 2001; CNDDDB 2003) are the primary threats to this arroyo toad essential habitat that may require special management considerations in this unit.

*Unit 17: San Diego River Basin/San Vicente Creek, San Diego County*

Unit 17 includes portions of the San Diego River and San Vicente Creek and adjacent uplands in the San Diego River Basin. The unit encompasses approximately 2,309 ac (934 ha), of which 75 percent is private land, 19 percent is within the Cleveland National Forest, and 6 percent is on the Capitan

Grande Indian Reservation. The unit is broken into four subunits—three disjunct sections of the San Diego River and one section of San Vicente Creek. Subunit 17a includes approximately 5 mi (8 km) of the San Diego River from Ritchie Creek downstream through 0.5 mi (0.9 km) of the Capitan Grande Indian Reservation to the upper edge of El Capitan Reservoir and approximately 0.6 mi (1 km) of lower Cedar Creek. Subunit 17b includes 0.9 mi (1.5 km) of the San Diego River from El Capitan Reservoir to El Monte County Park. Subunit 17c covers almost 4.3 mi (7 km) of the San Diego River from approximately 1.2 mi (2 km) below El Monte County Park downstream to the confluence with San Vicente Creek. Subunit 17d includes 1.4 mi (2.3 km) of San Vicente Creek from the west side of San Diego Country Estates downstream to where the creek crosses Wildcat Canyon Road (the MSCP area boundary). We consider other high-quality habitats along San Vicente Creek and the San Diego River as essential, but excluded them from this proposed rule because they are within the approved San Diego MSCP plan area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2)).

The upper San Diego River and San Vicente Creek are both occupied by arroyo toads (E. Gergus, in litt. 1992; Varanus Biological Services, Inc. 1999; CNDDDB 2003). This unit is essential since it contains several primary constituent elements such as low-gradient stream segments with sandy substrates supporting shallow pools for breeding, riparian and adjacent upland habitats that provide foraging, living, and migration areas for subadult and adult toads. This unit is important for arroyo toad conservation because it encompasses several significant populations and includes suitable habitat for population expansion, thus increasing the probability of the long-term persistence of these populations. It also provides an important linkage to populations occurring within the San Diego MSCP area. This unit also includes high quality habitat, such as low-gradient stream segments and adjacent upland terrace areas for foraging and burrowing, on the Capitan Grande Indian Reservation along the upper portions of the San Diego River and above Capitan Reservoir. These areas are between areas of occupied high quality habitat outside of the Reservation along the San Diego River. Conserving habitat on the Capitan Grande Reservation is essential to allow for the migration of toads to support the

genetic and demographic continuity within this population on the upper portions of the San Diego River. Minimizing threats from development is necessary to maintain the viability of the populations in this unit. Consequently, special management considerations or protection may be required.

*Unit 18: Sweetwater River Basin, San Diego County*

Unit 18 includes portions of the Sweetwater River, Peterson Canyon, Viejas Creek, and adjacent uplands in the Sweetwater River Basin. The unit encompasses approximately 9,235 ac (3,737 ha), of which 54 percent is private land, 23 percent is on California State Park land, 12 percent is within the Cleveland National Forest, 8 percent is on the San Diego National Wildlife Refuge, 3 percent is on California Department of Fish and Game (CDFG) land, and less than 1 percent is on the Sycuan Indian Reservation. The unit is broken into four subunits—three disjunct sections of the Sweetwater River and one section of Viejas Creek. Subunit 18a covers approximately 20 mi (32 km) of the Sweetwater River from the top of Upper Green Valley in Cuyamaca Rancho State Park downstream to the San Diego MSCP area boundary. Subunit 18b includes approximately 0.7 mi (1.2 km) of the Sweetwater River between the MSCP boundary and Loveland Reservoir and 1.5 mi (2.4 km) of Peterson Canyon from just east of the Taylor Creek confluence downstream to the top of Loveland Reservoir. Subunit 18c encompasses approximately 16 mi (26 km) of the Sweetwater River, within the MSCP boundary, from immediately below Loveland Dam downstream to the upper edge of Sweetwater Reservoir. Subunit 18d covers 1.8 mi (2.9 km) of Viejas Creek and associated uplands from the western border of the Viejas Indian Reservation downstream to the Congressional boundary of the Cleveland National Forest (also the eastern boundary of the San Diego MSCP area). We consider other high-quality habitats along Viejas Creek and the Sweetwater River as essential, but excluded these lands from the proposed rule because they are within the approved San Diego MSCP plan area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2)).

The unit is essential to arroyo toad conservation because it consists of several primary constituent elements including open sandy river bottoms with shallow pools that support breeding populations and adjacent

upland foraging and burrowing areas. This unit is also essential for the species conservation because it supports several significant populations over large stretches of rivers and streams (E. Gergus, in litt. 1992; Ervin and Griffin, in litt. 1997; Varanus Biological Services, Inc. 1999; CNDDB 2003). Maintaining suitable habitat conditions and connectivity are essential to provide for the long-term persistence of these populations. This unit also includes high quality habitat, such as low-gradient stream segments and adjacent upland terrace areas for foraging and burrowing, on the Sycuan Indian Reservation in the Sweetwater River. This area is between areas of occupied high quality habitat outside the Reservation along the Sweetwater River. Consequently, conserving habitat on the Sycuan Reservation is essential to allow for the migration of toads to support the genetic and demographic continuity within the population on this portion of the Sweetwater River. This unit may require special management considerations to address threats from adverse (*i.e.*, timing, amount) water releases from reservoirs, cattle grazing, gravel mining operations, off highway vehicular traffic, and exotic predators.

*Unit 19: Cottonwood Creek Basin, San Diego County*

Unit 19 includes portions of Cottonwood Creek, adjacent uplands, and portions of the following tributaries: Potrero Creek, Pine Valley Creek, Scove Canyon, Morena Creek, La Posta Creek, and Kitchen Creek of the Cottonwood Creek Basin. This large unit encompasses approximately 15,798 ac (6,393 ha), of which 55 percent is private land, 37 percent is within the Cleveland National Forest, 7 percent is on land owned by San Diego County, and 1 percent is on BLM land. The unit consists of four disjunct subunits—two sections of Cottonwood Creek and two sections of Pine Valley Creek. Subunit 19a covers 7 mi (11.2 km) of Cottonwood Creek from Buckman Springs (near Interstate 8) downstream to Morena Reservoir and includes approximately 3.7 mi (6 km) of La Posta Creek, 2.8 mi (4.5 km) of Morena Creek, and 5 mi (8 km) of Kitchen Creek upstream from the Cottonwood Creek confluence. Subunit 19b covers almost 9.9 mi (16 km) of Cottonwood Creek from approximately 2.5 mi (4 km) below Morena Reservoir downstream to State Highway 94 (excluding Barrett Reservoir) and includes 9.3 mi (15 km) of Potrero Creek from approximately the 2,466-ft (752-m) elevation benchmark downstream to the confluence with Cottonwood Creek. Subunit 19c covers

about 7.5 mi (12 km) of Pine Valley Creek from the north edge of section 12 (T15S, R4E) downstream to approximately 0.6 mi (1 km) south of Interstate 8 and includes approximately 2.5 mi (4 km) of Scove Canyon and 0.6 mi (1 km) of Noble Creek. Subunit 19d encompasses 8 mi (13 km) of Pine Valley Creek from the Nelson Canyon confluence downstream to Barrett Reservoir. We consider other high-quality habitats along Cottonwood Creek as essential, but excluded them from this proposed rule because they are within the San Diego MSCP area (see Discussion in Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2)).

This unit encompasses a large number of distinct arroyo toad occurrences (E. Gergus, in litt. 1992; Varanus Biological Services, Inc. 1999; USGS, in litt. 1999b; CNDDB 2003) in an area where in-stream and/or overland dispersal between populations is probably still possible and where there is room for population expansion. It also provides an important linkage to populations occurring within the San Diego MSCP area. The unit is essential because it includes several primary constituent elements including wide, open sandy low-gradient stream segments supporting shallow pools for breeding and sparsely vegetated upland habitat for foraging and burrowing. Urbanization, grazing, Border Patrol activities, introduced plants, and exotic predators are the primary threats to this arroyo toad essential habitat that may require special management considerations.

*Unit 20: Upper Santa Ana River Basin/ Cajon Wash, San Bernardino County*

Unit 20 includes approximately 4.8 mi (7.7 km) of Cajon Wash and adjacent uplands, from just south of Cajon campground downstream to the San Bernardino National Forest boundary. The unit encompasses approximately 1,262 ac (511 ha), of which 52 percent is private land and 48 percent is within the San Bernardino National Forest.

This population may represent some of the last vestiges of a much greater population that historically existed along the upper Santa Ana River Basin, but was almost entirely extirpated due to urbanization of the greater Los Angeles area. Arroyo toads were located near the junction between Lone Pine Canyon and Cajon Wash in 2000 (USGS 2000). The nearest known arroyo toad population occurs approximately 3.7 mi (6 km) (straight line distance) to the east in the West Fork Mojave River (Unit 22). However, the steep terrain between these populations makes it likely that

these populations are isolated from one another. Protecting this population is important for the conservation of the species because it helps preserve an important outlier segment of the genetic, phenotypic, and/or behavioral variation of the species. This unit is essential because it contains several primary constituent elements including low-gradient sandy stream segments supporting shallow breeding pools, adjacent upland terraces for foraging and burrowing, and a flooding regime that sufficiently corresponds to natural conditions and periodically scours riparian vegetation and reworks stream channels. Recreational usage is the primary threat to this habitat that may require special management considerations.

#### Desert Region

Arroyo toad populations in the following three critical habitat units are essential for the conservation of the species in the Desert Region, as described in the Recovery Plan (Service 1999). Each of these units is isolated from each other and from any other units, making the issues of inbreeding, fragmentation, and random negative impacts of great concern. However, this unit also represents unique ecological conditions for arroyo toads, and likely harbors important genetic diversity.

#### *Unit 21: Little Rock Creek Basin, Los Angeles County*

Unit 21 includes approximately 5.9 mi (9.5 km) of Little Rock Creek and adjacent uplands, from the South Fork confluence downstream to the upper end of Little Rock Reservoir (in the vicinity of Rocky Point Picnic Ground), and approximately 1.1 mi (1.8 km) of Santiago Creek and adjacent uplands upstream from the confluence with Little Rock Creek in the Little Rock Creek Basin. The unit encompasses approximately 941 ac (381 ha), all of which is within the Angeles National Forest.

Unit 21 is essential for arroyo toad conservation because it supports several primary constituent elements including low-gradient sandy stream segments that support shallow breeding pools, adjacent upland areas for foraging, and a hydrologic regime that sufficiently corresponds to natural conditions and scours the riparian vegetation, thus providing open areas for movement. This unit is important for the conservation of the species because these populations collectively comprise an isolated population on the periphery of the species' range that possibly possesses unique genetic and phenotypic variation (Forest Service, in

litt. 1998; Ramirez 2002a). Protecting peripheral populations is necessary for maintaining a broad range of genetic diversity for the species. Losses of diversity can result in reduced evolutionary flexibility and declines in fitness. Threats from recreational activities may require special management considerations to preserve the area's favorable habitat conditions for the persistence of this population.

#### *Unit 22: Upper Mojave River Basin, San Bernardino County*

Unit 22 includes portions of the Mojave River, the West Fork of the Mojave River, Horsethief and Little Horsethief Creeks, Grass Valley Creek, Deep Creek, and adjacent uplands in the upper Mojave River Basin. The unit encompasses approximately 14,450 ac (5,848 ha), of which 59 percent is private land, 18 percent is managed by the U.S. Army Corps of Engineers in association with a flood control reservoir, 14 percent is within the San Bernardino National Forest, 8 percent is State land, and 1 percent is BLM land. The unit is divided into three separate subunits. Subunit 22a includes: (1) Approximately 9.3 mi (18 km) of Deep Creek from near Holcomb Creek downstream to the confluence with the West Fork, (2) approximately 4 mi (6.5 km) of Little Horsethief Creek from near the western edge of section 28 (T3N, R5W) downstream to the confluence with Horsethief Creek, (3) approximately 3.4 mi (5.5 km) of Horsethief Creek from the Little Horsethief Creek confluence downstream to the West Fork confluence, (4) just over 4.3 mi (7 km) of the West Fork of the Mojave River from the Horsethief Creek confluence downstream to Mojave River Forks Dam, (5) approximately 2.5 mi (4 km) of the Mojave River below Mojave River Forks Dam, (6) approximately 1.4 mi (2.2 km) of Grass Valley Creek upstream from the confluence with the West Fork, and (7) approximately 2.8 mi (4.5 km) of Kinley Creek upstream from the Deep Creek confluence. Subunit 22b includes approximately 11 mi (18 km) of the Mojave River from just above the Upper Narrows (section 14, T5N, R4W) downstream to approximately 3.7 mi (6 km) below the Lower Narrows (section 13, T6N, R5W). Subunit 22c includes almost 1.9 mi (3 km) of the upper West Fork of the Mojave River, above Silverwood Lake, from near the 3,613 ft (1,462 m) elevation benchmark downstream to the upper end of the lake.

This unit is essential because it contains several primary constituent elements including low-gradient sandy

stream segments that support shallow breeding pools, adjacent upland areas for foraging, and a hydrologic regime that sufficiently corresponds to natural conditions and scours the riparian vegetation, thus providing open areas for movements by toads. All of the drainages proposed for designation as critical habitat in this unit are occupied by arroyo toads, although the current occupancy of the Mojave River within subunit 22b is unknown (Tierra Madre Consultants, Inc. 1995; Ramirez 2002b; CNDDDB 2003; Forest Service, in litt. 2003; Ramirez 2003). Habitat conditions within subunit 22b are favorable for toads (E. Ervin, pers. comm. 2003), with low-gradient pools, sandy substrates, scattered riparian vegetation, and undeveloped upland habitats. Arroyo toads have been confirmed from this area as late as 1982 (Campbell *et al.* 1996), and unconfirmed reports of calling arroyo toads have been made as recently as 1998 (Tim Thomas, Biologist, U.S. Fish and Wildlife Service, pers. comm., 2003). However, it has not been extensively surveyed and recent arroyo toad observations are lacking along this reach.

Unit 22 is essential for arroyo toad conservation because it contains PCEs that support the largest population of the species on the desert side of the mountains (subunit 22a). Summit Valley, which encompasses the lower portions of Horsethief Creek and the West Fork of the Mojave River, is a broad, flat, alluvial valley that supports a substantial arroyo toad population (Ramirez 2003). Providing adequate and proper streamflows and protections for the upland alluvial habitats would increase the probability for the long-term persistence of this large toad population. If adequate streamflows and upland alluvial habitats can be maintained, this desert unit would have the most favorable conditions of any of the desert units for long-term persistence of the large toad population. The downstream portion of this unit contains the driest conditions of any unit proposed for arroyo toad critical habitat (Teale Data Center 1998; CIMS 2000), which suggests that this population may possess unique physiological adaptations, such as a reduced rate of evaporative water loss. Protection of this area is essential to maintain the range of genetic and phenotypic diversity of the species. The presence of exotic species, flood control and channel maintenance activities, and recreational activity (particularly off-road vehicle use) may create the need for special management in this unit.

*Unit 23: Whitewater River Basin, Riverside County*

Unit 23 includes approximately 7.2 mi (11.7 km) of the Whitewater River and adjacent uplands, from near Red Dome downstream to Interstate 10. The unit encompasses approximately 1,997 ac (808 ha), of which 52 percent is BLM land and 48 percent is private land. The current status of arroyo toads in this unit is poorly known. They were observed and photographed in the drainage in 1992 (Patten and Myers 1992) but were not detected in surveys conducted during the 2000 breeding season (Jones and Stokes, in litt. 2000). However, 2000 was generally a bad year for arroyo toad breeding activity, particularly in the southern half of the species' range, because of below average precipitation and subsequent low streamflows. In 2003, a tadpole was identified with almost complete certainty to be an arroyo toad near where the Colorado River Aqueduct crosses the river (P. Bloom, in litt. 2003). However, further surveys should be performed to confirm this finding. Given the relatively recent documentation of arroyo toads in this drainage, and the continued presence of suitable habitat in the area, we believe it is likely that this unit is still occupied.

Unit 23 supports primary constituent elements such as open sandy areas near small areas of slow moving water and adjacent sparse riparian habitat for foraging and burrowing. These essential PCEs support an isolated desert population on the easternmost periphery of the species' range in the Sonoran Desert that may possess unique phenotypic and genetic variation that are distinct from other desert populations in Units 21 and 22 in the Mohave Desert. Maintaining greater genetic diversity creates greater potential for adaptation to changing environmental conditions. Threats to this population that may require special management considerations include unsuitable water flow for breeding and off highway vehicular traffic.

### **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, permit, or carry out do not destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species.

Such alterations include, but are not limited to: Alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." However, in a March 15, 2001, decision of the United States Court of Appeals for the Fifth Circuit (*Sierra Club v. U.S. Fish and Wildlife Service et al.*, F.3d 434), the court found our definition of destruction or adverse modification to be invalid. In response to this decision, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

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 proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act 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 the destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

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

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (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.

If 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 reinstate 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 reinstatement of consultation or conference 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.

Activities on Federal lands that may affect the arroyo toad 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 Corps under section 404 of the Clean Water Act, a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (e.g., Federal Highway Administration (FAA) or Federal Emergency Management Agency (FEMA) funding), will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal and private lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe, 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 would be those that alter the primary constituent elements to the extent that



the value of critical habitat for the conservation of the arroyo toad 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 affect critical habitat and require that a section 7 consultation be conducted include, but are not limited to:

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

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

(3) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities on Federal lands (such as those managed by the Service, Forest Service, DOD, or BLM);

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

(5) Regulation of airport improvement activities by the FAA;

(6) Military training and maneuvers, facilities operations, and maintenance on Fort Hunter Liggett and other DOD lands designated as critical habitat;

(7) Licensing of construction of communication sites by the Federal Communications Commission; and,

(8) Funding of activities by the U.S. Environmental Protection Agency (EPA), Department of Energy (DOE), FEMA, Federal Highway Administration (FHA), or any other Federal agency.

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

All lands proposed for designation as critical habitat are within the geographic range of the species, all are occupied by the species (based on observations made within the last 20 years), and are likely to be used by the arroyo toad, whether for foraging, breeding, growth of larvae and juveniles, intra-specific communication, dispersal, migration, genetic exchange, or sheltering. Thus, we consider all proposed critical habitat units to be occupied by the species.

We recognize that the proposed designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, we want to ensure that the public is aware that critical habitat designations do not signal that habitat outside the proposed designation is unimportant or may not be required for recovery. Areas outside the proposed critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the prohibitions of section 9 of the Act. Critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, HCPs, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

#### *Application of Section 4(a)(3)(B) and Exclusions Under Section 4(b)(2) of the Act*

The recent amendments to Section 4(a)(3) of the Endangered Species Act (Pub. L. 108-136) address the relationship of Integrated Natural Resources Management Plans (INRMPs) to critical habitat. The new provision prohibits the Service from designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. Both Camp Pendleton and Fallbrook Naval Weapons Station have completed INRMPs. The application of section 4(a)(3) to these military lands and our decision to include them in this proposed designation are discussed below under *Relationship to Lands Managed by the DOD—Exclusions under Section 4(a)(3)(B) and 4(b)(2) of the Act*.

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. An area may be excluded from critical

habitat if it is determined that the benefits of exclusion outweigh the benefits of specifying the particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species.

In our critical habitat designations, we use the provisions outlined in section 4(b)(2) of the Act to evaluate those specific areas that we are considering proposing as critical habitat as well as for those areas that are formally proposed for designation as critical habitat. We have excluded lands under section 4(b)(2) within military installations where designation could interfere with mission essential training activities or impact national security. In addition, we have excluded lands under section 4(b)(2) that are covered by the following types of plans if they provide assurances that the conservation measures they provide will be implemented and effective: (1) Legally operative HCPs that cover the species, (2) draft HCPs that cover the species and have undergone public review and comment (i.e., pending HCPs), (3) Tribal conservation plans that cover the species, (4) State conservation plans that cover the species, and (5) National Wildlife Refuge System Comprehensive Conservation Plans.

We have considered, but are excluding from proposed critical habitat for the arroyo toad, the following areas under section 4(b)(2): Mission-essential training areas on Camp Pendleton and Fort Hunter-Liggett; lands within approved subarea plans of the San Diego Multiple Species Conservation Program (MSCP); and lands covered by the Orange County Central-Coastal NCCP/HCP, the San Diego Gas and Electric (SDG&E) NCCP/HCP, and the proposed Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). We are proposing some lands that are managed by the DOD as critical habitat for the arroyo toad. These include nontraining and cantonment areas on Camp Pendleton, nontraining areas on Fort Hunter Liggett, and Fallbrook Naval Weapons Station. We are also proposing some Tribal lands within the Pala, Rincon, Sycuan, Mesa Grande, and the Capitan Grande Indian Reservation as critical habitat. Our evaluation of land within each of these categories under section 4(b)(2) follows.

Table 3 shows the approximate proposed critical habitat, essential area, and excluded areas. Table 4 shows the planning and preserve areas within NCCP/HCPs discussed in this proposal.

TABLE 3.—APPROXIMATE PROPOSED CRITICAL HABITAT, ESSENTIAL, AND EXCLUDED AREAS

Area considered essential .....	176,555 ac (71,450 ha).
Area excluded under 4(b)(2) (mission-essential training areas at Camp Pendleton and Fort Hunter Liggett; HCP plan areas consisting of San Diego MSCP, Central-Coastal Orange County NCCP/HCP, Proposed Western Riverside MSHCP, SDG&E NCCP/HCP).	37,842 ac (15,314 ha).
Proposed Critical Habitat .....	138,713 ac (56,133 ha).

TABLE 4.—HCP AREAS EXCLUDED FROM PROPOSED CRITICAL HABITAT

NCCP/HCP	Plan area	Preserve area
San Diego MSCP .....	582,000 ac (236,000 ha) .....	171,000 ac (69,572 ha).
Central-Coastal Orange County NCCP/HCP .....	208,713 ac (84,463 ha) .....	38,738 ac (15,667 ha).
Proposed Western Riverside MSHCP .....	1.3 million ac (530,000 ha) .....	153,000 ac (61,919 ha).
SDG&E NCCP/HCP .....	Not specified <sup>1</sup> .....	240 ac (97 ha).

<sup>1</sup> The planning area for SDG&E's NCCP/HCP encompasses all of San Diego County west of the desert, a portion of Orange County within the existing SDG&E's service territory, and the SDG&E Moreno Compressor Station in Riverside County, California. However, the size of this planning area is not specified in SDG&E's Subregional Natural Community Conservation Plan. Based on the Plan's forecasting, it is estimated that SDG&E will impact 124 acres within 25 years following the receipt of their Section 10(a)(1)(B) permit. Since the future cannot be accurately predicted, the Service has authorized up to 400 acres (162 ha) of impact over a 55-year period under the Section 10(a)(1)(B) permit (USFWS 1995).

#### *Approved Habitat Conservation Plans—Exclusions Under Section 4(b)(2)*

##### *Regional HCPs*

Section 4(b)(2) of the Act requires us to consider other relevant impacts, in addition to economic impacts, when designating critical habitat. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed wildlife species incidental to otherwise lawful activities. Development of an HCP is a prerequisite for the issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Act. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take.

