

50 CFR Part 17

Tuesday
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Part III

**Department of the
Interior**

Fish and Wildlife Service

50 CFR Part 17

**Endangered and Threatened Wildlife and
Plants; Designation of Critical Habitat for
the Pacific Coast Population of the
Western Snowy Plover; Final Rule**

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****RIN 1018-AD10****Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Pacific Coast Population of the Western Snowy Plover**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate 28 areas along the coast of California, Oregon, and Washington as critical habitat for the Pacific coast vertebrate population segment of the western snowy plover (*Charadrius alexandrinus nivosus*). This small shorebird is listed as a threatened species under the Endangered Species Act of 1973, as amended (Act). Section 7 of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to destroy or adversely modify designated critical habitat. As required by section 4 of the Act, we considered economic and other relevant impacts prior to making a final decision on the size and configuration of critical habitat.

EFFECTIVE DATE: This final rule is effective January 6, 2000.

ADDRESSES: The complete administrative record for this rule is on file at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, California 95825. The complete file for this rule is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Karen J. Miller, Endangered Species Division Chief, at the above address (telephone 916/414-6600, facsimile 916/414-6713).

SUPPLEMENTARY INFORMATION:**Background**

The western snowy plover, which is 1 of 12 subspecies of the snowy plover (Rittinghaus 1961 in Jacobs 1986), is a small, pale-colored shorebird with dark patches on either side of the upper breast. The species was first described in 1758 by Linnaeus (American Ornithologists' Union 1957). The Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) is defined as those individuals

that nest adjacent to tidal waters, and includes all nesting birds on the mainland coast, peninsulas, offshore islands, adjacent bays, estuaries, and coastal rivers. For a complete discussion of the ecology and life history of this subspecies, see our March 5, 1993, final rule listing the coastal population of the western snowy plover as a threatened species (58 FR 12864).

The Pacific coast population of the western snowy plover breeds primarily on coastal beaches from southern Washington to southern Baja California, Mexico. This habitat is unstable because of unconsolidated soils, high winds, storms, wave action, and colonization by plants. Sand spits, dune-backed beaches, beaches at creek and river mouths, and salt pans at lagoons and estuaries are the preferred habitats for nesting (Wilson 1980; Stenzel *et al.* 1981). Less common nesting habitats include bluff-backed beaches, dredged material disposal sites, salt pond levees, dry salt ponds, and river bars (Wilson 1980; Page and Stenzel 1981; Powell *et al.* 1996; Tuttle *et al.* 1997).

Most breeding occurs from southern San Francisco Bay to southern Baja California (Page and Stenzel 1981; Palacios *et al.* 1994). Recent surveys, status reviews and literature searches have identified 157 current or historical snowy plover breeding or wintering locations on the U.S. Pacific coast—5 in Washington, 19 in Oregon, and 133 in California. In Baja, breeding plovers concentrate at coastal wetland complexes as far south as Bahia Magdalena (Palacios *et al.* 1994). A survey of breeding snowy plovers along the Pacific coast of Baja California in 1991-92 found 1,344 adults, mostly at 4 coastal wetland complexes: Bahia San Quintin; Laguna Ojo de Liebre and Laguna Guerrero Negro; Laguna San Ignacio; and Bahia Magdalena (Palacios *et al.* 1994).

The fledging success of snowy plovers varies greatly by location and year. Even plovers nesting on neighboring beach segments may exhibit quite different success in the same year. For example, the percentage of chicks fledged on different beach segments of Monterey Bay in 1997 varied from 11 to 59 percent and averaged 24 percent overall (Page *et al.* 1997). During the prior 13 years, the percentage of young fledged on Monterey Bay beaches averaged 39 percent (Page *et al.* 1997). From the former Moss Landing salt ponds (now the Moss Landing Wildlife Area) in Monterey Bay, the fledging rate of chicks ranged from 13.2 percent to 57.1 percent (mean = 41.4 percent) from 1988 to 1997. In San Diego County, the fledging rate of chicks ranged from 32.6

to 51.4 percent (mean = 41 percent) from 1994 through 1998 (Powell *et al.* 1997). In Oregon, annual fledging success for 1992 to 1997 for all coastal sites combined ranged from 30 to 48 percent, with an annual mean of 38 percent (M. Stern, Oregon Natural Heritage Program, unpubl. data). Like California, in Oregon, considerable variation occurs among sites within years. For example, in 1997, the fledging rate ranged from a low of 14 percent at Sutton to a high of 66 percent at South Tenmile. Variation also occurs at individual sites among years. For example, at the Coos Bay North Spit, one of the larger nesting areas in coastal Oregon, annual fledging rates for 1993 to 1997 ranged from 32 to 63 percent, with a mean of 46 percent.