HCPs vary in size and may provide for incidental take coverage and conservation management for one or many federally listed species. Additionally, more than one applicant may participate in the development and implementation of an HCP. Some areas occupied by the arroyo toad involve several very complex HCPs that address multiple species, cover large areas, and are very important to many participating permittees. Large regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act because they reflect a voluntary, cooperative approach to large-scale habitat and species conservation planning. Many of the large regional HCPs in southern California have been, or are being, developed to provide for the conservation of numerous federally listed species and unlisted sensitive species and the habitat that provides for their biological needs. These HCPs are designed to proactively implement

conservation actions to address future projects that are anticipated to occur within the planning area of the HCP. However, given the broad scope of these regional HCPs, not all projects envisioned to potentially occur may actually take place.

In the case of approved regional HCPs and accompanying Implementing Agreements (IAs) (e.g., those sponsored by cities, counties, or other local jurisdictions) that provide for incidental take coverage for the arroyo toad, a primary goal of these regional plans is to provide for the protection and management of habitat essential for the species' conservation while directing development to other areas. The regional HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the arroyo toad. 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 system of interlinked habitat blocks that provide for its biological needs.

We have considered, but have not proposed as critical habitat, lands in approved subarea plans within the San Diego MSCP, the Central-Coastal NCCP/HCP in Orange County, and the SDG&E NCCP/HCP under Section 4(b)(2). These approved and legally operative HCPs include portions of five proposed critical habitat units (8, 16, 17, 18, and 19). We believe the benefits of excluding lands within these legally operative HCPs from the proposed critical habitat designations will outweigh the benefits of including them. The following represents our rationale for excluding these areas.

Portions of Unit 8 are excluded under section 4(b)(2) from proposed critical habitat because they are within the Orange County Central Coastal Subregional NCCP/HCP. The Central-Coastal NCCP/HCP in Orange County was developed in cooperation with numerous local and State jurisdictions and agencies, and participating landowners including the cities of Anaheim, Costa Mesa, Irvine, Orange, and San Juan Capistrano; Southern California Edison; Transportation Corridor Agencies; The Irvine Company; California Department of Parks and Recreation; Metropolitan Water District of Southern California; and the County of Orange. Approved in 1996, the Central-Coastal NCCP/HCP provides for the establishment of approximately 38,738 ac (15,677 ha) of reserve lands for 39 Federal or State listed and unlisted sensitive species within the 208,713 ac (84,463 ha) planning area. We issued an incidental take permit under section 10(a)(1)(B) of the Act that provides conditional incidental take authorization for the arroyo toad for all areas within the Central-Coastal Subregion except the North Ranch Policy Plan area. This take authorization only applies to smaller arroyo toad populations, reintroduced populations, or populations that have expanded due to NCCP Reserve management. It also requires implementation of a mitigation plan to relocate toads to protected areas within the Reserve, when necessary. The Central-Coastal NCCP/HCP provides for monitoring and adaptive management of the arroyo toad and its habitat within the Reserve System. Adaptive management activities may include a program to control predators, such as bullfrogs, clawed frogs, and non-native fishes. It may also include a

program of closing dirt road crossings without culverts or upgrading such crossings with concrete fords and/or culverts on publicly owned lands outside the Reserve System if baseline monitoring indicates such measures would likely be effective.

The North Ranch Policy Plan area was excluded from take authorization provided for the Central Coastal NCCP/HCP due to a lack of detailed biological information and specific conservation commitments at the time of adoption of the NCCP/HCP. We have since determined that available arroyo toad habitat within the North Ranch Policy Plan area is essential to the conservation of the arroyo toad because it helps support a viable Santa Ana Mountain arroyo toad population. In 2002, the owner, The Irvine Company granted a conservation easement over a portion of the North Ranch Policy Plan Area that covers arroyo toad proposed critical habitat areas to The Nature Conservancy. We recognize that the Irvine Company has taken steps to conserve the North Ranch Policy Area, including a \$10 million management endowment. The conservation easement provides adequate protection for arroyo toad habitat within this unit. As a result, we are excluding the North Ranch Policy Plan area from proposed critical habitat.

Portions of Units 16, 17, 18, and 19 are also excluded under section 4(b)(2) from proposed critical habitat because they are within the approved San Diego MSCP/HCP in southwestern San Diego County. The San Diego MSCP plan encompasses more than 582,000 ac (236,000 ha) and reflects the cooperative efforts of the local jurisdictions, the State, the building industry, and environmentalists. The San Diego MSCP provides for the establishment over the permit term of approximately 171,000 ac (69,573 ha) of preserve areas to provide conservation benefits for 85 federally listed and sensitive species. The San Diego MSCP and its approved subarea plans provide measures to conserve known arroyo toad populations within the Sweetwater River, Otay River, Santa Ysabel Creek in San Pasqual Valley, San Vicente Creek above the San Vicente Reservoir, and Cottonwood Creek in Marron Valley. Area-specific management directives for MSCP subarea plans must address the conservation of the arroyo toad by protecting and maintaining sufficient, suitable, low-gradient sandy stream habitat to meet breeding requirements; preserving sheltering and foraging habitats within 0.6 mi (1 km) of occupied breeding habitat within designated preserve land; controlling

nonnative predators; and controlling human impacts within designated preserves. Several of these management plans are currently under development, including those for Marron and San Pasqual Valleys. These lands are to be permanently maintained and managed for the benefit of the arroyo toad and other covered species.

One exception to the MSCP/HCP exclusion concerns the reach of the Sweetwater River between Loveland and Sweetwater Reservoirs within the County of San Diego's MSCP plan. This area is affected by activities (e.g., reservoir water transfers) that are outside the authority of, and thus not subject to, the approved County of San Diego MSCP subarea plan. Therefore, we are including this limited reach of the Sweetwater River as proposed critical habitat.

The SDG&E NCCP/HCP encompasses San Diego County west of the desert, the portion of Orange County within SDG&E's existing service territory, and the SDG&E Moreno Compressor Station in Riverside County. The section 10(a)(1)(B) permit covers the arroyo toad and 17 other species listed at the time the plan was approved in 1995. The NCCP/HCP allows SDG&E to impact through habitat modification a maximum of 400 ac (162 ha) of natural land over a 55-year permit period. In general, impacts resulting from the operation, maintenance, and expansion of SDG&E's facilities are limited to narrow strips (typically 200 ft (61 m) wide or less) along gas and electric transmission lines, including periodic placement of substations and regulator stations with a footprint of up to 20 ac (8.1 ha). Effects of the plan are minimal because impacts would generally be small, and the Plan prioritizes avoidance, minimization, and mitigation (in that order) for any potential impacts. The Plan preserves individual toads and habitats to maximum extent practicable and preserves corridors connecting habitats. It may also reclaim and restore habitats that may include the species. Critical habitat is not proposed for the arroyo toad within these 400 ac (162 ha). However, these areas may still appear on our critical habitat maps as an artifact of mapping scale.

#### (1) Benefits of Inclusion

Under section 7, critical habitat designation will provide little additional benefit to the arroyo toad within the boundaries of these approved HCPs. The principal benefit of any designated critical habitat is that federally funded or authorized activities in such habitat that may affect it require

consultation under section 7 of the Act. Such consultations ensure that adequate protection is provided to avoid adverse modification of critical habitat. Currently approved HCPs and NCCP/HCPs that cover the toad are designed to ensure the conservation of the species within the plan area, and incorporate special management and protection for arroyo toad habitat within plan boundaries. The adequacy of plan measures to protect the toad and its habitat has undergone thorough evaluation in the section 7 consultations completed prior to approval of the plans.

Development and implementation of these NCCP/HCPs and HCPs has provided other important conservation benefits for the toad, including the development of biological information to guide conservation efforts and assist in the species' recovery. The educational benefits of critical habitat, including informing the public of areas that are important to the conservation of listed species, are essentially the same as those that have occurred during the process of reviewing and approving these NCCP/HCPs and HCPs. Specifically, each of these HCPs involved public participation through public notices and public comment periods, prior to being approved. For these reasons, we believe that designation of critical habitat would provide little additional benefit in areas covered by these approved HCPs. Federal actions in areas occupied by the toad will still require consultation under section 7 of the Act.

#### (2) Benefits of Exclusion

We have determined that the benefits of excluding lands within approved HCPs from proposed critical habitat designation are generally more substantial than including them. The benefits of excluding HCPs from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by critical habitat. Many HCPs, particularly large regional HCPs, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. Additionally, many of these HCPs provide conservation benefits to unlisted sensitive species. Imposing an additional regulatory review after an HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. In fact, it could result in the loss of species' benefits if participants abandon the

voluntary HCP process, because it may result in additional regulations requiring more of them than other parties who have not voluntarily participated in species conservation. Designation of critical habitat within the boundaries of approved HCPs could also be viewed as a disincentive to those entities currently developing HCPs or contemplating them in the future. The benefits of excluding lands within approved HCPs generally from critical habitat apply fully to the approved NCCP/HCP and HCPs discussed above that cover the arroyo toad.

A related benefit of excluding lands within approved HCPs that cover the arroyo toad from proposed critical habitat designation is the continued ability to seek new partnerships with future HCP participants, including States, Counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. If lands within approved HCP plan areas are designated as critical habitat, it would likely have a chilling effect on our ability to establish new partnerships to develop HCPs, particularly large regional HCPs that involve numerous participants and address landscape-level conservation of the toad and its habitat. By excluding these lands, we preserve our current partnerships and encourage additional conservation actions in the future.

### (3) Benefits of Exclusion Outweigh the Benefits of Inclusion

In general, we find that the benefits of critical habitat designation on lands within approved HCPs are small while the benefits of excluding such lands from designation of critical habitat are substantial. After weighing the small benefits of including these lands against the much greater benefits derived from excluding them, including relieving property owners of an additional layer of approvals and regulation and encouraging the pursuit of additional conservation partnerships, it is our intent to exclude lands within approved HCPs from proposed critical habitat designation. We have reviewed and evaluated the approved Orange County Central Coastal Subregional NCCP/HCP, the SDG&E NCCP/HCP, and the San Diego MSCP HCPs and NCCP/HCPs and find that the benefits of exclusion outweigh the benefits of proposing portions of Units 8, 16, 17, 18, and 19 as critical habitat.

Each of these HCPs includes the arroyo toad as a covered species and provides protection for the arroyo toad and its associated habitat in perpetuity.

They also preserve the partnerships that we developed with the local jurisdictions and project proponent in the development of the HCPs and NCCP/HCPs.

The educational benefits of critical habitat, including informing the public about areas that are important for the long-term survival and conservation of the species, have been provided by the public notice and comment procedures required to establish these HCPs and NCCPs. For these reasons, we believe that proposing critical habitat on lands covered by the identified HCPs and NCCP/HCPs has little benefit and is outweighed by the more substantial benefits of excluding the lands from critical habitat. Because of the management and protection provided for the toad and its habitat within the approved plan areas, the exclusion of essential toad habitat within approved HCPs and NCCPs/HCPs will not result in the extinction of the species.

### *Relationship of Critical Habitat to the Draft Western Riverside Multiple Species Habitat Conservation Plan (MSHCP)*

The Draft Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) has been in development for several years. In contrast to the other HCPs under development, which contain essential toad habitat and are identified in Table 4, the Western Riverside MSHCP is essentially completed and the Service is very close to taking final action on the County of Riverside's incidental take permit application. Participants in this HCP include 14 cities; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department; the California Department of Parks and Recreation; and Caltrans. The Western Riverside MSHCP is also being proposed as a subregional plan under the State's NCCP and is being developed in cooperation with CDFG. Within the 1.26-million acre (510,000-ha) planning area of the MSHCP, approximately 153,000 ac (62,000 ha) of diverse habitats are proposed for conservation. The proposed conservation of 153,000 ac (62,000 ha) will complement other existing natural and open space areas (e.g., State Parks, Forest Service, and County Park Lands).

The County of Riverside and the participating jurisdictions have signaled their sustained support for the Western Riverside MSHCP as evidenced by the November 5, 2002, passage of a local

bond measure to fund the acquisition of land in support of the MSHCP. On November 15, 2002, we published a Notice of Availability of a Draft Environmental Impact Report (EIS/EIR) and Receipt of and Application for an Incidental Take Permit in the **Federal Register**. Public comment on these documents was accepted until January 14, 2003. Additionally, on June 17, 2003, the County of Riverside Board of Supervisors voted unanimously to support the completion of the Western Riverside MSHCP.

The Western Riverside MSHCP proposes conservation actions within the planning area, including surveying for additional populations and habitat protection, to ensure the long-term conservation of the arroyo toad. Although the MSHCP is not yet approved and implemented, significant progress has been achieved in the development of this HCP, including circulation of the final EIS/EIR, the solicitation of public review and comment, and the initiation of the intra-Service Section 7 consultation for those species identified for coverage within the draft plan. We are excluding portions of Unit 9 and 13 from proposed critical habitat pursuant to section 4(b)(2) of the Act because they are within the planning area boundary for the proposed Western Riverside MSHCP. However, we are proposing Unit 10 and other portions of Units 9 and 13 on U.S. Forest Service lands within the planning area boundary of the Western Riverside MSHCP as critical habitat because the activities of Federal agencies are not covered under a section 10(a)(1)(B) permit. Our analysis for excluding portions of Units 9 and 13 from proposed critical habitat is outlined below.

### (1) Benefits of Inclusion

As stated previously, the benefits of designating critical habitat on lands within the boundaries of HCPs are normally small. HCPs generally include management measures and protections designed to protect, restore, monitor, manage, and enhance the habitat to benefit the conservation of the covered species. The draft Western Riverside MSHCP seeks to accomplish these goals for the arroyo toad through the implementation of specific conservation measures. The principal benefit of designating critical habitat is that federally authorized or funded activities that may affect a species' critical habitat would require consultation with us under section 7 of the Act. In the case of the proposed Western Riverside MSHCP, we must evaluate the impact of the plan on the species for which the

participants are seeking incidental take permits, pursuant to section 7 of the Act. Under section 7, proposed actions that would adversely modify or destroy designated critical habitat cannot go forward unless they are altered to eliminate the adverse modification or destruction of critical habitat.

An important objective of the Western Riverside MSHCP is to implement measures, including monitoring and management, necessary to conserve important habitat for the arroyo toad within the plan's boundaries. Thus, the purposes of the Western Riverside MSHCP are consistent with the purpose served by undergoing consultation under section 7, which is to ensure that critical habitat of the toad is not adversely modified by a proposed Federal action. Because issuance of an incidental take permit (ITP) under section 10 is a Federal action, prior to approving the Western Riverside MSHCP, we must complete an internal section 7 consultation for every species, including the arroyo toad proposed to be covered under the proposed plan and permit. The consultation requires us to analyze the impacts of the proposed ITP and HCP on the toad and its essential habitat within the plan boundaries, whether or not that habitat has been officially designated as critical habitat. Therefore, including essential toad habitat subject to provisions of the proposed Western Riverside MSHCP as critical habitat would provide little benefit to the arroyo toad because the potential impacts to the species' essential habitat within the MSHCP area are already addressed under the plan and will be analyzed in our internal section 7 consultation on the proposed ITP.

#### *(2) Benefits of Exclusion*

Excluding from proposed critical habitat lands within Units 9 and 13 that are covered by the within the Western Riverside MSHCP will provide several benefits. Exclusion of the lands from the final designation will allow us to continue working with the participants in a spirit of cooperation and partnership. In the past, HCP applicants and participants in voluntary conservation programs have generally viewed the designation of critical habitat as having a potential negative regulatory effect that discourages voluntary, cooperative and proactive efforts to conserve listed species and their habitats by non-Federal parties. They generally view designation of critical habitat as an indication by the Federal government that their proactive actions to protect the species and its habitat are inadequate. Excluding these

areas from the perceived negative consequences of critical habitat will likely encourage other jurisdictions, private landowners, and other entities to work cooperatively with us to develop HCPs and conservation plans, which will provide the basis for future opportunities to conserve species and their essential habitat.

#### *(3) Benefits of Exclusion Outweigh the Benefits of Inclusion*

We believe the analysis conducted to evaluate the benefits of excluding HCPs from critical habitat versus the benefits of including these lands, which was previously discussed for the exclusion of approved HCPs, is applicable and appropriate for the exclusion of HCPs that are in the final permit decision phase, such as the Western Riverside MSHCP. In the event that the Service does not grant coverage for this species under the Western Riverside MSHCP, we will include the areas essential to the conservation of the arroyo toad in Units 9, 10, and 13 in the final designation of critical habitat. Excluding arroyo toad habitat within the plan area will preserve the partnerships that we have developed with the local jurisdictions and project proponents in the development of the HCP. Because of the permanent protection and management measures provided in the plan, exclusion of essential toad habitat within the plan area will not result in the extinction of the arroyo toad.

There are currently several other regional NCCP/HCP efforts under way in southern California that have not yet been completed but which are intended, upon approval, to provide conservation benefits to the arroyo toad. Lands within these HCPs, which are in the early stages of formulation, are not excluded from consideration for proposed critical habitat as we have yet to receive a permit application from the participants, environmental analysis of the plans has not been completed and the plans have not been released for public review and comment. The proposed Southern Subregion NCCP/HCP in Orange County encompasses approximately 128,000 ac (51,799 ha) in its planning area. Jurisdictions and private landowners within the study area include the cities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano, San Clemente, and Rancho Mission Viejo. The arroyo toad is being proposed as one of the species covered under this plan. The Coachella Valley Multiple Species HCP/NCCP in Riverside County encompasses approximately 1,200,000 ac (479,139 ha) in its planning area. Participants include the Coachella Valley

Association of Governments; Federal, State, and County agencies; University of California, Riverside; Coachella Valley Mountains Conservancy; and unincorporated private lands. The arroyo toad is also being proposed as one of the covered species under this plan.

In addition to the two plans identified above, the Multiple Habitat Conservation Program (MHCP) in northwestern San Diego County encompasses approximately 112,000 ac (45,324 ha) within the study area and includes lands we are proposing as critical habitat for the arroyo toad. Currently, seven cities are participating in the development of the MHCP. However, the arroyo toad is not proposed as a covered species in this plan.

#### *Relationship of Indian Reservations and Exclusions Under 4(b)(2)*

Section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and the effects thereof from all relevant sources, including Indian Pueblos and Tribes. In accordance with Secretarial Order 3206, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" (June 5, 1997); the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments;" and Executive Order 13175, we recognize the need to consult with federally recognized Tribes on a government-to-government basis when considering the designation of critical habitat in an area that may impact Tribal trust resources, tribally-owned fee lands, or the exercise of Tribal rights. Critical habitat shall not be designated in such areas unless it is determined essential to conserve a listed species. In designating critical habitat, we must evaluate and document the extent to which the conservation needs of the listed species can be achieved by limiting the designation to other lands. On January 29, 2004, the Service sent letters to the Mesa Grande Band of Mission Indians, Pala Band of Mission Indians, Sycuan Band of the Kumeyaay Nation, Viejas Band of Kumeyaay Indians, Rincon Band of Mission Indians, and the Barona Indian Reservation seeking consultation on the possible proposal of critical habitat within their Reservations. On March 9, 2004, the Service met with the Pala Banda of Mission Indians to discuss areas that should or should not be proposed as critical habitat. We are currently still attempting to arrange meetings with these Tribes in order to

discuss matters regarding critical habitat.

We consider portions of the Pala, Rincon, Sycuan, Mesa Grande, and Capitan Grande (which is jointly administered by the Viejas and Barona Tribes) Indian Reservation lands to be essential, and are therefore proposing these areas as critical habitat for the arroyo toad. The following represents our rationale for including these Reservations as proposed critical habitat.

#### (1) Benefits of Inclusion

Essential, high-quality habitat exists on the Pala, Rincon, Sycuan, Mesa Grande, and Capitan Grande Indian Reservations. The Pala and Rincon Indian Reservations support core arroyo toad populations that are critical to maintaining the viability of toads along the San Luis Rey River. Pala, Sycuan, Mesa Grande, and Capitan Grande Reservations also include lands that are essential to maintaining the connectivity of proposed critical habitat with habitat of known arroyo toad populations outside the boundaries of the reservations. The long-term viability of these populations would be severely at risk should the habitat supporting these populations become fragmented.

The primary benefit of any critical habitat with regard to activities that require consultation pursuant to section 7 of the Act is to ensure that the activity will not destroy or adversely modify designated critical habitat. Because many activities on Tribal lands involve activities authorized, funded or carried out by a Federal agency, and in particular, the Bureau of Indian Affairs, the likelihood of future Section 7 consultations that would address loss of essential arroyo toad habitat on the reservations is high. Where Tribes have management plans in place that provide adequate protection for the species, the benefits of proposing critical habitat on Indian Reservations are minimal because implementation of a management plan should ensure the long-term survival of the covered species. However, there are currently no management plans in place that address the conservation needs of the arroyo toad and its habitat on any of the Indian Reservations considered essential for the arroyo toad. An additional benefit for including Indian Reservations as critical habitat are the educational benefits that proposing critical habitat will provide Tribes by informing them of areas that are important to the conservation of this species.

#### (2) Benefits of Exclusion

The benefits of excluding Indian Reservations from critical habitat designation include relieving Tribes of any additional regulatory burden that may result solely from such designation. Designation of critical habitat may undermine future conservation efforts and partnerships and discourage Tribes from developing species and habitat management plans. Designation of critical habitat could also be viewed as a disincentive by Tribes contemplating developing HCPs in the future. Excluding Tribal lands could help preserve our current partnerships and set the stage for additional conservation actions in the future.

Further, projects on Indian Reservations with a Federal nexus will trigger a consultation under section 7 of the Act if the action may affect the arroyo toad or its designated critical habitat. Through section 7 consultation, we would address the conservation of the arroyo toad and its habitat to ensure that actions undertaken, authorized, or permitted by a Federal agency would not jeopardize the continued existence of the species or adversely modify critical habitat. In light of the Federal government's trust responsibility for Tribal trust resources and lands, and the likelihood of future Federal nexuses that would trigger section 7 consultations with regard to those resources and lands, the Tribes may view the designation of Indian Reservations as critical habitat as creating an additional regulatory burden.

#### (3) Benefits of Inclusion Outweigh the Benefits of Exclusion

After weighing the benefits of proposing critical habitat on the Pala, Rincon, Sycuan, Mesa Grande, and the Capitan Grande Indian Reservations against the benefits of excluding them, we find the benefits of proposing these lands outweigh the benefits of excluding them primarily because these Reservation lands support important core arroyo toad populations (Rincon and Pala) and/or areas that are essential for maintaining the connectivity of occupied high quality arroyo toad habitat outside the boundaries of the Reservations (Mesa Grande, Sycuan, Pala, and Capitan Grande). Further, none of these Tribes has developed a management plan that addresses the conservation needs of the arroyo toad. We are committed to working with these Tribes to develop management plans for the arroyo toad. In the event that one or more adequate management plans are developed before the final designation of critical habitat, we will consider

excluding Reservation lands covered by the plans from final critical habitat. We have restricted the amount of Reservation lands included as proposed critical habitat to the minimum essential for the conservation of the species. These essential areas consist of habitat supporting core populations or connectivity among populations.

#### *Relationship to Lands Managed by the DOD—Exclusions Under Section 4(a)(3)(B) and 4(b)(2) of the Act*

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an INRMP. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species.

As discussed above, Section 318 of fiscal year 2004 the National Defense Authorization Act (Pub. L. 108–136) amended the Endangered Species by adding a new section 4(a)(3)(B). This provision prohibits the Service from designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

The bases where we identified habitat essential for the conservation of the arroyo toad are Camp Pendleton, Fallbrook Naval Weapons Station, and Fort Hunter Liggett. Critical habitat was previously designated for the arroyo toad, and was in effect from February 2001 through October 2003, on Fort Hunter Liggett, Fallbrook Naval Weapons Station, and those portions of Camp Pendleton that were leased to a third party and not used for military purposes. Camp Pendleton and Fallbrook Naval Weapons Station have approved INRMPs. We will examine those INRMPs to determine coverage for

the arroyo toad. On completion of that examination, we may exclude these areas from our final critical habitat designation under section 4(a)(3)(B). If, prior to the final designation of critical habitat for the arroyo toad, the U.S. Army (Army) completes its INRMP or Endangered Species Management Plan for the arroyo toad at Fort Hunter Liggett, these lands will be considered for exclusion under section 4(a)(3)(B).

*Mission-Essential Training Areas at Marine Corps Base Camp Pendleton—Exclusions Under Section 4(b)(2)*

Section 4(b)(2) of the Act as recently amended by section 318 of the National Defense Authorization Act of 2004 expressly requires the Secretary to take into account the impact on national security of specifying any particular area as critical habitat. This is in addition to the section 4(a)(3)(B) provisions relating to INRMPS referenced above. The Marine Corps operates Camp Pendleton as an amphibious training base that promotes the combat readiness of military forces and is the only West Coast Marine Corps facility where amphibious operations can be combined with air, sea, and ground assault training activities year-round.

The arroyo toad occurs primarily in three watersheds on Camp Pendleton: Santa Margarita, San Onofre, and San Mateo. Arroyo toad populations within these watersheds on Camp Pendleton are essential to the conservation of the species because these watersheds retain relatively natural hydrological processes and functions. The Santa Margarita watershed is one of the least altered major watersheds occupied by the species throughout its range. Also, the lower portions of all three watersheds represent the last remaining coastal plain areas where significant numbers of arroyo toads occur within 6 mi (10 km) of the coast and in coastal marsh zones. Elsewhere throughout the species' range, urban and agricultural development has been largely responsible for extirpating arroyo toad populations in low coastal plain areas.

The Marine Corps consults with us under section 7 of the Act for activities that may affect federally listed species on Camp Pendleton. On October 30, 1995, we issued a biological opinion regarding the Marine Corps' programmatic activities and conservation plans in riparian and estuarine/beach ecosystems on Camp Pendleton (Service 1995). At issue were the impacts that ongoing and planned training activities, infrastructure maintenance activities, several construction projects, and a Riparian

and Estuarine Ecosystem Conservation Plan may have on six federally listed species, including the arroyo toad. Since then, we have requested in a letter dated February 9, 2000, that the programmatic instructions and conservation measures in the plan be revised to avoid and minimize potential adverse effects to the arroyo toad. These revisions included, but were not limited to, the "implementation of a base-wide non-native predatory species control program, removal of nonessential road crossings, modification of existing and new road crossings, removal of unnecessary structures and hardscape within arroyo toad breeding and nonbreeding habitats, and guidelines on the use of toad exclusion fencing."

Additionally, Camp Pendleton's programmatic conservation plan for riparian and estuarine/beach ecosystems does not address arroyo toads in upland habitats. On March 30, 2000, at the request of the Marine Corps, we initiated formal consultation regarding Marine Corps activities on upland areas of Camp Pendleton. The consultation covers approximately 125,000 ac (50,500 ha) of land and addresses numerous activities that currently are expected to occur within the upland areas of Camp Pendleton, including combat readiness operations, air operations, vehicle operations, facility maintenance and operations, fire management, recreational activities, and housing. The upland consultation for the arroyo toad and other species is not yet completed. We are currently working cooperatively with Camp Pendleton to facilitate the completion of the upland consultation. Upon completion, this consultation will address the 93 percent of Camp Pendleton not included in our 1995 opinion concerning riparian and estuarine/beach ecosystems (Service 1995). In order to continue its critical training mission pending completion of the consultation, the Marine Corps has implemented a set of "programmatic instructions" to minimize adverse effects to the arroyo toad.

(1) Benefits of Inclusion

The primary benefit of any critical habitat with regard to activities that require consultation pursuant to section 7 of the Act is to ensure that the activity will not destroy or adversely modify designated critical habitat. The primary benefit of proposing critical habitat for the arroyo toad on mission-essential training lands on Camp Pendleton is limited. Designating critical habitat would identify lands essential to the conservation of the species and require the Marine Corps to consult with us

under section 7 to ensure proposed activities are not likely to destroy or adversely modify arroyo toad critical habitat. However, we are already in formal consultation with the Marine Corps regarding their upland activities to ensure that current and proposed actions will not jeopardize the species' continued existence, and that consultation will take into account the essential habitat requirements of the species. Therefore, we do not believe that designation of mission-essential training areas on Camp Pendleton as critical habitat will significantly benefit the arroyo toad beyond the protection already afforded the species under the Act. The educational benefits of critical habitat include informing the Marine Corps of areas that are essential to the conservation of listed species.

(2) Benefits of Exclusion

In contrast to the absence of a significant benefit resulting from designation of Camp Pendleton training areas as critical habitat, there are substantial benefits to excluding these areas from critical habitat. If we propose or designate critical habitat within these training areas, the Marine Corps may be required to conference or consult on activities that affect the proposed or designated critical habitat. The requirement to conference or consult on activities within mission-essential training areas could delay and impair the ability of the Marine Corps to conduct effective amphibious training activities and limit Camp Pendleton's unique status as the only West Coast Marine Corps facility where such amphibious training operations can be conducted year round. Such restrictions on Camp Pendleton's military training mission would negatively affect national security.

(3) Benefits of Exclusion Outweigh the Benefits of Inclusion

Based on the impact on national security and the Marine Corps' need to maintain a high level of readiness and fighting capabilities, we have considered but have not proposed critical habitat on essential lands identified as mission-essential training areas on Camp Pendleton. We find that the benefits of excluding these areas from critical habitat outweigh the benefits of including them. We further find that the exclusion of these areas will not lead to the extinction of the arroyo toad because we will continue to consult with the Marine Corps under section 7 on any actions that may affect the toad to ensure that such actions are not likely to jeopardize the continued existence of the species.



### *Fort Hunter Liggett and Exclusion Under Section 4(b)(2)*

We have considered, but have not proposed, to include mission-essential training areas on Fort Hunter Liggett as critical habitat for the arroyo toad under section 4(b)(2) of the Act, because designation of critical habitat could adversely impact national security. The Army conducts training operations using landing fields, tanks, machine guns, grenade launchers, and more at Fort Hunter Liggett. The Army has stated that it considers critical habitat to conflict with mission-essential training tasks, and that critical habitat designation would adversely affect Fort Hunter Liggett's training mission. The Army submitted a map to us of the mission-essential training areas that are found within lands we determined to be essential to the conservation of the arroyo toad (Army, in litt. 2003).

The arroyo toad occupies an approximately 17-mi (27.4-km) segment of the San Antonio River at Fort Hunter Liggett. This arroyo toad population is essential to the conservation of the species because it is the northernmost known population—approximately 100 mi (160 km) north of the nearest documented extant population. Arroyo toads in this unit may experience climatic conditions not faced by toads at sites farther south. The protection of this area is essential to maintaining the complete genetic variability of the species and the full range of ecological settings within which it is found. This stretch of the San Antonio River is undammed, provides excellent habitat for the arroyo toad, and supports probably one of the largest populations within the Northern Region.

The Army is currently consulting with us to finalize the development of an INRMP and associated Endangered Species Management Plan for the arroyo toad on Fort Hunter Liggett. The completion of these plans is projected to occur sometime in 2004. The Army recognizes the need for protection and conservation of sensitive species, including the arroyo toad, on military lands and has identified conservation measures to protect and conserve arroyo toads and their habitat. These plans include measures to minimize harm to the arroyo toad from training activities and outline actions to ensure the persistence of arroyo toads on the installation.

#### (1) Benefits of Inclusion

The primary benefit of any critical habitat with regard to activities that require consultation pursuant to section 7 of the Act is to ensure that the activity

will not destroy or adversely modify designated critical habitat. The educational benefits of critical habitat include informing the Army of areas that are important to the conservation of listed species. However, because the Army is already working cooperatively with the Service to develop an INRMP that protects the toad and its essential habitat on Fort Hunter Liggett and we will complete a Section 7 consultation on that plan, we do not believe that designation of mission-essential training areas on the fort will significantly benefit the arroyo toad beyond the protection already afforded the species under the Act. In addition, through the INRMP development process and development of a draft Endangered Species Management Plan for the arroyo toad, the Army is already aware of essential arroyo toad habitat areas on the installation.

#### (2) Benefits of Exclusion

Substantial benefits are expected to result from the exclusion of mission-critical training areas on Fort Hunter Liggett from critical habitat. If we designate critical habitat within these areas, the Army would be required to engage in consultation with us on activities that may affect designated critical habitat. The requirement to consult on activities within mission-essential training areas could delay and impair the ability of the Army to conduct effective training activities and limit Fort Hunter Liggett's utility as a military training installation, thereby adversely affecting national security.

#### (3) Benefits of Exclusion Outweigh the Benefits of Inclusion

We met with the Army on December 12, 2003, at Fort Hunter Liggett to discuss essential arroyo toad habitat, and possible impacts to the base. In light of national security interests and the Army's need to maintain a high level of readiness and fighting capabilities, we have considered, but have not proposed, critical habitat on lands identified by the Army as mission-essential training areas (Army, in litt. 2003). We find that the benefits of excluding these lands from critical habitat outweigh the benefits of including them. We further find that the exclusion of these areas will not lead to the extinction of the arroyo toad because Army training activities are conducted primarily outside of the floodplain and riparian corridor where toads are concentrated and are not expected to lead to the extirpation of the San Antonio River population. Although training activities have been conducted at the base since World War II, the

arroyo toad population has persisted, and has possibly even improved over the past several years after grazing was terminated in 1991. The majority of the area on Fort Hunter Liggett that we identified as essential to the conservation of the species has not been excluded and is being proposed as critical habitat.

Other developed areas that are integral to the mission of the Army, such as roads, tank trails, and river crossings, can be found within the boundary of proposed critical habitat at Fort Hunter Liggett. However, due to limitations inherent to using a 100 by 100-m grid cell size, we were not able to exclude these narrow, linear areas from the critical habitat proposal. However, established roads, river crossings, and tank trails at Fort Hunter Liggett do not contain the primary constituent elements, and their use and maintenance would not trigger a section 7 consultation with us on critical habitat.

We are soliciting public review and comment on our decision to consider areas identified as essential, but not proposed as critical habitat for the arroyo toad, on mission-essential training areas at Camp Pendleton and Fort Hunter Liggett, and within the plan areas of the San Diego MSCP, Orange County Central-Coastal NCCP, Western Riverside MSHCP, and SDG&E NCCP/HCP based on section 4(b)(2) of the Act. Maps showing lands essential to the conservation of the arroyo toad, but excluded under the provisions of section 4(b)(2), are available for public review at either the Ventura or Carlsbad Fish and Wildlife Offices (see ADDRESSES section or on the Internet at <http://ventura.fws.gov> or <http://carlsbad.fws.gov>). We will review this issue in light of all public comments received during the public review period and may reconsider our position in the final rule.

#### Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information 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 part of critical habitat. We cannot exclude such areas from critical habitat if such exclusion would result in the extinction of the species.

An analysis of the economic impacts of proposing critical habitat for the

arroyo toad is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at <http://ventura.fws.gov>, or from the Ventura Fish and Wildlife Office (see ADDRESSES section)

#### Peer Review

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

We will consider all comments and information received during the comment period on this proposed rule as we prepare our final rulemaking. Accordingly, the final decision may differ from this proposal.

#### 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 proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

#### 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. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating specific areas as critical habitat. Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comment.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. However, the SBREFA does not explicitly define "substantial number" or "significant economic impact." Consequently, to assess whether a "substantial number" of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be affected in an area. The SBREFA also amended the RFA to require a certification statement.

Our assessment of economic effect will be completed prior to final rulemaking and based upon review of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not

reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn. v. U.S. Fish & Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

##### *Executive Order 13211*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the arroyo toad is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

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

Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), if a rule will produce a Federal mandate of \$100 million or greater in any one year, a statement must be prepared and a summary of that statement included in the rulemaking. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). If the economic analysis being prepared to analyze the economic impacts of this designation indicates that the rule will produce a Federal mandate of \$100 million or more in any year, a statement will be prepared and this proposed rule will be supplemented with a summary of that statement published in the notice announcing availability of the proposed economic analysis.

This proposed rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. State lands constitute a very small amount, only 0.7%, of the total proposed designation. Given the distribution of this species, small governments will not be uniquely affected by this proposed rule. Small governments will not be affected at all unless they propose an action requiring Federal funds, permits, or other authorization. Any such activity will require that the involved Federal agency ensure that the action is not likely to adversely modify or destroy designated critical habitat. However, as discussed above, Federal agencies are currently required to ensure that any such activity

is not likely to jeopardize the species, and no further regulatory impacts from this proposed designation of critical habitat are anticipated. We will examine any potential impacts to small governments in our economic analysis, and revise our determination if necessary.

#### *Takings*

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of designating critical habitat for the arroyo toad. The takings implication assessment concludes that this proposed rule does not pose significant takings implications.

#### *Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of Interior policies, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in California. The proposed designation of critical habitat in areas currently occupied by the arroyo toad imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The proposed designation may have some benefit to the States and local resource agencies 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 making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist 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 Department of the Interior's 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 are proposing to designate critical habitat in accordance

with the provisions of the Endangered Species Act. This proposed 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 arroyo toad.

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

This proposed rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act*

We have determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This final determination 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), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we have coordinated with federally recognized Tribes on a Government-to-Government basis. We have determined that certain Tribal lands are essential for the conservation of the arroyo toad because they support essential populations and habitat, and activities conducted or planned on those lands may adversely affect the conservation of the arroyo toad. Therefore, we are proposing to designate critical habitat for the arroyo toad on some Tribal lands. Information relative to each reservation is included in the critical habitat unit descriptions.

We have excluded some areas from proposed critical habitat upon a determination that the lands did not meet the criteria for critical habitat.

#### *Relationship to Mexico*

We are not aware of any existing national regulatory mechanism in Mexico that would protect the arroyo toad or its habitat. Although new legislation for wildlife is pending in Mexico and Mexico has laws that could provide protection for rare species, there are enforcement challenges. Even if specific protections were available and enforceable in Mexico, the portion of the arroyo toad's range in Mexico alone, in isolation, would not be adequate to ensure the long-term conservation of the species.

#### **References Cited**

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Ventura Fish and Wildlife Office, or the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

#### **Author(s)**

The primary authors of this package are the Ventura Fish and Wildlife Office and Carlsbad Fish and Wildlife Office staff.

#### **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. 4201–4205; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for "Toad, arroyo" under "AMPHIBIANS" to read as follows:

#### **§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate popu- lation where endan- gered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
Toad, arroyo (=arroyo south- western).	<i>Bufo californicus</i> .....	U.S.A. (CA), Mexico	Entire .....	E	568	17.95(d)	NA
*	*	*	*	*	*		*

3. Amend § 17.95(d) by revising critical habitat for the arroyo toad (*Bufo californicus*) to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*

(d) *Amphibians.*

\* \* \* \* \*

**ARROYO TOAD (*Bufo californicus*)**

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

(2) Critical habitat consists of stream and river courses, riparian habitats, and adjacent terrace and upland habitats.

(3) Within these areas, the primary constituent elements of the arroyo toad include:

(i) Rivers or streams with hydrologic regimes that supply water to provide space, food, and cover needed to sustain eggs, tadpoles, metamorphosing juveniles, and adult breeding toads. Specifically, the conditions necessary to

allow for successful breeding of arroyo toads are:

(A) Breeding pools with areas less than 12 in (30 cm) deep;

(B) Areas of flowing water with current velocities less than 1.3 ft per second (40 cm per second); and

(C) Surface water that lasts for a minimum length of 2 months in most years, *i.e.*, a sufficient wet period in the spring months to allow arroyo toad larvae to hatch, mature, and metamorphose.

(ii) Low-gradient stream segments (typically less than 6 percent) with sandy or fine gravel substrates that support the formation of shallow pools and sparsely vegetated sand and gravel bars for breeding and rearing of tadpoles and juveniles.

(iii) A natural flooding regime or one sufficiently corresponding to a natural regime that will periodically scour riparian vegetation, rework stream channels and terraces, and redistribute sands and sediments, such that breeding

pools and terrace habitats with scattered vegetation are maintained.

(iv) Riparian and adjacent upland habitats (particularly alluvial streamside terraces and adjacent valley bottomlands that include areas of loose soil where toads can burrow underground) to provide foraging and living areas for subadult and adult arroyo toads.

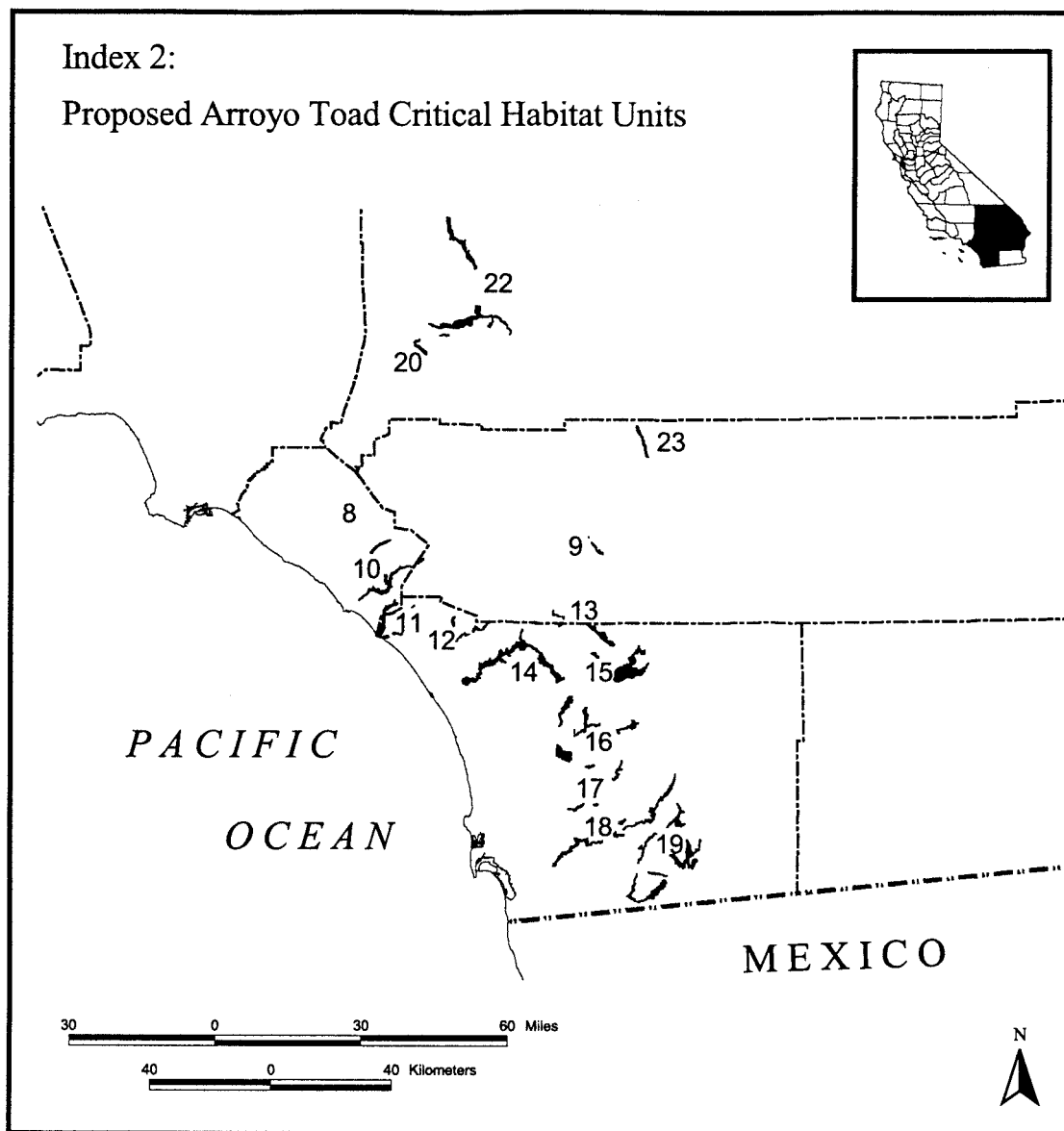
(v) Stream channels and adjacent upland habitats that allow for migration to foraging areas, overwintering sites, dispersal between populations, and recolonization of areas that contain suitable habitat.

(4) Critical habitat does not include man-made structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, roads, and the land on which such structures are located.

(5) Index maps of arroyo toad proposed critical habitat follow.

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## BILLING CODE 4310-55-C

(6) Unit 1; San Antonio River, Monterey County, California.

(i) From USGS 1:24,000 scale quadrangles Bear Canyon, Cosio Knob, Alder Peak, and Jolon, and Williams Hill. Land bounded by the following UTM zone 10, NAD27 coordinates (E, N): 656700, 3988800; 656700, 3988700; 656800, 3988700; 656800, 3988500; 656900, 3988500; 656900, 3987800; 657000, 3987800; 657000, 3987700; 657200, 3987700; 657200, 3987500; 657100, 3987500; 657100, 3987400; 657200, 3987400; 657200, 3987300; 657300, 3987300; 657300, 3987100; 657400, 3987100; 657400, 3987200; 657500, 3987200; 657500, 3987100; 657600, 3987100; 657600, 3986900; thence east to the Cantonment Area (CA) boundary at y-coordinate 3986900;

thence south along the CA boundary to y-coordinate 3983700; thence south and following coordinates 660200, 3983700; 660200, 3983600; 660300, 3983600; 660300, 3983400; 660400, 3983400; 660400, 3983300; 660500, 3983300; 660500, 3983200; 660600, 3983200; 660600, 3983100; 660700, 3983100; 660700, 3983000; 660800, 3983000; 660800, 3982900; 660900, 3982900; 660900, 3982800; 661000, 3982800; 661000, 3982700; 661200, 3982700; 661200, 3982600; 661300, 3982600; 661300, 3982500; 661500, 3982500; 661500, 3982400; 661600, 3982400; 661600, 3982300; 661800, 3982300; 661800, 3982200; 662100, 3982200; thence south to the Schoonover Training Area (STA) boundary at x-coordinate 662100; thence south along the STA boundary to y-coordinate

3980900; thence due east to the Courses Training Area (CTA) boundary at y-coordinate 3980900; thence southeast along the CTA boundary to x-coordinate 664000; thence south and following coordinates; 664000, 3980700; 664100, 3980700; 664100, 3980600; 664200, 3980600; 664200, 3980400; 664400, 3980400; 664400, 3980300; 664600, 3980300; 664600, 3980200; 664700, 3980200; thence south to the Multi-Purpose Range Complex Training Area (MPRCTA) boundary at x-coordinate 664700; thence along the MPRCTA boundary to y-coordinate 3978200; thence north and following coordinates 664900, 3978200; 664900, 3978100; 664600, 3978100; 664600, 3978200; 664500, 3978200; 664500, 3978300; 664600, 3978300; 664600, 3978400; 664700, 3978400; 664700, 3978600;

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 660500, 3981100; 660500, 3981200;  
 660400, 3981200; 660400, 3981300;  
 660600, 3981300; 660600, 3981500;  
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 660100, 3981600; 660100, 3981800;  
 660200, 3981800; 660200, 3981900;  
 660300, 3981900; 660300, 3982000;  
 660400, 3982000; thence north to Jack  
 Hammer Training Area (JHTA)  
 boundary at x-coordinate 660400;  
 thence along the JHTA boundary to y-  
 coordinate 3982900; thence north and  
 following coordinates 659100, 3982900;  
 659100, 3983000; 659000, 3983000;  
 659000, 3982900; 658800, 3982900;  
 658800, 3983000; 658700, 3983000;  
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 658200, 3983300; 658000, 3983300;  
 658000, 3983700; 657900, 3983700;  
 657900, 3983800; 658100, 3983800;  
 658100, 3983900; 658000, 3983900;  
 658000, 3984100; 657800, 3984100;  
 657800, 3984200; 657700, 3984200;  
 657700, 3984300; 657600, 3984300;  
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 655300, 3988400; 655100, 3988400;  
 655100, 3988600; 655700, 3988600;  
 655700, 3988700; 656300, 3988700;  
 656300, 3988800; returning to 656700,  
 3988800; excluding land bounded by  
 656300, 3988500; 656300, 3988400;  
 656200, 3988400; 656200, 3988100;  
 656300, 3988100; 656300, 3988200;  
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 656300, 3988500.