In western North America, both the interior and Pacific coast populations winter mainly in coastal areas from southern Washington to Central America (Page *et al.* 1995a). A small number winter at two locations on the Washington coast, the northernmost being Midway Beach in Pacific County (S. Richardson, Washington Department of Fish and Wildlife, pers. comm. 1998). Fewer than 100 plovers winter at 9 locations on the Oregon coast, probably as many as 2,500 along the mainland California coast, and hundreds more in each of San Francisco Bay and the Channel Islands (Page *et al.* 1986). The majority of wintering plovers on the California coast are found from Bodega Bay, Sonoma County, southward (Page *et al.* 1986). Because of their similarity of appearance, wintering individuals from the interior and Pacific coast populations are virtually indistinguishable.

Nesting birds from the Oregon coast have wintered as far south as Monterey Bay on the central coast of California. Birds from Monterey Bay have wintered north to Bandon, Oregon, and south to Guerrero Negro, Baja California (Page *et al.* 1995a). Birds from San Diego in southern California have wintered north to Vandenberg Air Force Base in Santa Barbara County and south to Scammon's Lagoon, Baja California (Powell *et al.* 1995, 1996, 1997).

In winter, plovers are found on many of the beaches used for nesting but also on beaches not used for nesting. They also visit manmade salt ponds and estuarine sand and mud flats. In California, the majority of wintering plovers concentrate on sand spits and dune-backed beaches. Some also occur on urban and bluff-backed beaches, which are rarely used for nesting (Page *et al.* 1986). Pocket beaches at the mouths of creeks and rivers on otherwise rocky shorelines are also used

by wintering plovers. In Washington, the main wintering location is Leadbetter Point, Willapa Bay (Washington Department of Fish and Wildlife 1995).

The breeding season for western snowy plovers extends from early March to late September, with birds at more southerly locations beginning to nest earlier in the season than birds at more northerly locations. Activities that define the nesting season are courtship, copulation, nest scraping, egg laying, incubation, and rearing of the young to the fledgling stage. The wintering season generally extends roughly from October to February but often overlaps the nesting season with birds arriving on wintering areas as early as midsummer.

Previous Federal Actions

On March 24, 1988, we received a petition from Dr. J.P. Myer of the National Audubon Society to list the Pacific coast population of the western snowy plover as a threatened species under the Act. On November 14, 1988, we published a 90-day petition finding (53 FR 45788) that substantial information had been presented indicating the requested action might be warranted. At that time we acknowledged that questions pertaining to the demarcation of the subspecies and significance of interchange between coastal and interior stocks of the subspecies remained to be answered. Public comments were requested on the status of the coastal population of the western snowy plover. A status review of the entire subspecies had been in progress since our December 30, 1982, Vertebrate Notice of Review (47 FR 58454). In that notice, as in subsequent reviews (September 18, 1985 (50 FR 37958); January 6, 1989 (54 FR 554)), the western snowy plover was included as a category two candidate. Category two encompassed species for which information in our possession indicated that proposing to list as endangered or threatened was possibly appropriate, but for which conclusive data on biological vulnerability and threat were not currently available to support proposed rules.

We closed the public comment period on the petition on July 11, 1989 (54 FR 26811, June 26, 1989). In September 1989, we completed a status report on the western snowy plover. Based on the best scientific and commercial data available, including comments submitted during the status review, we made a 12-month petition finding on June 25, 1990, that the petitioned action was warranted but precluded by other

pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act.

On January 14, 1992 (57 FR 1443), we published a proposal to list the coastal population of the western snowy plover as a threatened species. After a review of the best scientific and commercial data available and all comments received in response to the proposed rule, we published a final rule to list the coastal population of the western snowy plover as a threatened species on March 5, 1993 (58 FR 12864), and thereby initiated the protections applicable to listed species. We did not propose to designate critical habitat for the snowy plover within the proposed or final listing rulemaking because we found that critical habitat was not then determinable.

On November 30, 1994, the Environmental Defense Center filed a lawsuit in Federal District Court against the Secretary of the Interior (Secretary) for failure to designate critical habitat for the coastal population of the western snowy plover (*Environmental Defense Center v. Babbitt*, Case No. CV 94-5561 ER (SHX) (C.D. Cal.)).

On March 2, 1995, (60 FR 11768) we proposed designating 28 areas along the coast of California, Oregon, and Washington as critical habitat. We requested public comments concerning the proposed rule. On April 10, 1995, Congress enacted a funding rescission and a moratorium prohibiting work on final listing actions and critical habitat designations (Public Law 104-6). Therefore, all work on the designation of critical habitat for the western snowy plover stopped. The moratorium was lifted on April 26, 1996, when President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and exercised the authority that the Act gave him to waive the moratorium. When the moratorium was lifted and funds were appropriated for the administration of the listing program, the Service faced the considerable task of allocating the available resources to the significant backlog of listing activities. We received a limited appropriation of listing funds for the remainder of fiscal year 1996, and on May 16, 1996, we published guidance to restart the listing program by assigning relative priorities to listing actions conducted under section 4 of the Act (61 FR 24722). Critical habitat determinations were the lowest tier (Tier 5) of our listing priorities.