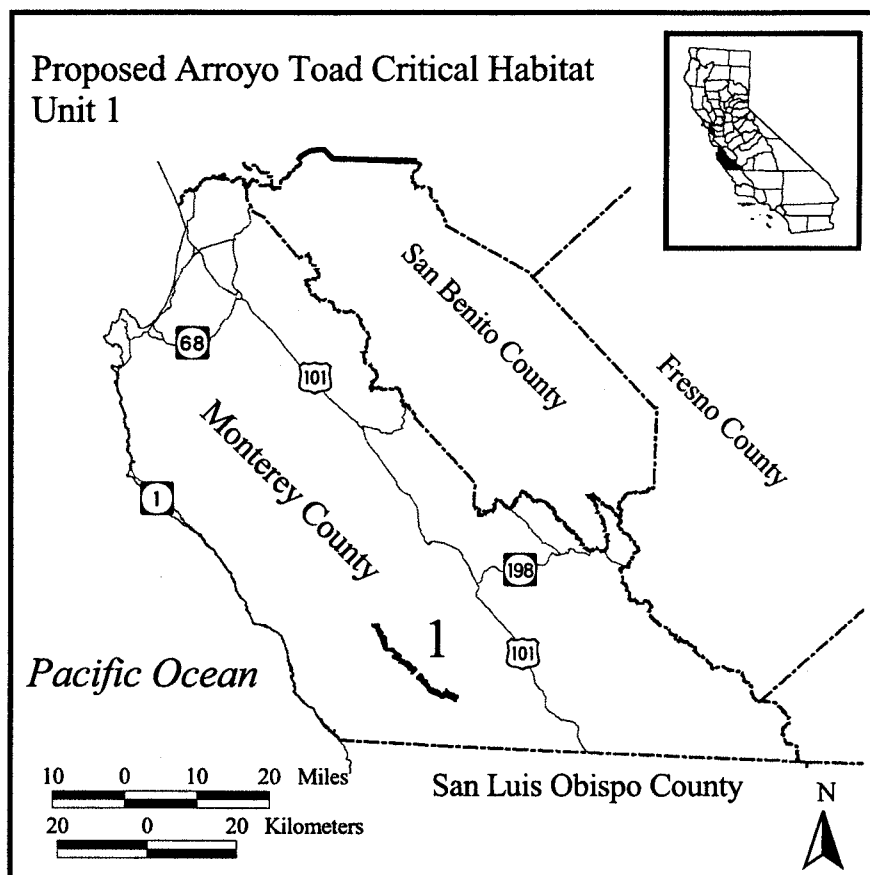
(ii) Land bounded by the following  
 UTM zone 10, NAD27 coordinates (E,  
 N): 669800, 3975200; 669800, 3975100;  
 670000, 3975100; 670000, 3975000;  
 670700, 3975000; 670700, 3974900;  
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 671700, 3974100; 671700, 3974300;  
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 669600, 3973900; 669600, 3974000;  
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 667200, 3976000; 667200, 3976300;  
 667100, 3976300; 667100, 3976400;  
 667000, 3976400; 667000, 3976500;  
 666900, 3976500; 666900, 3976600;  
 666800, 3976600; 666800, 3976700;  
 666600, 3976700; 666600, 3976900;  
 666200, 3976900; 666200, 3977000;  
 666100, 3977000; 666100, 3977100;  
 665900, 3977100; 665900, 3977300;  
 665800, 3977300; thence north to the  
 MPRCTA boundary at x-coordinate  
 665800; thence northeast along the  
 MPRCTA boundary to x-coordinate  
 666700; thence south and following  
 coordinates 666700, 3978300; 666800,  
 3978300; 666800, 3978200; 666900,  
 3978200; 666900, 3978100; 667000,  
 3978100; 667000, 3978000; 667100,  
 3978000; 667100, 3977800; 667200,  
 3977800; 667200, 3977700; thence east  
 to the MPRCTA boundary at y-  
 coordinate 3977700; thence southeast  
 along the MPRCTA boundary to x-  
 coordinate 667800; thence south and  
 following coordinates 667800, 3977000;  
 668100, 3977000; 668100, 3976900;  
 668300, 3976900; 668300, 3976800;  
 668400, 3976800; thence south to the  
 boundary of Training Area 25 (TA25) at  
 x-coordinate 668400; thence along the  
 TA25 boundary to y-coordinate  
 3975200; thence east and returning to  
 669800, 3975200.

(iii) **Note:** Map of arroyo toad  
 proposed critical habitat Unit 1 follows.

BILLING CODE 4310-55-U





## BILLING CODE 4310-55-C

(7) Unit 2; Sisquoc River, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangles Foxen Canyon, Zaca Lake, Bald Mountain and Hurricane Deck. Land bounded by the following UTM zone 10, NAD27 coordinates (E, N):

752600, 3859300; 752600, 3859800;  
 752700, 3859800; 752700, 3860100;  
 752800, 3860100; 752800, 3860200;  
 752900, 3860200; 752900, 3860400;  
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 753800, 3860400; 753800, 3860500;  
 754100, 3860500; 754100, 3860400;  
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 755300, 3860100; 755300, 3860200;  
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773200, 3858700; 773200, 3858600;  
773500, 3858600; 773500, 3858500;  
773900, 3858500; 773900, 3858400;  
774100, 3858400; 774100, 3858100;  
774200, 3858100; 774200, 3858000;  
thence east to the meridian of longitude  
at 120 degrees at y-coordinate 3858000;  
thence from the meridian of longitude at  
120 degrees at UTM zone 11, NAD 27  
y-coordinate 3858000, east and  
following UTM zone 11, NAD27  
coordinates 226200, 3858000; 226200,  
3857900; 226400, 3857900; 226400,  
3858000; 226600, 3858000; 226600,  
3857900; 227100, 3857900; 227100,  
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3857900; 228000, 3857900; 228000,  
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(8) Unit 3; Upper Santa Ynez River  
Basin, Santa Barbara County, California.  
(i) From USGS 1:24,000 scale  
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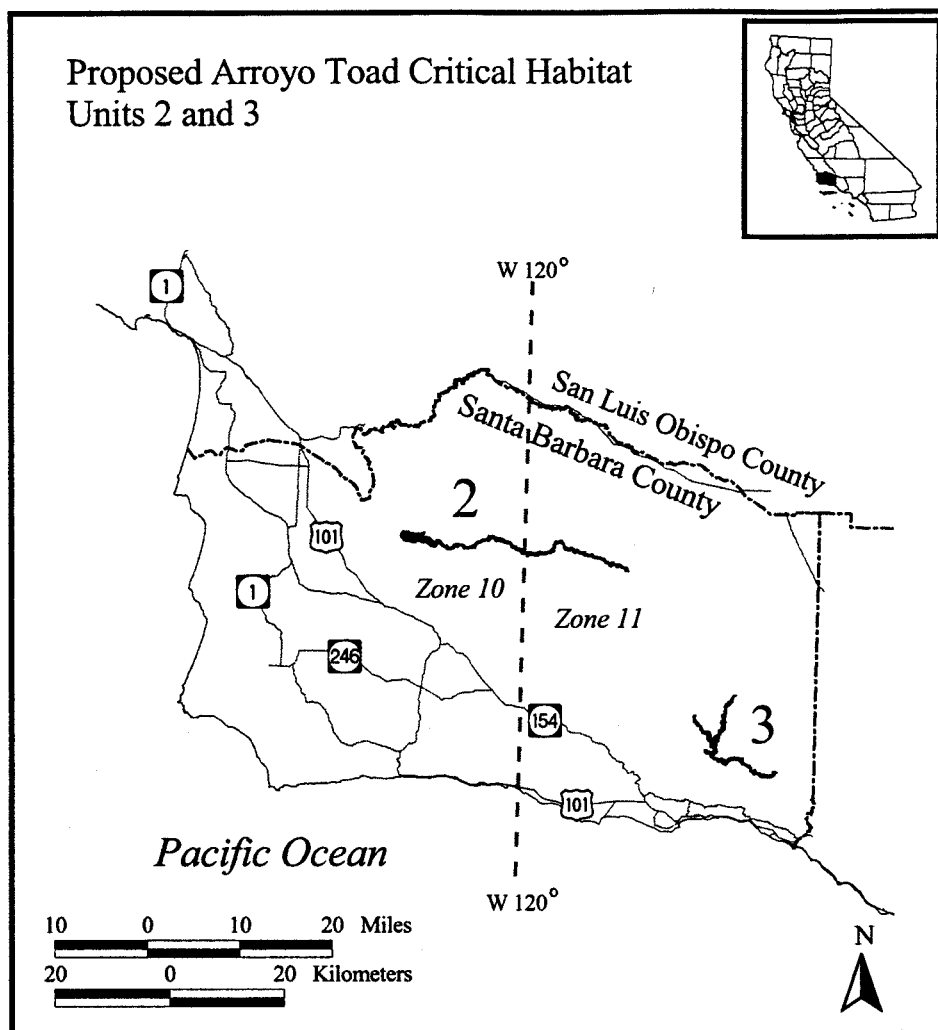
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261800, 3832900; 262000, 3832900;  
returning to 262000, 3833000.

(ii) **Note:** Map of arroyo toad proposed critical habitat Units 2 and 3 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(9) Unit 4; Sespe Creek, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangles Wheeler Springs, Lion Canyon, Topatopa Mountains, and Devils Heart Peak. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 292900, 3828400; 293100, 3828400; 293100, 3828100; 293000, 3828100; 293000, 3827900; 293100, 3827900; 293100, 3827700; 293000, 3827700; 293000, 3827500; 292900, 3827500; 292900, 3827400; 292800, 3827400; 292800, 3827100; 292700, 3827100; 292700, 3826900; 292600, 3826900; 292600, 3826700; 292700, 3826700; 292700, 3826600; 292600, 3826600; 292600, 3826400; 292500, 3826400; 292500, 3826300; 292400, 3826300; 292400, 3826200; 292700, 3826200; 292700, 3826300; 292900, 3826300; 292900, 3826400; 293000, 3826400; 293000, 3826500; 293400, 3826500; 293400, 3826600; 293500, 3826600; 293500, 3826700; 293900, 3826700; 293900, 3826500;

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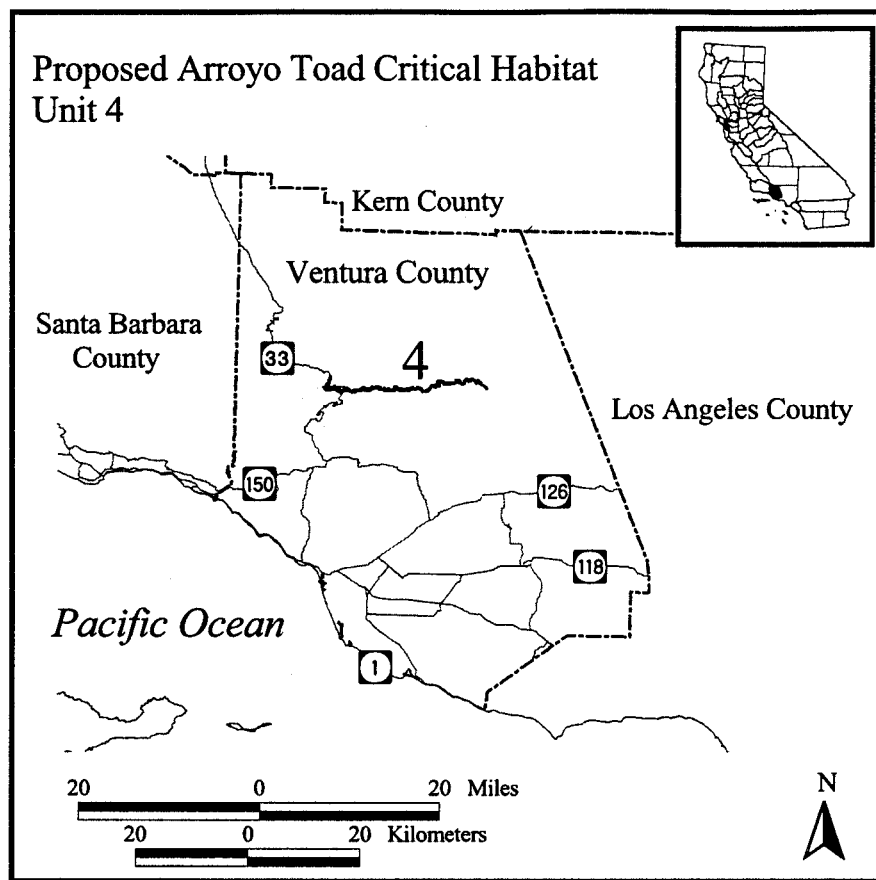
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 293400, 3826300; 293400, 3826200;  
 293600, 3826200; 293600, 3826300;  
 293400, 3826300.

(ii) **Note:** Map of arroyo toad proposed critical habitat Unit 4 follows.

BILLING CODE 4310-55-U



BILLING CODE 4310-55-C

(10) Unit 5; Piru Creek, Ventura and Los Angeles Counties, California.

(i) Subunit 5a: From USGS 1:24,000 scale quadrangles Lockwood Valley, Alamo Mountain, and Black Mountain. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N):

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 318700, 3842400; 318800, 3842400;  
 318800, 3842500; 319100, 3842500;  
 returning to 319100, 3842600.

(ii) Subunit 5b: From USGS 1:24,000  
 scale quadrangles Cobblestone  
 Mountain and Whitaker Peak. Land  
 bounded by the following UTM zone 11,

NAD27 coordinates (E, N): 335300,  
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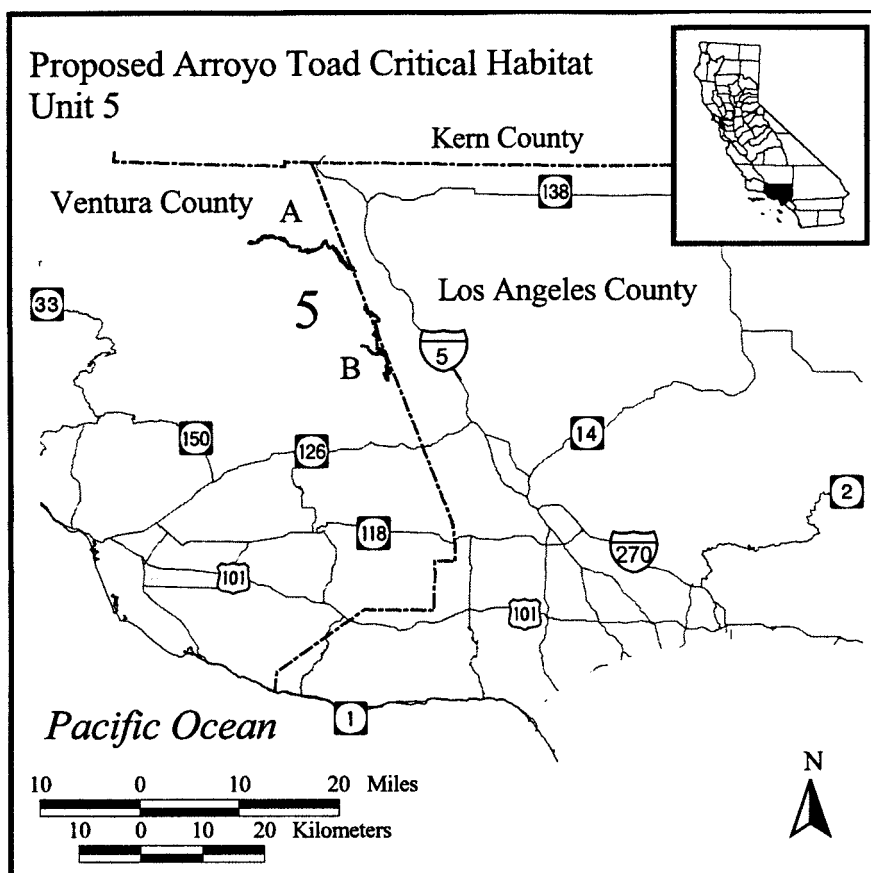
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 3830100; 335500, 3830100; 335500,  
 3830300; 335300, 3830300; 335300,  
 3830400; 335200, 3830400; 335200,  
 3830900; 335300, 3830900; returning to  
 335300, 3831000.

(iii) **Note:** Map of arroyo toad proposed critical habitat Unit 5 follows.

BILLING CODE 4310-55-U



BILLING CODE 4310-55-C

(11) Unit 6; Upper Santa Clara River Basin, Los Angeles County, California.

(i) Subunit 6a: From USGS 1:24,000 scale quadrangles Liebre Mountain and Whitaker Peak. Land bounded by the

following UTM zone 11, NAD27 coordinates (E, N): 347000, 3835600; 347100, 3835600; 347100, 3835500;

347200, 3835500; 347200, 3835200;  
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 348200, 3831500; 348200, 3831300;  
 348100, 3831300; 348100, 3831200;  
 348000, 3831200; 348000, 3831100;  
 347900, 3831100; 347900, 3831000;  
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 347800, 3830000; 347800, 3829900;  
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 346800, 3834000; 346800, 3834200;  
 347000, 3834200; returning to 347000,  
 3835600.

(ii) Subunit 6b: From USGS 1:24,000  
 scale quadrangles Warm Springs  
 Mountain, Newhall, and Val Verde.  
 Land bounded by the following UTM  
 zone 11, NAD27 coordinates (E, N):  
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 351800, 3813300; 351800, 3812900;  
 351900, 3812900; 351900, 3812700;  
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 352000, 3812200; 352000, 3811900;  
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 350600, 3812400; 350600, 3812500;  
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 returning to 351000, 3812600; excluding  
 land bounded by 357400, 3809900;  
 357700, 3809900; 357700, 3809700;  
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 357400, 3809800; 357400, 3809900;  
 land bounded by 351300, 3811500;  
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 land bounded by 351200, 3811200;  
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 land bounded by 351100, 3811100;  
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 land bounded by 351000, 3811000;  
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 350800, 3810700; 350800, 3810800;  
 350900, 3810800; 350900, 3810900;  
 351000, 3810900; 351000, 3811000;  
 land bounded by 351000, 3812600;  
 351100, 3812600; 351100, 3812500;  
 351000, 3812500; 351000, 3812600;  
 land bounded by 351100, 3812500;  
 351200, 3812500; 351200, 3812400;  
 351300, 3812400; 351300, 3812200;  
 351200, 3812200; 351200, 3812300;  
 351100, 3812300; 351100, 3812500.

(iii) Subunit 6c: From USGS 1:24,000  
 scale quadrangles Agua Dulce and  
 Acton. Land bounded by the following  
 UTM zone 11, NAD27 coordinates (E,  
 N): 389600, 3812500; 389800, 3812500;  
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388900, 3812200; 389100, 3812200;  
389100, 3812300; 389400, 3812300;  
389400, 3812400; 389600, 3812400;  
returning to 389600, 3812500.

(12) Unit 7; Upper Los Angeles Basin,  
Los Angeles County, California.

(i) Subunit 7a: From USGS 1:24,000  
scale quadrangles Condor Peak and  
Sunland. Land bounded by the  
following UTM zone 11, NAD27

coordinates (E, N): 383800, 3796500;  
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385900, 3795600; 385900, 3795500;  
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387700, 3794200; 387700, 3794100;  
387800, 3794100; 387800, 3793900;  
387900, 3793900; 387900, 3793800;  
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383800, 3796100; returning to 383800,  
3796500.

(ii) Subunit 7b: From USGS 1:24,000  
scale quadrangles Chilao Flat and  
Condor Peak. Land bounded by the  
following UTM zone 11, NAD27  
coordinates (E, N): 398000, 3801000;  
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402200, 3795600; 402200, 3795900;

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401200, 3796400; 401200, 3796500;  
401000, 3796500; 401000, 3796400;  
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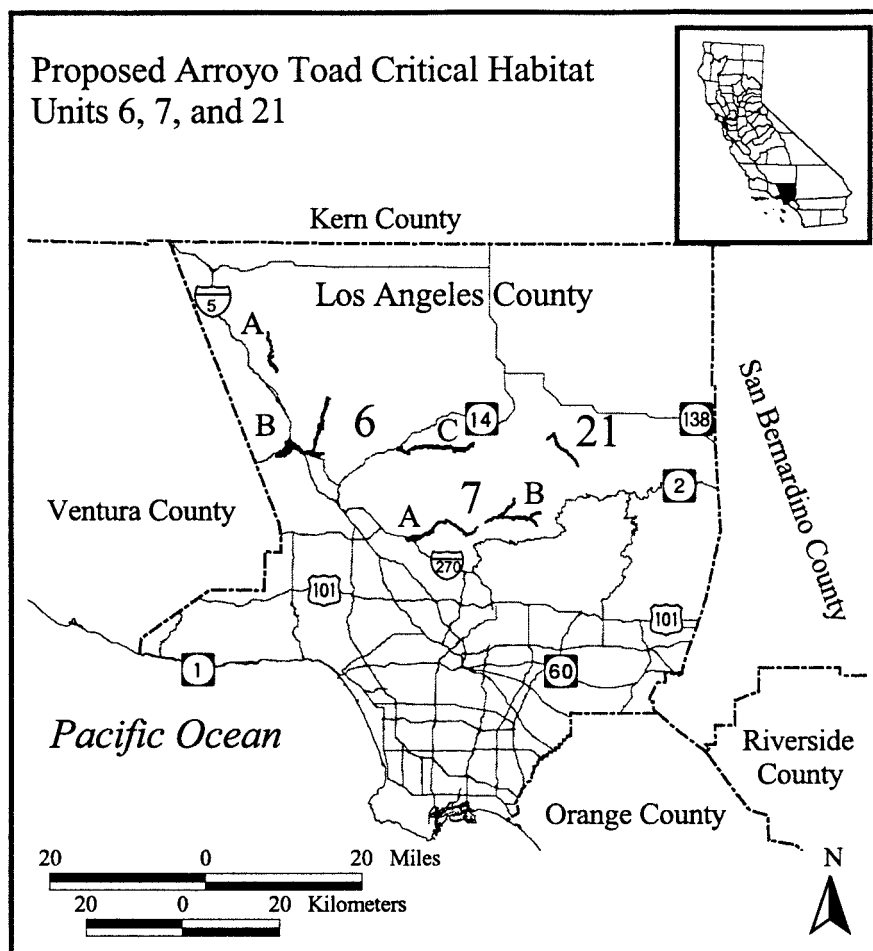
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(iii) **Note:** Map of arroyo toad proposed critical habitat Units 6, 7 and 21 follows.

BILLING CODE 4310-55-U



BILLING CODE 4310-55-C

(13) Unit 8; Lower Santa Ana River Basin/Black Star and Baker Creeks, Orange County, California.

(i) From USGS 1:24,000 scale quadrangle Black Star Canyon. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 438900, 3738800; 439000, 3738800; 439000, 3738400; 438900, 3738400; 438900, 3738300; 438600, 3738300; 438600, 3738400; 438500, 3738400; 438500, 3738100; 438400, 3738100; 438400, 3737800; 438300, 3737800; thence south to the Cleveland National Forest (CNF) boundary at x-coordinate 438300;

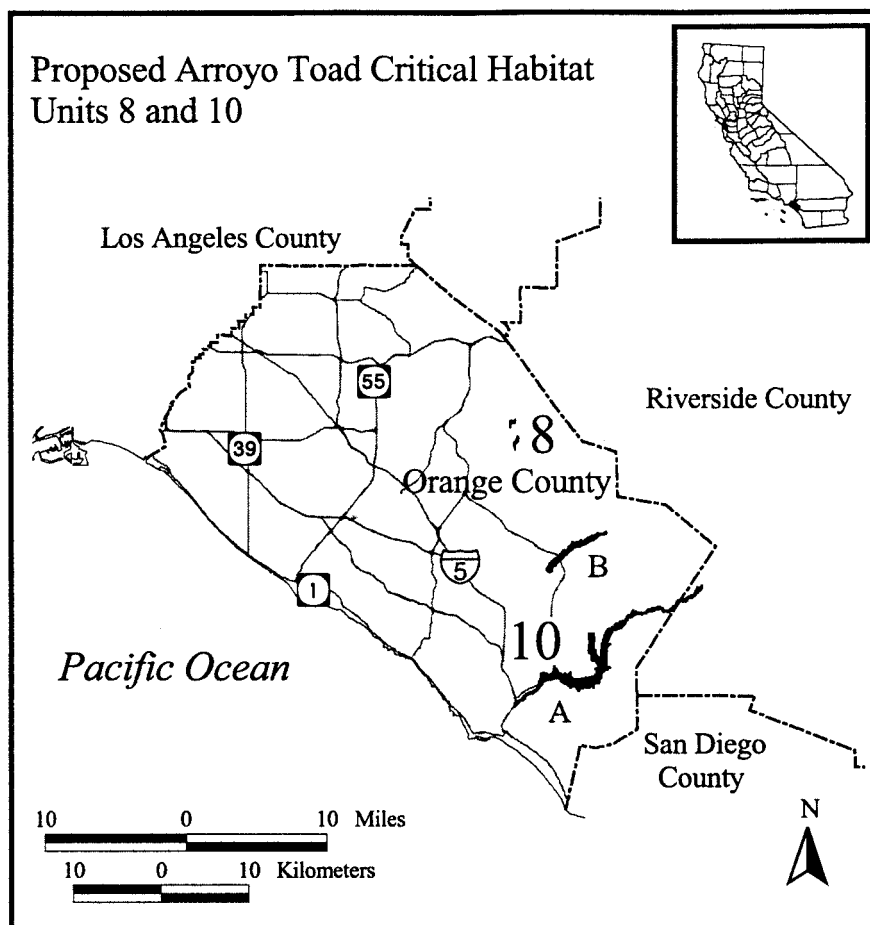
thence north along the CNF boundary to y-coordinate 3738600; thence east and following coordinates 438400, 3738600; 438400, 3738700; 438500, 3738700; 438500, 3738600; 438800, 3738600; 438800, 3738700; 438900, 3738700; returning to 438900, 3738800.

(ii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 439200, 3736900; 439200, 3736800; 439300, 3736800; 439300, 3736200; 439200, 3736200; 439200, 3736100; 439100, 3736100; 439100, 3736000; 439000, 3736000; 439000, 3735900; 438900, 3735900; 438900, 3735700; 439000, 3735700; 439000, 3735400;

438900, 3735400; thence south to the Cleveland National Forest (CNF) boundary at x-coordinate 438900; thence northwest along the CNF boundary to x-coordinate 438700; thence north and following coordinates 438700, 3736000; 438800, 3736000; 438800, 3736200; 438900, 3736200; 438900, 3736300; 439000, 3736300; 439000, 3736600; 439100, 3736600; returning to 439100, 3736900.

(iii) **Note:** Map of arroyo toad proposed critical habitat Units 8 and 10 follows.

BILLING CODE 4310-55-U

**BILLING CODE 4310-55-C**

(14) Unit 9; San Jacinto River Basin/ Bautista Creek, Riverside County, California.

(i) From USGS 1:24,000 scale quadrangle Blackburn Canyon. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 514400, 3727100; thence north to the San Bernardino National Forest (SBNF) boundary at x-coordinate 514400; thence east and south along SBNF boundary to y-coordinate 3726400; thence west and following coordinates 514700, 3726400; 514700, 3726700; 514600, 3726700; 514600, 3726800; 514500, 3726800; 514500, 3727100; returning to 514400, 3727100.

(ii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 515800, 3725000; 515900, 3725000; 515900, 3724900; 516200, 3724900; 516200, 3724700; 516300, 3724700; 516300, 3724500; 516600, 3724500; 516600, 3724400; 516800, 3724400; 516800, 3724200; 516900, 3724200; 516900, 3724100; 517000, 3724100; 517000, 3723800; 517200, 3723800;

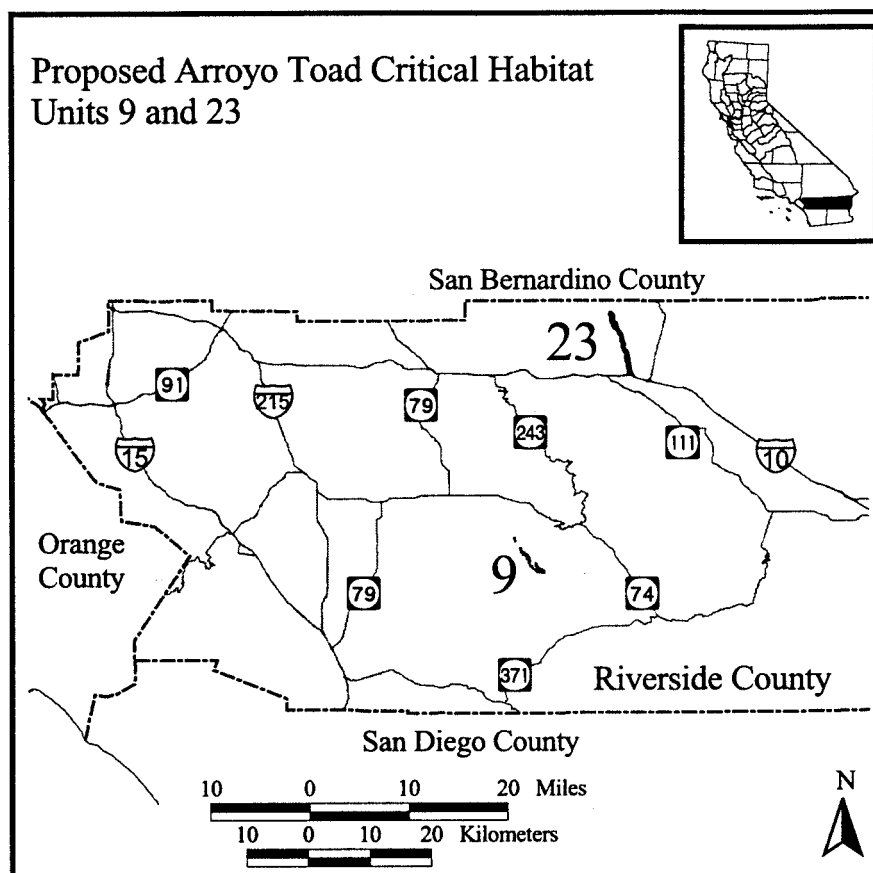
517200, 3723400; 517300, 3723400; thence south to the SBNF boundary at x-coordinate 517300; thence west, southeast and northwest along the SBNF boundary, passing x-coordinate 517500, to y-coordinate 3723100; thence east and following coordinates 518000, 3723100; 518000, 3723000; 518100, 3723000; 518100, 3722900; 518300, 3722900; 518300, 3722700; 518200, 3722700; 518200, 3722600; 518300, 3722600; 518300, 3722500; 518400, 3722500; 518400, 3722400; 518500, 3722400; 518500, 3722300; 518600, 3722300; 518600, 3722100; 518700, 3722100; 518700, 3721900; 518800, 3721900; 518800, 3722000; 518900, 3722000; 518900, 3722100; 519000, 3722100; 519000, 3722000; 519200, 3722000; 519200, 3721800; 519400, 3721800; 519400, 3721700; 519500, 3721700; 519500, 3721500; 519400, 3721500; 519400, 3721400; 519500, 3721400; 519500, 3721200; 519300, 3721200; 519300, 3721300; 518800, 3721300; 518800, 3721400; 518300, 3721400; 518300, 3721500; 518200, 3721500; 518200, 3721600; 518100,

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(iii) **Note:** Map of arroyo toad proposed critical habitat Units 9 and 23 follows.

**BILLING CODE 4310-55-U**





## BILLING CODE 4310-55-C

(15) Unit 10; San Juan Creek Basin, Orange and Riverside Counties, California.

(i) Subunit 10a: From USGS 1:24,000 scale quadrangles Canada Gobernadora, Dana Point, San Juan Capistrano, and Sitton Peak. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 460200, 3719900; 460300, 3719900; 460300, 3719500; 460200, 3719500; 460200, 3719300; 460100, 3719300; 460100, 3719200; 460000, 3719200; 460000, 3719100; 459900, 3719100; 459900, 3718900; 459600, 3718900; 459600, 3718700; 459500, 3718700; 459500, 3718600; 459400, 3718600; 459400, 3718500; 459200, 3718500; 459200, 3718400; 459100, 3718400; 459100, 3718300; 458700, 3718300; 458700, 3718200; 458600, 3718200; 458600, 3718000; 458500, 3718000; 458500, 3717900; 457900, 3717900; 457900, 3718000; 457800, 3718000; 457800, 3717900; 457600, 3717900; 457600, 3717800; 3717800; 457500, 3717800; 457500, 3717600; 457400, 3717600; 457400, 3717400; 457300, 3717400; 457300, 3717200; 457100, 3717200; 457100, 3717000; 457000, 3717000; 457000, 3716900; 456600, 3716900; 456600, 3716700; 456200, 3716700; 456200,

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460100, 3719800; 460200, 3719800;  
returning to 460200, 3719900; excluding  
land bounded by 447000, 3708900;  
447000, 3708800; 447100, 3708800;  
447100, 3708700; 447200, 3708700;  
447200, 3708800; 447300, 3708800;  
447300, 3708900; 447000, 3708900.

(ii) Subunit 10b: From USGS 1:24,000  
scale quadrangle Santiago Peak. Land  
bounded by the following UTM zone 11,  
NAD27 coordinates (E, N): 449100,  
3726000; 449300, 3726000; 449300,  
3725700; 449100, 3725700; 449100,  
3725600; 448700, 3725600; 448700,  
3725500; 448400, 3725500; 448400,  
3725400; 448300, 3725400; 448300,  
3725300; 448200, 3725300; 448200,  
3725200; 448100, 3725200; 448100,  
3725100; 447900, 3725100; 447900,  
3725000; 447800, 3725000; 447800,  
3724900; 447500, 3724900; 447500,  
3724800; 447300, 3724800; 447300,  
3724700; 447200, 3724700; 447200,  
3724600; 447000, 3724600; 447000,  
3724500; 446800, 3724500; 446800,  
3724400; 446600, 3724400; 446600,  
3724300; 446400, 3724300; 446400,  
3724200; 445800, 3724200; 445800,  
3724100; 445500, 3724100; 445500,  
3723900; 445300, 3723900; 445300,  
3723800; 445200, 3723800; 445200,  
3723700; 445100, 3723700; 445100,  
3723600; 445000, 3723600; 445000,  
3723500; 444900, 3723500; 444900,  
3723400; 444800, 3723400; 444800,  
3723300; 444700, 3723300; 444700,  
3723200; 444500, 3723200; 444500,  
3723000; 444400, 3723000; 444400,  
3722900; 444300, 3722900; 444300,  
3722800; 444200, 3722800; 444200,  
3722700; 444100, 3722700; 444100,  
3722600; 443900, 3722600; 443900,  
3722500; 443800, 3722500; 443800,  
3722400; 443700, 3722400; 443700,  
3722300; 443600, 3722300; 443600,  
3722100; 443400, 3722100; 443400,  
3722000; 443300, 3722000; 443300,  
3721900; 443200, 3721900; 443200,  
3721500; 443100, 3721500; 443100,  
3721400; 443000, 3721400; 443000,  
3721300; 442700, 3721300; 442700,  
3721400; 442600, 3721400; 442600,  
3721500; 442500, 3721500; 442500,  
3721600; 442400, 3721600; 442400,  
3721800; 442500, 3721800; 442500,  
3721900; 442600, 3721900; 442600,  
3722100; 442700, 3722100; 442700,  
3722200; 442800, 3722200; 442800,  
3722400; 442900, 3722400; 442900,  
3722500; 443000, 3722500; 443000,  
3722700; 443300, 3722700; 443300,  
3722900; 443400, 3722900; 443400,  
3723000; 443600, 3723000; 443600,  
3723100; 443700, 3723100; 443700,  
3723200; 443800, 3723200; 443800,  
3723300; 443900, 3723300; 443900,

3723400; 444000, 3723400; 444000,  
3723500; 444200, 3723500; 444200,  
3723800; 444300, 3723800; 444300,  
3723900; 444400, 3723900; 444400,  
3724000; 444500, 3724000; 444500,  
3723900; 444800, 3723900; 444800,  
3724100; 444900, 3724100; 444900,  
3724300; 445100, 3724300; 445100,  
3724400; 445200, 3724400; 445200,  
3724500; 445300, 3724500; 445300,  
3724800; 445400, 3724800; 445400,  
3724900; 445500, 3724900; 445500,  
3724600; 445700, 3724600; 445700,  
3724800; 445900, 3724800; 445900,  
3724900; 446000, 3724900; 446000,  
3724700; 446100, 3724700; 446100,  
3724800; 446200, 3724800; 446200,  
3725000; 446400, 3725000; 446400,  
3725100; 446500, 3725100; 446500,  
3724800; 446600, 3724800; 446600,  
3724900; 446700, 3724900; 446700,  
3725000; 446800, 3725000; 446800,  
3725100; 446900, 3725100; 446900,  
3725200; 447100, 3725200; 447100,  
3725300; 447200, 3725300; 447200,  
3725400; 447500, 3725400; 447500,  
3725500; 447700, 3725500; 447700,  
3725600; 448000, 3725600; 448000,  
3725700; 448100, 3725700; 448100,  
3725800; 448200, 3725800; 448200,  
3725900; 448400, 3725900; 448400,  
3725800; 449000, 3725800; 449000,  
3725900; 449100, 3725900; returning to  
449100, 3726000.

(iii) Refer to paragraph 13(iii) for map  
of arroyo toad proposed critical habitat  
Units 8 and 10.

(16) Unit 11: San Mateo Creek Basin,  
Orange and San Diego Counties,  
California.

(i) Subunit 11a: From USGS 1:24,000  
scale quadrangle San Clemente. Land  
bounded by the following UTM zone 11,  
NAD27 coordinates (E, N): 446800,  
3700800; 446800, 3701200; 446900,  
3701200; 446900, 3701400; 446800,  
3701400; 446800, 3701500; 446700,  
3701500; 446700, 3701600; 446800,  
3701600; 446800, 3701700; 446700,  
3701700; 446700, 3701800; 446800,  
3701800; 446800, 3701900; 446900,  
3701900; 446900, 3702100; 446800,  
3702100; 446800, 3702300; 446900,  
3702300; 446900, 3702400; 446800,  
3702400; 446800, 3702600; 446900,  
3702600; 446900, 3702700; 447000,  
3702700; 447000, 3702800; 447100,  
3702800; 447100, 3703200; 447300,  
3703200; 447300, 3703400; 447500,  
3703400; 447500, 3703600; 447400,  
3703600; 447400, 3703700; 447600,  
3703700; 447600, 3703900; 447500,  
3703900; 447500, 3704100; 447700,  
3704100; 447700, 3704300; 447900,  
3704300; 447900, 3704100; 448000,  
3704100; 448000, 3704000; 448100,  
3704000; 448100, 3703900; 448000,  
3703900; 448000, 3703600; 448200,  
3703600; 448200, 3703700; 448400,

3703700; 448400, 3703800; 448500,  
3703800; 448500, 3703900; 448700,  
3703900; 448700, 3704000; 448800,  
3704000; 448800, 3704200; 448700,  
3704200; 448700, 3704400; 448900,  
3704400; 448900, 3704300; 449000,  
3704300; 449000, 3704200; 449100,  
3704200; 449100, 3704100; 449200,  
3704100; 449200, 3704200; 449300,  
3704200; 449300, 3704400; 449500,  
3704400; 449500, 3704500; 449700,  
3704500; 449700, 3704600; 449800,  
3704600; 449800, 3704700; 449900,  
3704700; 449900, 3704900; 450300,  
3704900; 450300, 3705900; 450500,  
3705900; 450500, 3706200; 450700,  
3706200; 450700, 3705800; 450900,  
3705800; 450900, 3705600; 450800,  
3705600; 450800, 3705500; 450700,  
3705500; 450700, 3705400; 450800,  
3705400; 450800, 3705300; 450700,  
3705300; 450700, 3704700; 450900,  
3704700; 450900, 3704800; 451100,  
3704800; 451100, 3704900; 451300,  
3704900; 451300, 3705000; 451400,  
3705000; 451400, 3705100; 451500,  
3705100; 451500, 3705200; 451700,  
3705200; 451700, 3705100; 451600,  
3705100; 451600, 3704800; 451500,  
3704800; 451500, 3704700; 451600,  
3704700; 451600, 3704600; 451500,  
3704600; 451500, 3704500; 451400,  
3704500; 451400, 3704400; 451100,  
3704400; 451100, 3704300; 450600,  
3704300; 450600, 3704200; 450400,  
3704200; 450400, 3704300; 450300,  
3704300; 450300, 3704400; 450100,  
3704400; 450100, 3704200; 449900,  
3704200; 449900, 3704100; 449700,  
3704100; 449700, 3704000; 449600,  
3704000; 449600, 3703900; 449500,  
3703900; 449500, 3703800; 449400,  
3703800; 449400, 3703700; 449300,  
3703700; 449300, 3703600; 449200,  
3703600; 449200, 3703500; 449000,  
3703500; 449000, 3703400; 448900,  
3703400; 448900, 3703300; 448700,  
3703300; 448700, 3703200; 448500,  
3703200; 448500, 3703100; 448300,  
3703100; 448300, 3702700; 448100,  
3702700; 448100, 3702800; 447900,  
3702800; 447900, 3702900; 447700,  
3702900; 447700, 3702800; 447600,  
3702800; 447600, 3702600; 447500,  
3702600; 447500, 3702300; 447400,  
3702300; 447400, 3702200; 447500,  
3702200; 447500, 3701800; 447400,  
3701800; 447400, 3701700; 447500,  
3701700; 447500, 3701400; 447700,  
3701400; 447700, 3701500; 447800,  
3701500; 447800, 3701600; 447900,  
3701600; 447900, 3701700; 449500,  
3701700; 449500, 3701800; 449600,  
3701800; 449600, 3701900; 449900,  
3701900; 449900, 3702000; 450100,  
3702000; 450100, 3702100; 450200,  
3702100; 450200, 3702200; 450300,  
3702200; 450300, 3702300; 450500,

3702300; 450500, 3702400; 450700, 3702400; 450700, 3702500; 451000, 3702500; 451000, 3702600; 451300, 3702600; 451300, 3702700; 451500, 3702700; 451500, 3702800; 451600, 3702800; 451600, 3702900; 451900, 3702900; 451900, 3703000; 452000, 3703000; 452000, 3703200; 452100, 3703200; 452100, 3703300; 452300, 3703300; 452300, 3703500; 452500, 3703500; 452500, 3703700; thence east to the Marine Corps Base Camp Pendleton (MCBCP) boundary at y-coordinate 3703700; thence southwest along the MCBCP boundary to the Bravo Two (B2) boundary; thence west along the B2 boundary to y-coordinate 3701100; thence west and following coordinates 447500, 3701100; 447500, 3701000; 447300, 3701000; 447300, 3700400; 447400, 3700400; 447400, 3700300; thence east to the B2 boundary at y-coordinate 3700300; thence south along the B2 boundary to the 64 Area (64A) boundary; thence south along the 64A boundary to the Bravo Three (B3) boundary; thence south along the B3 boundary, passing y-coordinate 3696400, to x-coordinate 447200; thence south and following coordinates 447200, 3696000; 447100, 3696000; 447100, 3695900; 447000, 3695900; 447000, 3695700; 446900, 3695700; 446900, 3695500; 446800, 3695500; 446800, 3695400; 446700, 3695400; 446700, 3695100; 446500, 3695100; 446500, 3694800; 446400, 3694800; 446400, 3694700; 446300, 3694700; 446300, 3694600; 446200, 3694600; 446200, 3694500; 446100, 3694500; 446100, 3694400; 446000, 3694400; 446000, 3694200; 445900, 3694200; 445900, 3693800; 445800, 3693800; 445800, 3693700; 445600, 3693700; 445600, 3693800; 445500, 3693800; 445500, 3693900; 445300, 3693900; 445300, 3694000; 445200, 3694000; 445200, 3694100; 445000, 3694100; 445000, 3694200; 444800, 3694200; 444800, 3694300; 444700, 3694300; 444700, 3694500; 444800, 3694500; 444800, 3694600; 444900, 3694600; 444900, 3694700; 445000, 3694700; 445000, 3695200; 445100, 3695200; 445100, 3695600; 445200, 3695600; 445200, 3695700; 445300, 3695700; 445300, 3696000; 445400, 3696000; 445400, 3696200; 445500, 3696200; 445500, 3696600; 445600, 3696600; 445600, 3696700; 445700, 3696700; 445700, 3696800; 445800, 3696800; 445800, 3697000; 445900, 3697000; 445900, 3697100; 446000, 3697100; 446000, 3697800; 446300, 3697800; 446300, 3697900; 446400, 3697900; 446400, 3698100; 446500, 3698100; 446500, 3698400; 446700, 3698400; 446700, 3698800; 446600, 3698800;

446600, 3699100; 446500, 3699100; 446500, 3699300; 446700, 3699300; 446700, 3699500; 446800, 3699500; 446700, 3699600; 446700, 3699700; 446600, 3699700; 446600, 3699900; 446700, 3699900; 446700, 3700000; 446800, 3700000; 446800, 3700300; 446700, 3700300; 446700, 3700400; 446600, 3700400; 446600, 3700500; 446700, 3700500; 446700, 3700800; returning to 446800, 3700800; excluding land bounded by 446800, 3700800; 446800, 3700700; 446900, 3700700; 446900, 3700800; 446800, 3700800.

(ii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 447600, 3694300; 447600, 3694500; thence east to the Bravo Three (B3) boundary at y-coordinate 3694500; thence south along the B3 boundary to the Alfa Two (A2) boundary; thence south along the A2 boundary to y-coordinate 3693600; thence west and following coordinates 448400, 3693600; 448400, 3693500; 448200, 3693400; 448000, 3693400; 448000, 3693300; 447800, 3693300; 447800, 3693200; 447300, 3693200; 447300, 3693300; 447100, 3693300; 447100, 3693400; 446900, 3693400; 446900, 3693500; 446700, 3693500; 446700, 3693600; 446500, 3693600; 446500, 3693700; 446300, 3693700; 446300, 3693900; 446400, 3693900; 446400, 3694000; 446500, 3694000; 446500, 3694100; 446900, 3694200; 447100, 3694200; 447100, 3694000; 447600, 3694000; 447600, 3694100; 447700, 3694100; 447700, 3694300; returning to 447600, 3694300.

(iii) Subunit 11b: From USGS 1:24,000 scale quadrangle Margarita Peak. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 456800, 3704200; 456900, 3704200; thence south to the MCBCP boundary at y-coordinate 3704200; thence southeast along the MCBCP boundary to x-coordinate 457000; thence east and following coordinates 457000, 3704100; 457000, 3704400; 457300, 3704400; thence south to the MCBCP boundary at x-coordinate 457300; thence west along the MCBCP boundary, passing x-coordinate 456000, to y-coordinate 3703500; thence east and following coordinates 456400, 3703500; 456400, 3703600; 456500, 3703600; 456500, 3703800; 456600, 3703800; 456600, 3703900; 456700, 3703900; 456700, 3704100; 456800, 3704100; returning to 456800, 3704200.

(iv) Subunit 11c: From USGS 1:24,000 scale quadrangle San Clemente. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 450900, 3695100; 451100, 3695100; 451100,

3695200; 451800, 3695200; 451800, 3695100; 451900, 3695100; 451900, 3695000; 452100, 3695000; 452100, 3694900; 452300, 3694900; 452300, 3694900; 452300, 3694700; 452400, 3694700; 452400, 3694600; 452700, 3694600; 452700, 3694700; 452800, 3694700; 452800, 3694900; 452700, 3694900; 452700, 3695100; 452800, 3695100; 452800, 3695200; 452900, 3695200; thence east to the 52 Area (52A) boundary; thence south and west along the 52A boundary, passing x-coordinate 450000, to y-coordinate 3695000; thence east and following coordinates 449900, 3695000; 449900, 3695300; 450100, 3695300; 450100, 3695200; 450200, 3695200; 450200, 3695300; 450500, 3695300; 450500, 3695400; 450600, 3695400; 450600, 3695500; 450800, 3695500; 450800, 3695400; 450900, 3695400; returning to 450900, 3695100; excluding land bounded by 450900, 3695100; 450800, 3695100; 450800, 3695000; 450900, 3695000; 450900, 3695100.

(17) Unit 12: Lower Santa Margarita River Basin, San Diego County, California.

(i) Subunit 12a: From USGS 1:24,000 scale quadrangle Fallbrook. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 470500, 3700700; 470700, 3700700; 470700, 3700100; 470400, 3700100; 470400, 3700000; 470300, 3700000; 470300, 3699900; 470100, 3699900; 470100, 3699500; 470200, 3699500; 470200, 3699200; 470100, 3699200; 470100, 3699100; 470200, 3699100; 470200, 3699000; 470100, 3699000; 470100, 3698700; 470500, 3698700; 470500, 3698400; 470400, 3698400; 470400, 3698200; 470300, 3698200; 470300, 3698000; 470400, 3698000; 470400, 3697800; 470500, 3697800; 470500, 3697700; 470600, 3697700; 470600, 3697600; 470500, 3697600; 470500, 3697500; 470400, 3697500; 470400, 3697400; 470500, 3697400; thence south to the Marine Corps Base Camp Pendleton (MCBCP) boundary at x-coordinate 470500; thence east along the MCBCP boundary to y-coordinate 3697200; thence east and following coordinates 470600, 3697200; 470600, 3697100; thence west to the MCBCP boundary at y-coordinate 3697100; thence north and west along the MCBCP boundary to y-coordinate 3696300; thence west and following coordinates 470000, 3696300; 470000, 3696800; thence east to the MCBCP boundary at y-coordinate 3696800; thence north along the MCBCP boundary to x-coordinate 470100; thence north and following coordinates 470100, 3697200; 470000, 3697200; 470000, 3697600; 469900, 3697600; 469900, 3697800; 470000, 3697800; 470000, 3697900;

469900, 3697900; 469900, 3698100;  
469800, 3698100; 469800, 3698200;  
469700, 3698200; 469700, 3698500;  
469600, 3698500; 469600, 3698600;  
469500, 3698600; 469500, 3698800;  
469600, 3698800; 469600, 3699000;  
469400, 3699000; 469400, 3699300;  
469500, 3699300; 469500, 3699400;  
469400, 3699400; 469400, 3699700;  
469500, 3699700; 469500, 3699800;  
469600, 3699800; 469600, 3699900;  
469700, 3699900; 469700, 3700300;  
469800, 3700300; 469800, 3700400;  
469900, 3700400; 469900, 3700300;  
470000, 3700300; 470000, 3700600;  
470200, 3700600; 470200, 3700500;  
470400, 3700500; 470400, 3700600;  
470500, 3700600; returning to 470500,  
3700700.

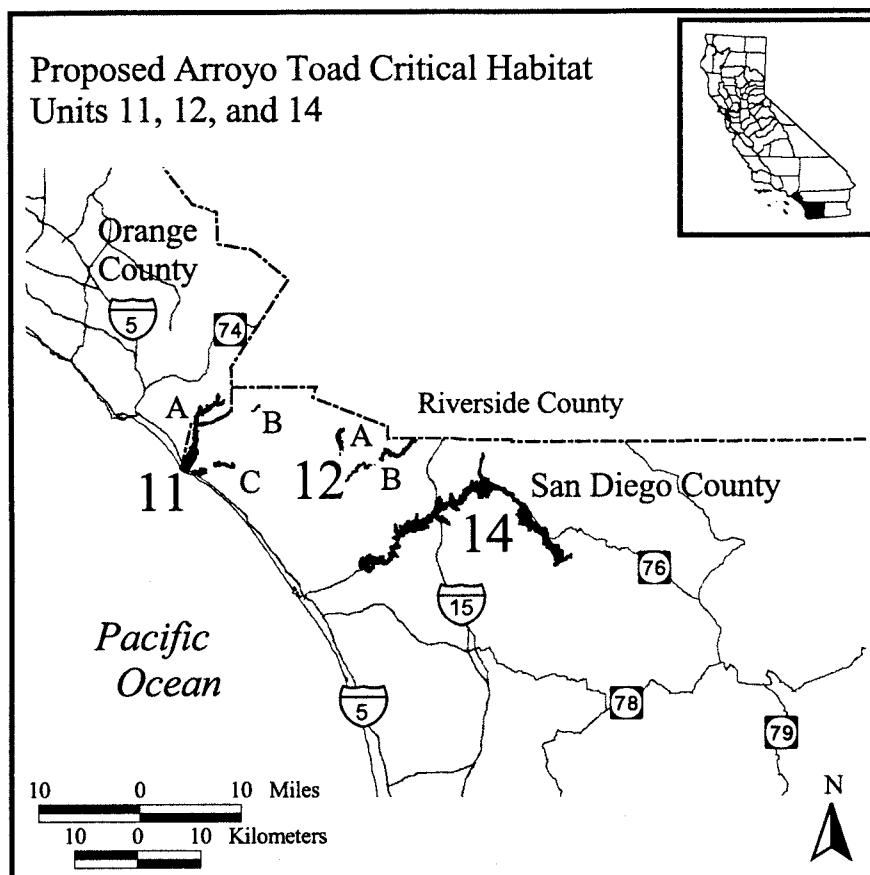
(ii) Subunit 12b: From USGS 1:24,000 scale quadrangles Fallbrook, Morro Hill, and Temecula. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 481700, 3699000; 481900, 3699000; 481900, 3698800; 482200, 3698800; 482200, 3698700; 482100, 3698700; 482100, 3698600; 482000, 3698600; 482000, 3698400; 481900, 3698400; 481900, 3698300; 481500, 3698300; 481500, 3698100; 481400, 3698100; 481400, 3697800; 481200, 3697800; 481200, 3697700; 481100, 3697700; 481100, 3697500; 481000, 3697500; 481000, 3697400; 480800, 3697400; 480800, 3697200; 480600, 3697200; 480600, 3697000; 480400, 3697000; 480400, 3696800; 480300, 3696800; 480300, 3696400; 480100, 3696400; 480100, 3696500; 480000, 3696500; 480000, 3696400; 479800, 3696400; 479800, 3696300; 479700, 3696300; 479700, 3696200; 479500, 3696200; 479500, 3696100; 479400, 3696100; 479400, 3696000; 479100, 3696000; 479100, 3695900; 479000, 3695900; 479000, 3696000; 478600, 3696000; 478600, 3696100;

478500, 3696100; 478500, 3696300;  
478200, 3696300; 478200, 3696100;  
478000, 3696100; 478000, 3696200;  
477800, 3696200; 477800, 3696300;  
477700, 3696300; 477700, 3696800;  
477400, 3696800; 477400, 3696700;  
477300, 3696700; 477300, 3696600;  
477200, 3696600; 477200, 3696500;  
477100, 3696500; 477100, 3696300;  
477000, 3696300; 477000, 3695600;  
476900, 3695600; 476900, 3695400;  
476700, 3695400; 476700, 3695500;  
476600, 3695500; 476600, 3695600;  
thence west to the MCBCP boundary at  
y-coordinate 3695600; thence southwest  
along the MCBCP boundary to x-  
coordinate 475700; thence south and  
following coordinates 475700, 3694800;  
475400, 3694800; thence north to the  
MCBCP boundary at x-coordinate  
475400; thence west along the MCBCP  
boundary to x-coordinate 475200;  
thence south and following coordinates  
475200, 3694800; 475100, 3694800;  
475100, 3694700; 474600, 3694700;  
474600, 3694400; 474500, 3694400;  
474500, 3694300; 473900, 3694300;  
473900, 3694600; 474000, 3694600;  
474000, 3694800; 473900, 3694800;  
473900, 3695000; 473800, 3695000;  
473800, 3694900; 473700, 3694900;  
473700, 3694800; 473400, 3694800;  
473400, 3694700; 473300, 3694700;  
473300, 3694600; 473100, 3694600;  
473100, 3694500; 472800, 3694500;  
472800, 3694300; 472700, 3694300;  
472700, 3694200; 472800, 3694200;  
472800, 3693700; 472400, 3693700;  
472400, 3693600; 472000, 3693600;  
472000, 3693300; 471900, 3693300;  
471900, 3693200; 471700, 3693200;  
471700, 3693100; 471600, 3693100;  
471600, 3692700; 471500, 3692700;  
471500, 3692500; 471400, 3692500;  
471400, 3692400; 471200, 3692400;  
471200, 3692300; 471100, 3692300;  
471100, 3692200; thence west to the

MCBCP boundary at y-coordinate  
3692200; thence northeast along the  
MCBCP boundary to y-coordinate  
3695900; thence east and following  
coordinates 476600, 3695900; 476600,  
3696100; 476700, 3696100; 476700,  
3696300; 476600, 3696300; 476600,  
3696400; 476700, 3696400; 476700,  
3696600; 476800, 3696600; 476800,  
3696800; 477000, 3696800; 477000,  
3696900; 477200, 3696900; 477200,  
3697000; 477100, 3697000; 477100,  
3697100; 477000, 3697100; 477000,  
3697500; 477200, 3697500; 477200,  
3697300; 477500, 3697300; 477500,  
3697400; 477700, 3697400; 477700,  
3697300; 477800, 3697300; 477800,  
3697100; 478100, 3697100; 478100,  
3696900; 478200, 3696900; 478200,  
3696800; 478100, 3696800; 478100,  
3696700; 478400, 3696700; 478400,  
3696800; 478600, 3696800; 478600,  
3696600; 478700, 3696600; 478700,  
3696700; 478800, 3696700; 478800,  
3696400; 479000, 3696400; 479000,  
3696500; 479100, 3696500; 479100,  
3696400; 479300, 3696400; 479300,  
3696500; 479400, 3696500; 479400,  
3696600; 479600, 3696600; 479600,  
3696700; 479800, 3696700; 479800,  
3696900; 479900, 3696900; 479900,  
3697100; 480000, 3697100; 480000,  
3697400; 480200, 3697400; 480200,  
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3698000; 480900, 3698000; 480900,  
3698200; 481000, 3698200; 481000,  
3698400; 481100, 3698400; 481100,  
3698500; 481200, 3698500; 481200,  
3698600; 481400, 3698600; 481400,  
3698700; 481700, 3698700; returning to  
481700, 3699000.

(iii) **Note:** Map of arroyo toad  
proposed critical habitat Units 11, 12  
and 14 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(18) Unit 13; Upper Santa Margarita River Basin, Riverside and San Diego Counties, California.

(i) Subunit 13a: From USGS 1:24,000 scale quadrangle Vail Lake. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 503100, 3701300; 503300, 3701300; 503300, 3701400; 503800, 3701400; 503800, 3701500; 504000, 3701500; 504000, 3701600; 504200, 3701600; 504200, 3701500; 504400, 3701500; 504400, 3701400; 504500, 3701400; 504500, 3701100; 504600, 3701100; 504600, 3701000; 504800, 3701000; 504800, 3700900; 505200, 3700900; 505200, 3700800; 505300, 3700800; 505300, 3700700; 505600, 3700700; 505600, 3700600; 505700, 3700600; 505700, 3700700; 505900, 3700700; 505900, 3700800; thence east to the Cleveland National Forest (CNF) boundary at y-coordinate 3700800; thence south and west along the CNF boundary to x-coordinate 505200; thence north and following coordinates 505200, 3700500; 505100, 3700500; 505100, 3700600; 504800, 3700600; 504800, 3700700; 504400, 3700700; 504400, 3700900; 504300, 3700900; 504300, 3701000; 504200, 3701000; 504200, 3701300; 504000, 3701300; 504000, 3701200;

503900, 3701200; 503900, 3701100; 503400, 3701100; 503400, 3701000; 503100, 3701000; 503100, 3700900; 503000, 3700900; 503000, 3701000; 502800, 3701000; 502800, 3701200; 502700, 3701200; 502700, 3701600; 502600, 3701600; thence north to the CNF boundary at x-coordinate 502600; thence northeast along the CNF boundary to x-coordinate 503100; thence south and following coordinates 503100, 3702400; 502900, 3702400; 502900, 3701900; 503100, 3701900; returning to 503100, 3701300; excluding land bounded by 503100, 3701300; 503000, 3701300; 503000, 3701200; 503100, 3701200; 503100, 3701300.

(ii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 506600, 3700600; 506500, 3700600; 506500, 3700400; 506400, 3700400; 506400, 3700300; 506500, 3700300; 506500, 3699900; 506600, 3699900; thence south to the CNF boundary at x-coordinate 506600; thence west and north along CNF boundary to y-coordinate 3700800; thence east and following coordinates 506600, 3700800; returning to 506600, 3700600.

(iii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 505500, 3698800; thence north to the CNF boundary at x-coordinate

505500; thence east and south along the CNF boundary to the Riverside/San Diego county line; thence east along the county line to x-coordinate 506000; thence south and following coordinates 506000, 3698400; 506100, 3698400; 506100, 3698000; 506000, 3698000; 506000, 3697900; 505700, 3697900; 505700, 3697700; 505600, 3697700; 505600, 3697600; 505400, 3697600; 505400, 3697500; 505300, 3697500; 505300, 3697400; 504800, 3697400; 504800, 3697500; 504900, 3697500; 504900, 3697700; 504800, 3697700; 504800, 3697800; 504900, 3697800; 504900, 3698100; 505100, 3698100; 505100, 3698200; 505200, 3698200; 505200, 3698300; 505400, 3698300; 505400, 3698400; 505500, 3698400; 505500, 3698500; 505600, 3698500; 505600, 3698600; 505400, 3698600; 505400, 3698800; returning to 505500, 3698800.

(iv) Subunit 13b: From USGS 1:24,000 scale quadrangles Aguanga, Palomar Observatory, and Warner Springs. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 513900, 3698400; thence north to the Riverside/San Diego county line at x-coordinate 513900; thence east along the county line to x-coordinate 514400; thence south and following coordinates

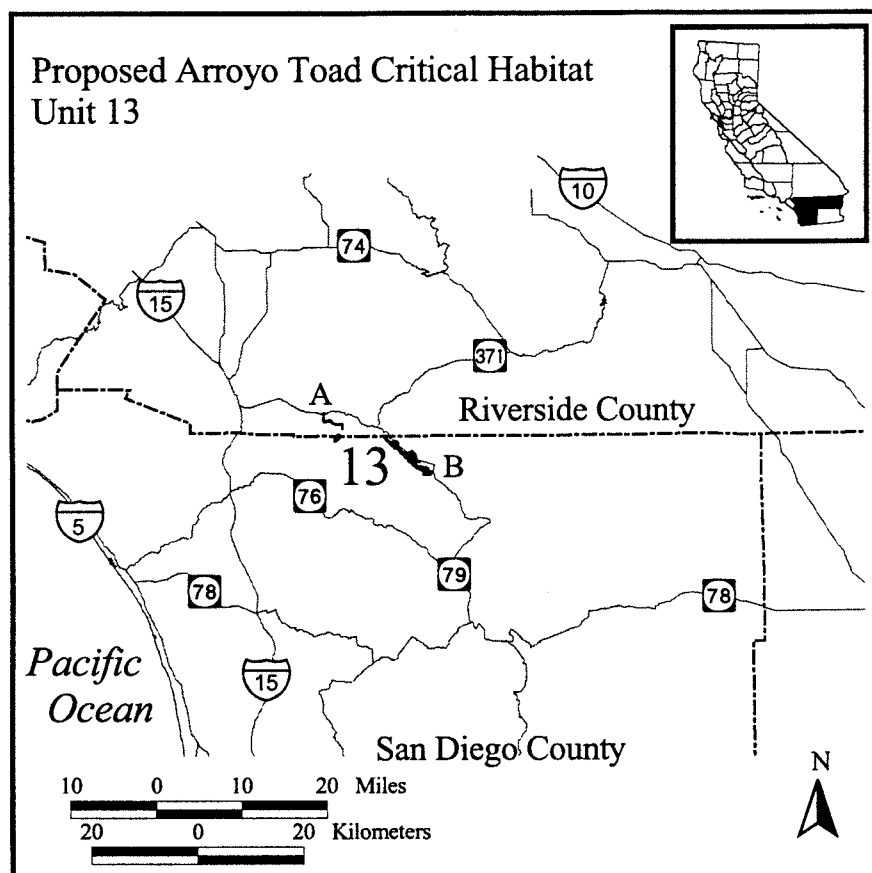
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 515100, 3697200; 515000, 3697200;  
 515000, 3697300; 514900, 3697300;  
 514900, 3697400; 514800, 3697400;  
 514800, 3697500; 514700, 3697500;  
 514700, 3697600; 514500, 3697600;  
 514500, 3697700; 514400, 3697700;  
 514400, 3697900; 514300, 3697900;  
 514300, 3698100; 514200, 3698100;  
 514200, 3698300; 514100, 3698300;  
 514100, 3698400; 513900, 3698400;  
 returning to 514400, 3698400.

(v) **Note:** Map of arroyo toad proposed critical habitat Unit 13 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(19) Unit 14; Lower and Middle San Luis Rey River Basin, San Diego County, California.

(i) From USGS 1:100,000 scale quadrangles Borrego Valley and Oceanside. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 475500, 3679100; 475500, 3678500; 475400, 3678500; 475400, 3678300; 475300, 3678300; 475300, 3678400; 475100, 3678400; 475100, 3678500; 475000, 3678500; 475000, 3678600; 474900, 3678600; 474900, 3678400; 475000, 3678400; 475000, 3678200; 475100, 3678200; 475100, 3678100; 475000, 3678100; 475000, 3678000; 474900, 3678000; 474900, 3677900; 474800, 3677900; 474800, 3677800; 474700, 3677800; 474700, 3677700; 474600, 3677700; 474600, 3677800; 474400, 3677800; 474400, 3677900; 474200, 3677900; 474200, 3678000; 474100, 3678000; 474100, 3678100; 474000, 3678100; 474000, 3678200; 473900, 3678200; 473900, 3678300; 473800, 3678300; 473800, 3678400; 473700, 3678400; 473700, 3678300; 473300, 3678300; 473200, 3678400; 473200, 3678500; 473100, 3678500; 473100, 3678800; 473000, 3678800; 473000, 3679600; 473100, 3679600;

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487400, 3690200; 487600, 3690200;	493200, 3692700; 493700, 3692700;	505600, 3680100; 505700, 3680100;
487600, 3690300; 487800, 3690300;	493700, 3692100; 493900, 3692100;	505700, 3680200; 505800, 3680200;
487800, 3690000; 487900, 3690000;	493900, 3692000; 494200, 3692000;	505800, 3680300; 506000, 3680300;
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488000, 3689700; 488100, 3689700;	494500, 3691700; 494700, 3691700;	506400, 3680500; 506500, 3680500;
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488900, 3689800; 489000, 3689800;	495300, 3691300; 495600, 3691300;	Jolla Reservation boundary at y-
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 485600, 3687900; 485600, 3688000;  
 485500, 3688000; 485500, 3687900;  
 485600, 3687900; land bounded by  
 484900, 3687500; 484900, 3687400;  
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 484900, 3687500; land bounded by  
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 475300, 3679000; 475300, 3679100;  
 475500, 3679100; land bounded by

485600, 3687900; 485600, 3687800;  
 485700, 3687800; 485700, 3687900;  
 485600, 3687900.

(ii) Refer to paragraph 17 (iii) for map  
 of arroyo toad proposed critical habitat  
 Units 11, 12, and 14.

(20) Unit 15; Upper San Luis Rey  
 River Basin, San Diego County,  
 California.

(i) Subunit 15a: From USGS 1:24,000  
 scale quadrangles Palomar Observatory  
 and Warner Springs. Land bounded by  
 the following UTM zone 11, NAD27  
 coordinates (E, N): 516600, 3689000;  
 516700, 3689000; 516700, 3688900;  
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 515800, 3688200; 515800, 3688300;  
 515600, 3688300; 515600, 3688500;  
 515800, 3688500; 515800, 3688700;  
 516500, 3688700; 516500, 3688900;  
 516600, 3688900; returning to 516600,  
 3689000.

(ii) Subunit 15b: From USGS 1:24,000  
 scale quadrangle Palomar Observatory.  
 Land bounded by the following UTM  
 zone 11, NAD27 coordinates (E, N):  
 526500, 3684700; 526500, 3684800;  
 526600, 3684800; 526600, 3684900;  
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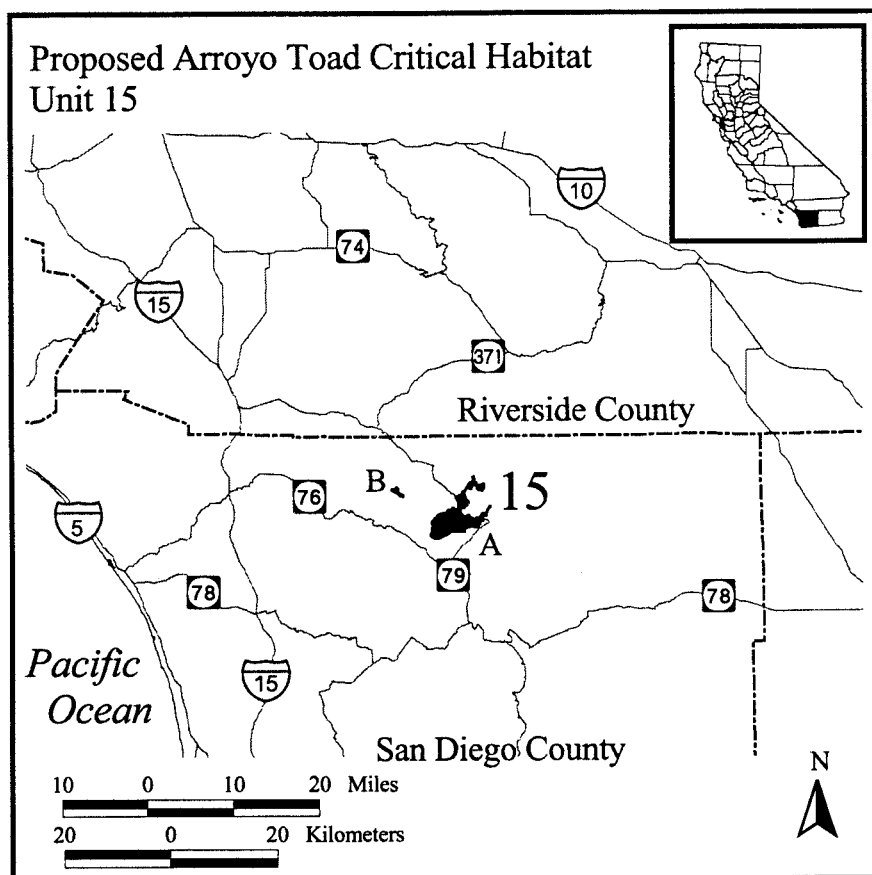
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526300, 3684600; 526300, 3684700;  
returning to 526500, 3684700; excluding  
land bounded by 526500, 3684700;  
526500, 3684600; 526600, 3684600;  
526600, 3684700; 526500, 3684700.

(iii) **Note:** Map of arroyo toad  
proposed critical habitat Unit 15  
follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(21) Unit 16; Santa Ysabel Creek Basin, San Diego County, California.

(i) Subunit 16a: From USGS 1:24,000 scale quadrangles Mesa Grande, Ramona, and San Pasqual. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 514100, 3670900; 514200, 3670900; 514200, 3670800; 514300, 3670800; 514300, 3670500; 514200, 3670500; 514200, 3670200; 514100, 3669500; 514000, 3669500; 514000, 3669300; 514100, 3669300; 514100, 3668600; 514200, 3668600; 514200, 3668500; 514300, 3668500; 514300, 3668400; 514800, 3668400; 514800, 3667900; 514700, 3667900; 514700, 3667700; 514500, 3667700; 514500, 3667500; 514600, 3667500; 514600, 3667100; 514500, 3667100; 514500, 3666900; 514300, 3666900; 514300, 3666400; 514200, 3666400; 514200, 3666300; 514000, 3666300; 514000, 3666200; 514200, 3666200; 514200, 3665800; 514100, 3665800; 514100, 3665600; 514000, 3665600; 514000, 3665500; 514100, 3665500; 514100, 3665400; 514200, 3665400; 514200, 3665300; 514300, 3665300; 514300, 3665100; 514200, 3665100; 514200, 3664600; 514300, 3664600; 514300, 3664500; 514400, 3664500; 514400,

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510600, 3661300; 510300, 3661300;  
 510300, 3661000; 510200, 3661000;  
 510200, 3660900; thence west to the  
 Cleveland National Forest (CNF)  
 boundary at y-coordinate 3660900;  
 thence north along the CNF boundary to  
 x-coordinate 510100; thence north and  
 following coordinates 510100, 3661500;  
 510100, 3661600; 510200, 3661600;  
 510200, 3661500; 510400, 3661500;  
 510400, 3661600; 510500, 3661600;  
 510500, 3661700; 510700, 3661700;  
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 513400, 3670400; 513500, 3670400;  
 513500, 3670500; 513600, 3670500;  
 513600, 3670600; 513700, 3670600;  
 513700, 3670700; 513800, 3670700;  
 513800, 3670800; 514100, 3670800;  
 returning to 514100, 3670900.

(ii) Land bounded by the following  
 UTM zone 11, NAD27 coordinates (E,  
 N): 510100, 3663200; 510100, 3663000;  
 510300, 3663000; 510300, 3662500;  
 thence west to the CNF boundary at y-  
 coordinate 3662500; thence north along  
 the CNF boundary to x-coordinate  
 510400; thence south and following  
 coordinates 510400, 3663100; 510200,  
 3663100; 510200, 3663200; returning to  
 510100, 3663200.

(iii) Land bounded by the following  
 UTM zone 11, NAD27 coordinates (E,  
 N): 510200, 3662200; 510100, 3662200;  
 510100, 3662100; thence west to the  
 CNF boundary at y-coordinate 3662100;  
 thence north along the CNF boundary to  
 x-coordinate 510200; returning to  
 510200, 3662200.

(iv) Subunit 16b: From USGS 1:24,000  
 scale quadrangles Rodriguez Mountain  
 and San Pasqual. Land bounded by the  
 following UTM zone 11, NAD27  
 coordinates (E, N): 508600, 3674600;  
 508700, 3674600; 508700, 3674500;  
 508900, 3674500; 508900, 3674400;  
 509000, 3674400; 509000, 3674300;  
 509100, 3674300; 509100, 3674500;  
 509400, 3674500; 509400, 3674100;  
 509300, 3674100; 509300, 3673900;  
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 509600, 3672900; 509600, 3672600;  
 509500, 3672600; 509500, 3672400;  
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 508300, 3672100; 508300, 3672200;  
 508200, 3672200; 508200, 3672100;  
 508100, 3672100; 508100, 3672000;  
 508000, 3672000; 508000, 3671900;  
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 508400, 3671300; 508400, 3671200;  
 508100, 3671200; 508100, 3671100;  
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 505600, 3664800; 505600, 3664700;  
 505500, 3664700; 505500, 3664400;  
 505200, 3664400; 505200, 3664300;  
 thence west to the Multiple Species  
 Conservation Program (MSCP) boundary  
 at y-coordinate 3664300; thence  
 northwest along the MSCP boundary to  
 y-coordinate 3664500; thence east and  
 following coordinates 505000, 3664500;  
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508000, 3674200; 508100, 3674200;  
508100, 3674300; 508200, 3674300;  
508200, 3674400; 508400, 3674400;  
508400, 3674500; 508600, 3674500;  
returning to 508600, 3674600.

(v) Subunit 16c: From USGS 1:24,000 scale quadrangle San Pasqual. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 504800, 3658200; 504900, 3658200; 504900, 3657900; 505000, 3657900; 505000, 3657800; 505100, 3657800; 505100, 3657500; 505200, 3657500; 505200, 3657600; 505300, 3657600; 505300, 3657800; 505500, 3657800; 505500, 3657600; 505600, 3657600; 506100, 3657200; 506100, 3657100; 506200, 3657100; 506200, 3656200; 506400, 3656200; 506400, 3655900; 506800, 3655900; 506800, 3656200; 506900, 3656200; 506900, 3656100; 507000, 3656100; 507000, 3656000; 507200, 3656000; 507200, 3655900; 507600, 3655900; 507600, 3655800; 507700, 3655800; 507700, 3655900; 507900, 3655900; 507900, 3656000; 508400, 3656000; 508400, 3656100; 508900, 3656100; 508900, 3655900; 509000, 3655900; 509000, 3655600; 509200, 3655600; 509200, 3655400; 509500, 3655400; 509500, 3655000; 509300, 3655000; 509300, 3654400; 509100, 3654400; 509100, 3654300; 509300, 3654300; 509300, 3653700; 509400, 3653700; 509400, 3653500; 509300, 3653500; 509300, 3653400; 509200, 3653400; 509200, 3653300; 509100, 3653300; 509100, 3653200; 509000, 3653200; 509000, 3653100; 508700, 3653100; 508700, 3653000; 508600, 3653000; 508600, 3652900; 508700, 3652900; 508700, 3652800; 508800, 3652800; 508800, 3652700; 508600, 3652700; 508600, 3652600; 508300, 3652600; 508300, 3652700; 508100, 3652700; 508100, 3652800; 507500, 3652800; 507500, 3652900; 507300, 3652900; 507300, 3653000; 507100, 3653000; 507100, 3653100; 506800, 3653100; 506800, 3653300; 506700, 3653300; 506700, 3653700; 506400, 3653700; 506400, 3653900; 506300, 3653900; 506300, 3653300; 506000, 3653300; 506000, 3654100; 505000, 3654100; 505000, 3654700; 504700, 3654700; 504700, 3654600; 504500, 3654600; 504500, 3654500; 504400, 3654500; 504400, 3654400; 504200, 3654400; 504200, 3654500; 504100, 3654500; 504100, 3654700; 504300, 3654700; 504300, 3654800; 504200, 3654800; 504200, 3654900; 504300, 3654900; 504300, 3655000; 504500, 3655000; 504500, 3655100; 504100, 3655100; 504100, 3655400; 504300, 3655400; 504300, 3655500; 504400, 3655500; 504400,

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(vi) Subunit 16d: From USGS 1:24,000 scale quadrangles Santa Ysabel and Warners Ranch. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 529100, 3666600; 529200, 3666600; 529200, 3666500; 529400, 3666500; 529400, 3666600; 529500, 3666600; 529500, 3666500; 529700, 3666500; 529700, 3666400; 529800, 3666400; 529800, 3666300; 530000, 3666300; 530000, 3666100; 529800, 3666100; 529800, 3666000; 530000, 3666000; 530000, 3665900; 530200, 3665900; 530200, 3665700; 530300, 3665700; 530300, 3665600; 530900, 3665600; 530900, 3665700; 531200, 3665700; 531200, 3665600; 531300, 3665600; 531300, 3665700; 531400, 3665700; 531400, 3665400; 531100, 3665400; 531100, 3665300; 531000, 3665300; 531000, 3665000; 530700, 3665000; 530700, 3665100; 530500, 3665100; 530500, 3665200;

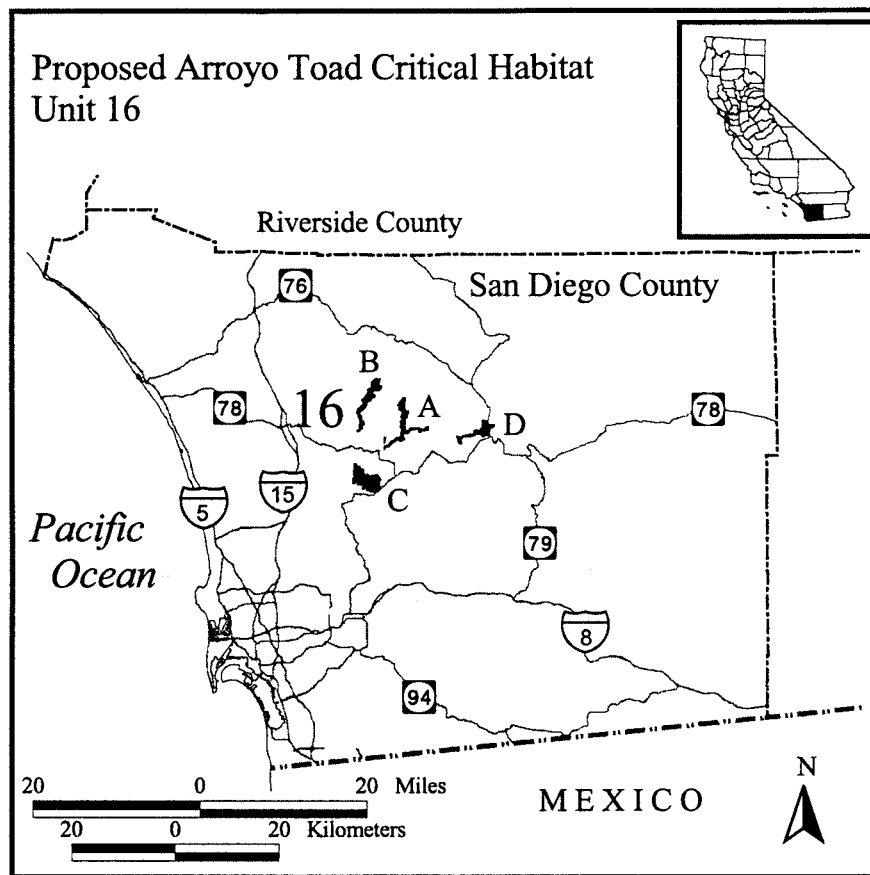
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529100, 3665700; 529100, 3666100;  
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529100, 3666300; 529100, 3666400;  
529000, 3666400; 529000, 3666500;

529100, 3666500; 529100, 3666600;  
excluding land within the Santa Ysabel  
Reservation.

(vii) Note: Map of arroyo toad  
proposed critical habitat Unit 16  
follows.

BILLING CODE 4310-55-U



BILLING CODE 4310-55-C

(22) Unit 17: San Diego River Basin/  
San Vicente Creek, San Diego County,  
California.

(i) Subunit 17a: From USGS 1:24,000  
scale quadrangles El Cajon Mountain,  
Santa Ysabel, and Tule Springs. Land  
bounded by the following UTM zone 11,  
NAD27 coordinates (E, N): 525500,  
3653000; 525900, 3653000; 525900,  
3652900; 525800, 3652900; 525800,  
3652600; 525900, 3652600; 525900,  
3652300; 525800, 3652300; 525800,  
3651900; 525700, 3651900; 525700,  
3651600; 525600, 3651600; 525600,  
3651400; 525500, 3651400; 525500,  
3651300; 525400, 3651300; 525400,  
3651100; 525300, 3651100; 525300,  
3650800; 525200, 3650800; 525200,  
3650400; 525100, 3650400; 525100,  
3650300; 525000, 3650300; 525000,  
3650200; 524900, 3650200; 524900,  
3650100; 525100, 3650100; 525100,  
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3651300; 525200, 3651300; 525200, 3651500; 525300, 3651500; 525300, 3651600; 525400, 3651600; 525400, 3651900; 525500, 3651900; 525500, 3652300; 525600, 3652300; 525600, 3652400; 525500, 3652400; 525500, 3653000.

(ii) Subunit 17b: From USGS 1:24,000 scale quadrangle El Cajon Mountain. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 517400, 3638700; 517700, 3638700; 517700, 3638600; 517800, 3638600; 517800, 3638500; 518100, 3638500; 518100, 3638400; 517900, 3638400; 517900, 3638300; 517800, 3638300; 517800, 3638100; 517600, 3638100; 517600, 3638000; 517100, 3638000; 517100, 3638100; 517000, 3638100; 517000, 3638000; 516800, 3638000; 516800, 3638100; 516600, 3638100; 516600, 3638200; thence west to the Cleveland National Forest (CNF) boundary at y-coordinate 3638200; thence north along the CNF boundary to y-coordinate 3638600; thence east and following coordinates 516700, 3638600; 516700, 3638500; 517200, 3638500; 517200, 3638600; 517400, 3638600; returning to 517400, 3638700.

(iii) Subunit 17c: From USGS 1:24,000 scale quadrangles El Cajon, El Cajon Mountain, and San Vicente Reservoir. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N):

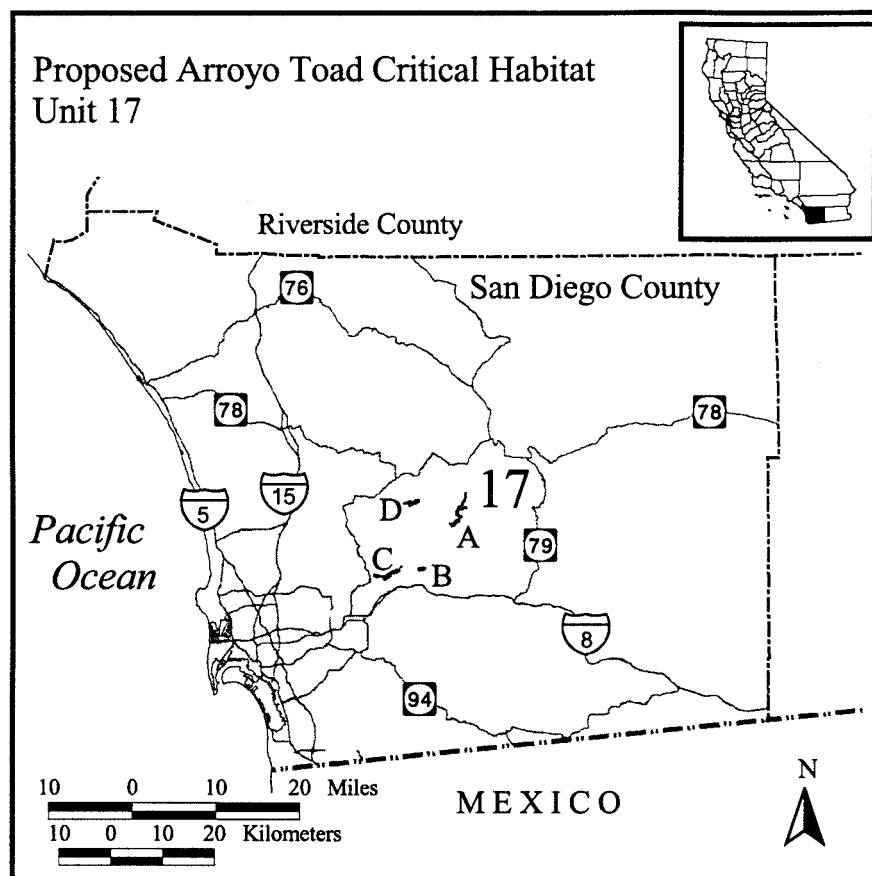
510600, 3637300; 510600, 3637400; thence east to the Helix Water District (HWD) boundary; thence northeast and southwest along the HWD boundary to y-coordinate 3636900; thence west and following coordinates 511200, 3636900; 511200, 3636800; 511000, 3636800; thence south to the HWD boundary at x-coordinate 511000; thence southwest along the HWD boundary to y-coordinate 3636500; thence west and following coordinates 510700, 3636500; 510700, 3636400; 510300, 3636400; 510300, 3636300; 510200, 3636300; 510200, 3636100; thence west to the HWD boundary at y-coordinate 3636100; thence west and east along the HWD boundary, passing x-coordinate 510000 twice, to y-coordinate 3637000; thence east and following coordinates 510400, 3637000; 510400, 3637200; 510500, 3637200; 510500, 3637300; returning to 510600, 3637300.

(iv) Subunit 17d: From USGS 1:24,000 scale quadrangles El Cajon Mountain and Ramona. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 515200, 3651200; 515400, 3651200; 515400, 3651300; 515700, 3651300; 515700, 3651400; 515900, 3651400; 515900, 3651600; 516000, 3651600; 516000, 3651700; 516100, 3651700; 516100, 3651600; 516300, 3651600; 516300, 3651700; 516700, 3651700; 516700, 3651600;

516800, 3651600; 516800, 3651300; 516700, 3651300; 516700, 3651200; 516600, 3651200; 516600, 3651100; 516500, 3651100; 516500, 3651000; 516300, 3651000; 516300, 3650900; 516100, 3650900; 516100, 3650800; 515700, 3650800; 515700, 3650700; 515500, 3650700; 515500, 3650600; 515200, 3650600; 515200, 3650500; 515100, 3650500; 515100, 3650400; 515000, 3650400; thence south to the Barona Reservation boundary at x-coordinate 515000; thence west along the reservation boundary to the Multiple Species Conservation Program (MSCP) boundary; thence north along the MSCP boundary to x-coordinate 513800; thence north and following coordinates 513800, 3651000; 514000, 3651000; 514000, 3651100; 514100, 3651100; 514100, 3651000; 514200, 3651000; 514200, 3651100; 514400, 3651100; 514400, 3651200; 514500, 3651200; 514500, 3651300; 514600, 3651300; 514600, 3651400; 514900, 3651400; 514900, 3651500; 515100, 3651500; 515100, 3651400; 515200, 3651400; returning to 515200, 3651200; excluding land bounded by 515200, 3651200; 515000, 3651200; 515000, 3651100; 515100, 3651100; 515100, 3651000; 515200, 3651000; 515200, 3651200.

(v) **Note:** Map of arroyo toad proposed critical habitat Unit 17 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(23) Unit 18; Sweetwater River Basin, San Diego County, California.

(i) Subunit 18a: From USGS 1:24,000 scale quadrangles Cuyamaca Peak, Descanso, and Viejas Mountain. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 543300, 3648600; 543400, 3648600; 543400, 3648500; 543500, 3648500; 543500, 3648400; 543600, 3648400; 543600, 3648200; 543400, 3647300; 543300, 3647300; 543300, 3646600; 543200, 3646600; 543200, 3646400; 543100, 3646400; 543100, 3646300; 543200, 3646300; 543200, 3646100; 543100, 3646100; 543100, 3645900; 543000, 3645900; 543000, 3645700; 542900, 3645700; 542900, 3645400; 542800, 3645400; 542800, 3645200; 542700, 3645200; 542700, 3644900; 542600, 3644900; 542600, 3644800; 542500, 3644800; 542500, 3644600; 542400, 3644600; 542400, 3643900; 542500, 3643900; 542500, 3643600; 542300, 3643600; 542300, 3643700; 542200, 3643700; 542200, 3643600; 542100, 3643600; 542100, 3643500; 542000, 3643500; 542000, 3643300; 541900, 3643300; 541900, 3643100; 541800, 3643100; 541800, 3643000; 541600, 3643000; 541600, 3642900; 541500, 3642900; 541500,

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 3630100; 526600, 3630100; 526600,  
 3630000; 526400, 3630000; 526400,  
 3630100; thence west to the Cleveland  
 National Forest (CNF) boundary at y-  
 coordinate 3630100; thence north along  
 the CNF boundary to y-coordinate  
 3630400; thence east and following  
 coordinates 526500, 3630400; 526500,  
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 3648300; 543200, 3648300; 543200,  
 3648500; 543300, 3648500; returning to  
 543300, 3648600.

(ii) Subunit 18b: From USGS 1:24,000  
 scale quadrangles Alpine and Viejas  
 Mountain. Land bounded by the  
 following UTM zone 11, NAD27  
 coordinates (E, N): 524200, 3629500;  
 523900, 3629500; 523900, 3629300;  
 524000, 3629300; 524000, 3629100;  
 523900, 3629100; 523900, 3629000;  
 523800, 3629000; 523800, 3628900;  
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523800, 3628800; 523800, 3628600;  
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526500, 3628600; 526500, 3628500;  
526700, 3628500; 526700, 3628300;  
526300, 3628300; 526300, 3628200;  
526400, 3628200; 526400, 3628000;  
526100, 3628000; 526100, 3628100;  
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524000, 3627600; 524000, 3627700;  
523900, 3627700; 523900, 3627800;  
523700, 3627800; 523700, 3627900;  
523200, 3627900; 523200, 3628400;  
523100, 3628400; 523100, 3628500;  
523000, 3628500; 523000, 3628800;  
523100, 3628800; 523100, 3628900;  
523300, 3628900; 523300, 3629000;  
523500, 3629000; 523500, 3629100;  
523700, 3629100; thence north to the  
CNF boundary at x-coordinate 523700;  
thence west along the CNF boundary to  
x-coordinate 524200; thence south and  
returning to 524200, 3629500.

(iii) Subunit 18c: From USGS 1:24,000  
scale quadrangles Alpine, El Cajon, and  
Jamul Mountains. Land bounded by the  
following UTM zone 11, NAD27  
coordinates (E, N): 514200, 3625700;  
513700, 3625700; 513700, 3626200;  
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513300, 3626300; 513300, 3626400;  
512900, 3626400; 512900, 3626300;  
512800, 3626300; 512800, 3626100;  
512700, 3626100; 512700, 3626000;  
512500, 3626000; 512500, 3626100;  
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511700, 3626200; 511700, 3626300;  
511300, 3626300; 511300, 3626400;  
511200, 3626400; 511200, 3626200;  
511500, 3626200; 511500, 3626000;  
511600, 3626000; 511600, 3625900;  
511700, 3625900; 511700, 3625200;  
511500, 3625200; 511500, 3625100;  
511400, 3625100; 511400, 3624900;  
511300, 3624900; 511300, 3624700;  
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boundary at y-coordinate 3626300;  
thence south along the reservation  
boundary to y-coordinate 3626000;  
thence west and following coordinates  
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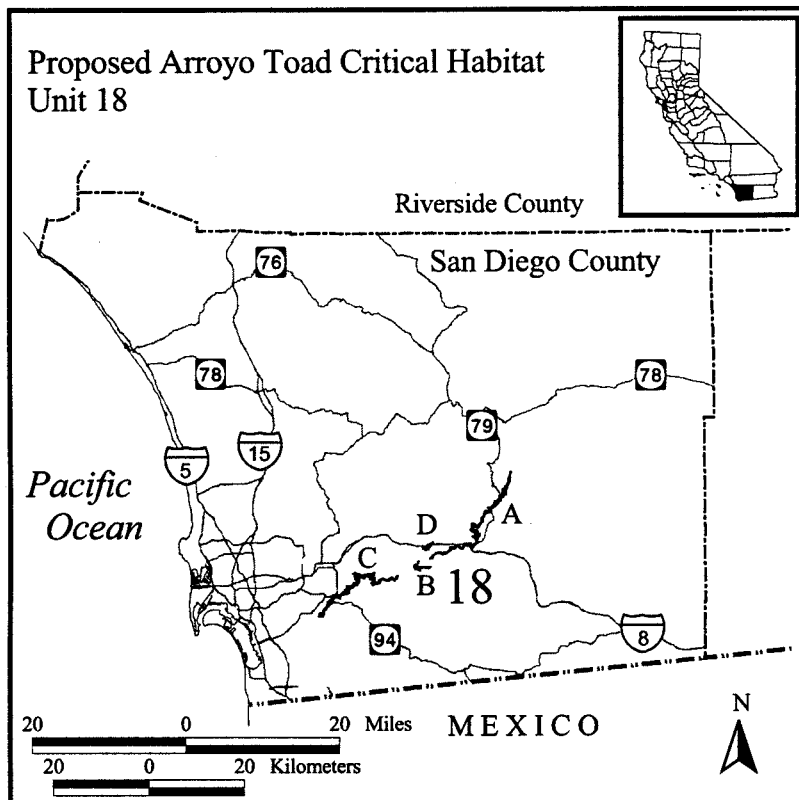
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 514200, 3625700; land bounded by  
 511200, 3626400; 511200, 3626500;  
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 511200, 3626400.

(iv) Subunit 18d: From USGS 1:24,000 scale quadrangle Viejas Mountain. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 527000, 3633600; 527000, 3633800; thence east to the Viejas Reservation boundary at y-coordinate 3633800; thence south along the reservation boundary to x-

coordinate 527200; thence south and following coordinates 527200, 3633100; 526900, 3633100; 526900, 3633000; 526800, 3633000; 526800, 3632900; 526600, 3632900; 526600, 3632800; 526500, 3632800; 526500, 3632500; 526200, 3632500; 526200, 3632000; 525700, 3632000; 525700, 3631900; 525600, 3631900; 525600, 3631800; 525500, 3631800; 525500, 3631900; 525400, 3631900; 525400, 3632000; 525300, 3632000; 525300, 3632200; 525000, 3632200; 525000, 3632100; thence west to the CNF boundary at y-coordinate 3632100; thence north along the CNF boundary to y-coordinate 3632900; thence east and following coordinates 524800, 3632900; 524800, 3632800; 525000, 3632800; 525000, 3632700; 525100, 3632700; 525100, 3632800; 525400, 3632800; 525400, 3632900; 525700, 3632900; 525700, 3633000; 525800, 3633000; 525800, 3633100; 525900, 3633100; 525900, 3633200; 526300, 3633200; 526300, 3633300; 526400, 3633300; 526400, 3633400; 526500, 3633400; 526500, 3633500; 526800, 3633500; 526800, 3633600; returning to 527000, 3633600.

(v) **Note:** Map of arroyo toad proposed critical habitat Unit 18 follows.

BILLING CODE 4310-55-U



(24) Unit 19; Cottonwood Creek Basin, San Diego County, California.

(i) Subunit 19a: From USGS 1:24,000 scale quadrangles Cameron Corners, Morena Reservoir, and Mount Laguna. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N):

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 returning to 547300, 3627000.

(ii) Subunit 19b: From USGS 1:24,000 scale quadrangles Barrett Lake, Morena Reservoir, Potrero, and Tecate. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 534500, 3616200; 535000, 3616200; 535000, 3616100; 535100, 3616100; 535100, 3616000; 535300, 3616000; 535300, 3615900; 535800, 3615900; 535800, 3615800; 535900, 3615800; 535900, 3615900; 536100, 3615900; 536100, 3615800; 536400, 3615800; 536400, 3615900; 536500, 3615900; 536500, 3616000; 536600, 3616000; 536600, 3615900; 536700, 3615900; 536700, 3615700; 537000, 3615700; 537000, 3615800; 537200, 3615800; 537200, 3615900; 537300, 3615900; 537300, 3615800; 538200, 3615800; 538200, 3615700; 538300, 3615700; 538300, 3615600; 538500, 3615600; 538500, 3615500; 538700, 3615500; 539400, 3615400; 539400, 3615300; 539600, 3615300; 539600, 3615200; 539800, 3615200; 539800, 3615100; 539900, 3615100; 539900, 3615000; 540700, 3615000; 540700, 3614700; 540600, 3614700; 540600, 3614600; 540200, 3614600; 540200, 3614700; 540000, 3614700; 540000, 3614600; 539900, 3614600; 539900, 3614700; 539600, 3614700; 539600, 3615000; 539300, 3615000; 539300, 3615100; 538500, 3615100; 538500, 3615200; 537900, 3615200; 537900, 3615300; 537600, 3615300; 537600, 3615200; 536600, 3615200; 536600, 3615300; 536400, 3615300; 536400, 3615400; 536100, 3615400; 536100, 3615500; 535400, 3615500; 535400, 3615600; 535100, 3615600; 535100, 3615700; 534800, 3615700; 534800, 3615800; 534500, 3615800; returning to 534500, 3616200.

(iii) Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 527900, 3608300; thence north to

the Multiple Species Conservation Program (MSCP) boundary at x-coordinate 527900; thence east along the MSCP boundary to y-coordinate 3608700; thence east and following coordinates 528400, 3608700; 528400, 3608800; 528500, 3608800; thence north to the MSCP boundary at x-coordinate 528500; thence east along the MSCP boundary to y-coordinate 3609100; thence east and following coordinates 528700, 3609100; 528700, 3609200; 528800, 3609200; 528800, 3609400; 529000, 3609400; 529000, 3609500; 529100, 3609500; 529100, 3609600; 529200, 3609600; 529200, 3609700; 529300, 3609700; 529300, 3609900; 529200, 3609900; 529200, 3610600; 529600, 3610600; 529600, 3610700; 529500, 3610700; 529500, 3610800; 529300, 3610800; 529300, 3610900; 529200, 3610900; 529200, 3611300; 529300, 3611300; 529300, 3611400; 529400, 3611400; 529400, 3611500; 529500, 3611500; 529500, 3611600; 529700, 3611600; 529700, 3611700; 529800, 3611700; 529800, 3611800; 529700, 3611800; 529700, 3612000; 529900, 3612000; 529900, 3612400; 530000, 3612400; 530000, 3612800; 529900, 3612800; 529900, 3613500; 530000, 3613500; 530000, 3613800; 530200, 3613800; 530200, 3614000; 530300, 3614000; 530300, 3614200; 530400, 3614200; 530400, 3614500; 530500, 3614500; 530500, 3614700; 530600, 3614700; 530600, 3615100; 530700, 3615100; 530700, 3615500; 530800, 3615500; 530800, 3615600; 531000, 3615600; 531000, 3615500; 531100, 3615500; 531100, 3615400; 531000, 3615400; 531000, 3615200; 530900, 3615200; 530900, 3614800; 530800, 3614800; 530800, 3614500; 530700, 3614500; 530700, 3614300; 530600, 3614300; 530600, 3614000; 530500, 3614000; 530500, 3613800; 530400, 3613800; 530400, 3613600; 530300, 3613600; 530300, 3613400; 530200, 3613400; 530200, 3613300; 530100, 3613300; 530100, 3613100; 530200, 3613100; 530200, 3613000; 530300, 3613000; 530300, 3612400; 530600, 3612400; 530600, 3612300; 530500, 3612300; 530500, 3612200; 530400, 3612200; 530400, 3612000; 530300, 3612000; 530300, 3611900; 530200, 3611900; 530200, 3611700; 530300, 3611700; 530300, 3611600; 530200, 3611600; 530200, 3611500; 530100, 3611500; 530100, 3611400; 530200, 3611400; 530200, 3611300; 530100, 3611300; 530100, 3611200; 529600, 3611200; 529600, 3611100; 529700, 3611100; 529700, 3611000; 529900, 3611000; 529900, 3610800; 530000, 3610800; 530000, 3610300; 530100, 3610300; 530100, 3610200;

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thence west to the MSCP boundary at y-  
coordinate 3607200; thence northwest  
along the MSCP boundary to y-  
coordinate 3608300; thence west and  
returning to 527900, 3608300; excluding  
land bounded by 527900, 3608300;  
527900, 3608200; 528000, 3608200;  
528000, 3608300; 527900, 3608300.

(iv) Subunit 19c: From USGS 1:24,000  
scale quadrangles Cuyamaca Peak,  
Descanso, and Mount Laguna. Land  
bounded by the following UTM zone 11,  
NAD27 coordinates (E, N): 544000,  
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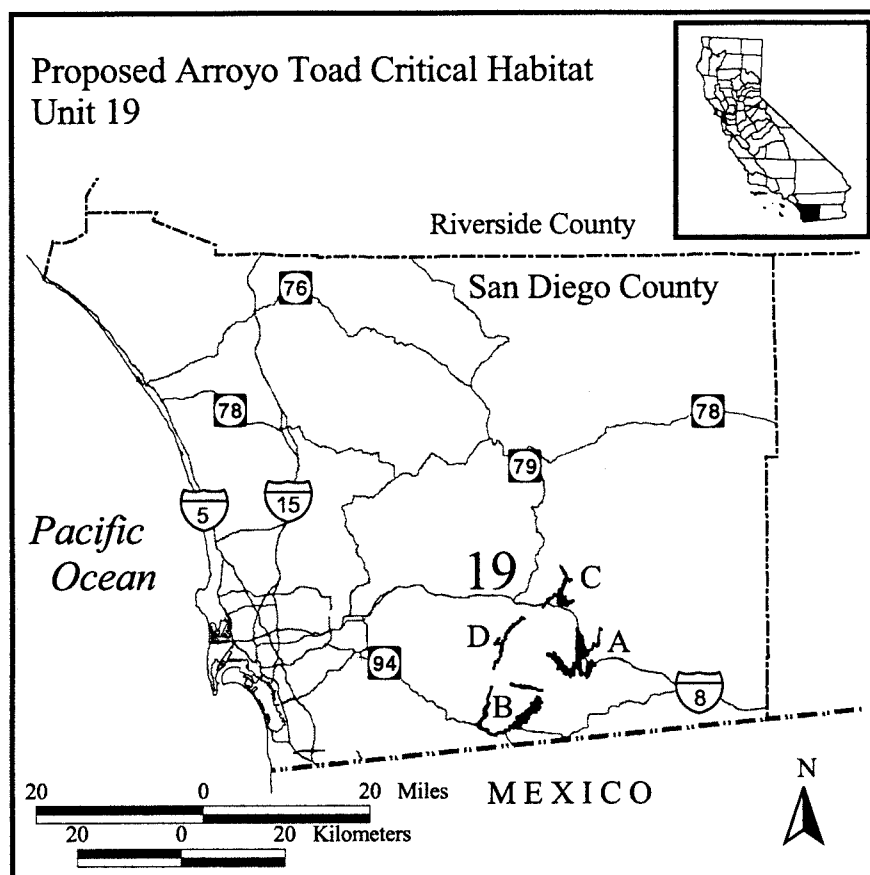
(v) Subunit 19d: From USGS 1:24,000  
 scale quadrangles Barrett Lake,  
 Descanso, and Viejas Mountain. Land  
 bounded by the following UTM zone 11,  
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 3629000; 536700, 3629000; returning to  
 536700, 3629100.

(vi) **Note:** Map of arroyo toad  
 proposed critical habitat Unit 19  
 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(25) Unit 20; Upper Santa Ana River Basin/Cajon Wash, San Bernardino County, California.

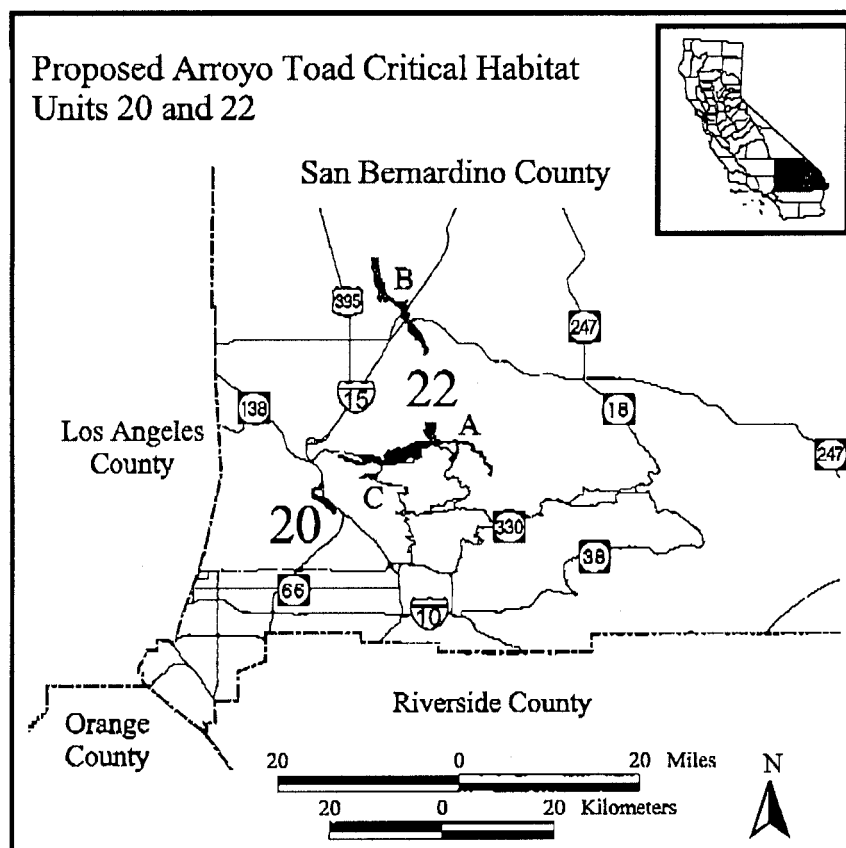
(i) From USGS 1:24,000 scale quadrangle Cajon. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 458300, 3792500; 458700, 3792500; 458700, 3792100; 458600, 3792100; 458600, 3791800; 458500, 3791800; 458500, 3791600; 458000, 3791600; 458000, 3791500; 457900, 3791500; 457900, 3791400; 457400, 3791400; 457400, 3791300; 457200, 3791300; 457200, 3791000; 457100, 3791000; 457100, 3790800; 457200, 3790800; 457200, 3790600; 457300, 3790600; 457300, 3790500; 457400, 3790500; 457400, 3790400; 457500, 3790400; 457500, 3790300; 458000, 3790300; 458000, 3790200; 458300, 3790200; 458300, 3790100; 458600, 3790100; 458600, 3790000; 458700, 3790000; 458700, 3789900; 458800, 3789900; 458800, 3789800; 458900, 3789800; 458900, 3789700; 459000, 3789700; 459000, 3789600; 459100, 3789600; 459100, 3789400; 459400, 3789400; 459400, 3789300; 459500, 3789300; 459500, 3789200;

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(ii) **Note:** Map of arroyo toad proposed critical habitat Units 20 and 22 follows.

BILLING CODE 4310-55-U



## BILLING CODE 4310-55-C

(26) Unit 21; Little Rock Creek Basin, Los Angeles County, California.

(i) From USGS 1:24,000 scale quadrangles Juniper Hills and Pacifico Mountain. Land bounded by the following UTM zone 11, NAD27 coordinates (E, N): 406300, 3814500; 406500, 3814500; 406500, 3814100; 406600, 3814100; 406600, 3813600; 406800, 3813600; 406800, 3813400; 406700, 3813400; 406700, 3813300; 406800, 3813300; 406800, 3812700; 406900, 3812700; 406900, 3812300; 407000, 3812300; 407000, 3812200; 407200, 3812200; 407200, 3811900; 407300, 3811900; 407300, 3811800; 407400, 3811800; 407400, 3811700; 407500, 3811700; 407500, 3811600; 407600, 3811600; 407600, 3811400; 407800, 3811400; 407800, 3811200; 408200, 3811200; 408200, 3811100; 408500, 3811100; 408500, 3811000; 408700, 3811000; 408700, 3810900; 409000, 3810900; 409000, 3810800; 409100, 3810800; 409100, 3810600; 409200, 3810600; 409200, 3810400; 409300, 3810400; 409300, 3810300; 409400, 3810300; 409400, 3810100; 409500, 3810100; 409500, 3810000; 409800, 3810000; 409800, 3809900; 409900, 3809900; 409900, 3809700; 410100, 3809700; 410100, 3809500; 410200, 3809500; 410200, 3809400;

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406100, 3814300; 406100, 3814400;  
406300, 3814400; returning to 406300,  
3814500.

(ii) Refer to paragraph 12(iii) for map  
of arroyo toad proposed critical habitat  
Units 6, 7 and 21.

(27) Unit 22: Upper Mojave River  
Basin, San Bernardino County,  
California.

(i) Subunit 22a: From USGS 1:24,000  
scale quadrangles Butler Peak, Cajon,  
Lake Arrowhead, and Silverwood Lake.  
Land bounded by the following UTM  
zone 11, NAD27 coordinates (E, N):

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 488100, 3794200; 488200, 3794200;  
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 488300, 3794500; 488400, 3794500;  
 488400, 3794800; 488500, 3794800;  
 488500, 3795000; 488400, 3795000;  
 returning to 488400, 3795200; excluding  
 land bounded by 488400, 3795200;  
 488500, 3795200; 488500, 3795300;  
 488400, 3795300; 488400, 3795200;  
 land bounded by 478700, 3800200;  
 478600, 3800200; 478600, 3800100;  
 478700, 3800100; 478700, 3800200.

(ii) Subunit 22b: From USGS 1:24,000  
 scale quadrangles Apple Valley South,  
 Helendale, Hesperia, and Victorville.  
 Land bounded by the following UTM  
 zone 11, NAD27 coordinates (E, N):  
 472700, 3822600; 472600, 3822600;  
 472600, 3822500; 472500, 3822500;  
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 472000, 3824100; 471900, 3824100;  
 471900, 3824200; 471800, 3824200;  
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468300, 3825800; 468700, 3825800;  
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474700, 3821900; 474900, 3821900;  
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477200, 3816500; 477300, 3816500;  
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476600, 3816700; 476500, 3816700;  
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474100, 3819400; 474000, 3819400;  
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473900, 3819700; 473800, 3819700;  
473800, 3819900; 473700, 3819900;  
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473600, 3821200; 473500, 3821200;  
473500, 3821300; 473400, 3821300;  
473400, 3821400; 473300, 3821400;  
473300, 3821600; 473200, 3821600;  
473200, 3821800; 473100, 3821800;  
473100, 3822100; 473000, 3822100;  
473000, 3822200; 472900, 3822200;  
472900, 3822300; 472700, 3822300;  
returning to 472700, 3822600; excluding  
land bounded by 472700, 3822600;  
472800, 3822600; 472800, 3822700;  
472700, 3822700; 472700, 3822600.

(iii) Subunit 22c: From USGS 1:24,000  
scale quadrangles Cajon and Silverwood  
Lake. Land bounded by the following  
UTM zone 11, NAD27 coordinates (E,  
N): 466500, 3794200; 466900, 3794200;  
466900, 3794100; 468300, 3794100;  
468300, 3793500; 467800, 3793500;  
467800, 3793600; 467500, 3793600;  
467500, 3793500; 467400, 3793500;  
467400, 3793300; 467200, 3793300;  
467200, 3793400; 467100, 3793400;  
467100, 3793600; 466900, 3793600;  
466900, 3793700; 466200, 3793700;  
466200, 3793500; 465700, 3793500;  
465700, 3793400; 465300, 3793400;  
465300, 3793500; 465200, 3793500;  
465200, 3793600; 465400, 3793600;  
465400, 3793700; 465700, 3793700;  
465700, 3793900; 465900, 3793900;  
465900, 3794000; 466000, 3794000;  
466000, 3794100; 466500, 3794100;  
466500, 3794200.

(iv) Refer to paragraph 25(ii) for map  
of arroyo toad proposed critical habitat  
Unit 20 and 22.

(28) Unit 23; Whitewater River Basin,  
Riverside County, California.

(i) From USGS 1:24,000 scale  
quadrangles Catclaw Flat and White  
Water. Land bounded by the following  
UTM zone 11, NAD27 coordinates (E,  
N): 530300, 3764000; 530400, 3764000;  
530400, 3763900; 530600, 3763900;  
530600, 3763800; 530800, 3763800;  
530800, 3763500; 531000, 3763500;  
531000, 3763200; 531100, 3763200;  
531100, 3762800; 531000, 3762800;  
531000, 3762400; 531200, 3762400;  
531200, 3762200; 531500, 3762200;  
531500, 3761900; 531600, 3761900;  
531600, 3761500; 531700, 3761500;  
531700, 3761100; 531800, 3761100;  
531800, 3760900; 531900, 3760900;  
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532700, 3758900; 532800, 3758900;  
532800, 3758700; 532900, 3758700;  
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532800, 3757800; 532900, 3757800;  
532900, 3757700; 533200, 3757700;  
533200, 3757400; 533300, 3757400;  
533300, 3757300; 533400, 3757300;  
533400, 3756800; 533500, 3756800;  
533500, 3756600; 533400, 3756600;  
533400, 3756400; 533500, 3756400;  
533500, 3756200; 533600, 3756200;  
533600, 3755200; 533700, 3755200;  
533700, 3754800; 533800, 3754800;  
533800, 3754400; 533900, 3754400;  
533900, 3754100; 534000, 3754100;  
534000, 3753800; 534100, 3753800;  
534100, 3753600; 534200, 3753600;  
534200, 3753400; 534300, 3753400;

534300, 3753200; 534100, 3753200;  
534100, 3753300; 533900, 3753300;  
533900, 3753400; 533700, 3753400;  
533700, 3753500; 533500, 3753500;  
533500, 3753600; 533100, 3753600;  
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532400, 3757600; 532300, 3757600;  
532300, 3757800; 532200, 3757800;  
532200, 3758000; 532100, 3758000;  
532100, 3759000; 531900, 3759000;  
531900, 3759300; 532000, 3759300;  
532000, 3759500; 531900, 3759500;  
531900, 3760000; 531800, 3760000;  
531800, 3760100; 531600, 3760100;  
531600, 3760400; 531500, 3760400;  
531500, 3760700; 531400, 3760700;

531400, 3760800; 531200, 3760800;  
531200, 3760900; 531000, 3760900;  
531000, 3761100; 530900, 3761100;  
530900, 3761200; 530800, 3761200;  
530800, 3761300; 530700, 3761300;  
530700, 3761500; 530600, 3761500;  
530600, 3761800; 530500, 3761800;  
530500, 3761900; 530400, 3761900;  
530400, 3762300; 530300, 3762300;  
530300, 3763100; 530200, 3763100;  
530200, 3763300; 530100, 3763300;  
530100, 3763700; 530200, 3763700;  
530200, 3763900; 530300, 3763900;  
returning to 530300, 3764000.

(ii) Refer to paragraph 14(iii) for map of arroyo toad proposed critical habitat Units 9 and 23.

Dated: April 15, 2004.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04-9204 Filed 4-27-04; 8:45 am]

BILLING CODE 4310-55-U