On December 19, 1995, the Court stayed action in the case, *Environmental Defense Center v. Babbitt* (Case No. CV 94-5561 ER[SHX]), because of the listing moratorium. After the funding moratorium was lifted, the Court again stayed action in the case in light of a

related case certified for appeal to the Ninth Circuit. On November 10, 1998, Edward Rafeedie, Senior U.S. District Judge denied a further stay and issued an order requiring the Secretary of the Interior to publish a final designation of critical habitat for the coastal population of the western snowy plover before December 1, 1999.

Due to the court order, processing this final rule designating critical habitat for the coastal population of the western snowy plover did not conform with our Listing Priority Guidance for Fiscal Year 1998 and 1999 published on May 8, 1998 (63 FR 25502). That guidance clarified the order in which we will process listing actions, giving highest priority to processing emergency rules to list species as endangered; second priority to processing final determinations on proposals to add species to the lists, processing new listing proposals, processing administrative findings on petitions, and processing a limited number of proposed and final rules to delist or reclassify species; and third priority to processing proposed and final rules designating critical habitat. Work began on this rule under this guidance and on October 22, 1999 (64 FR 57114), we published new Listing Priority Guidance for fiscal year 2000. The new guidance does not change the way in which we processed this rule.

Critical Habitat

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

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical

habitat, provided the exclusion will not result in the extinction of the species.

Designating critical habitat does not, in itself, lead to recovery of a listed species, but is one of several tools that can be used to achieve recovery. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Designating critical habitat also identifies areas that may require special management considerations or protection and may provide protection to areas where significant threats to the species have been identified. Areas designated as critical habitat receive protection from the prohibition against destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Consultation under section 7 does not apply to activities on private or other non-Federal lands that do not involve a Federal action. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat.

Section 7(a)(2) of the Act requires Federal agencies to consult with us to ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat. "Jeopardize the continued existence" (of a species) is defined as engaging in action that would result in an appreciable reduction in the likelihood of survival and recovery of a listed species. "Destruction or adverse modification" (of critical habitat) is defined as a direct or indirect alteration that appreciably diminishes the value of critical habitat for the survival and recovery of the listed species for which critical habitat was designated. Thus, the definitions of "jeopardy" to the species and "adverse modification" of critical habitat both focus on increasing the risk that a listed species will not survive or recover (50 CFR 402.02).

Designation of critical habitat does not create a management plan, establish numerical population goals, prescribe specific management actions (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for critical habitat are

most appropriately addressed in recovery plans and management plans, and through section 7 consultations and section 10 Habitat Conservation Plans.

Areas outside of designated critical habitat also may have an important role in conservation of a listed species. We may reevaluate and revise a designation of critical habitat at any time that new information indicates changes are warranted. In considering whether to designate additional critical habitat areas in the future, we evaluate whether area management plans have been in operation and the extent to which the conservation measures of these plans and the recovery plan have been implemented and proven successful.

Relationship to Recovery

The ultimate purpose of listing a species as threatened or endangered under the Act is to recover the species to the point at which it no longer needs to be listed. The Act mandates the conservation of listed species through different mechanisms. Section 4(f) of the Act authorizes us to develop recovery plans for listed species. A recovery plan includes (i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species, (ii) objective, measurable criteria that, when met, would result in a determination that the species be removed from the list, and (iii) estimates of the time required and cost to carry out those measures needed to achieve the plan's goal.

In 1996, we began the recovery planning process for the snowy plover by forming a team of species experts and others involved with the plover. The Western Snowy Plover Recovery Team includes 23 members, including 7 technical experts and 16 stakeholders (representatives of landowner, management, and recreational interests from the Federal, State, local, and private sectors). Team members represent geographic areas from Grays Harbor, Washington, to San Diego, California. Since the team's first meeting in December 1996, it has been assisting in the development of our recovery plan. The draft plan will include measurable criteria (e.g., target numbers of snowy plovers) that, when met, would allow the plover's removal from the Federal list of endangered and threatened species. The draft plan also will include all actions necessary for the plover's recovery, including habitat protection, restoration, enhancement, and management; public outreach and education; research; and monitoring. In July 1997, we sent a letter to approximately 1,200 landowners and

other interested parties to obtain input on what information the public would like to see in the recovery plan. We anticipate that the draft recovery plan will be available for public review and comment in spring 2000. When it becomes available, we will publish a notice in the **Federal Register**.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations or protection. These include, but are not limited to, the following:

Space for individual and population growth, and for normal behavior;

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

Cover or shelter;

Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and

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

The primary constituent elements for the western snowy plover are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, roosting, and dispersal, or the capacity to develop those habitat components. The primary constituent elements are found in areas that support or have the potential to support intertidal beaches (between mean low water and mean high tide), associated dune systems, and river estuaries. Important components of the beach/dune/estuarine ecosystem include surf-cast kelp, sparsely vegetated foredunes (beach area immediately in front of a sand dune), interdunal flats (flat land between dunes), spits, washover areas, blowouts (a hole or cut in a dune caused by storm action), intertidal flats (flat land between low and high tides), salt flats, flat rocky outcrops, and gravel bars. Several of these components (sparse vegetation, salt flats) are mimicked in artificial habitat types used less commonly by snowy plovers (*i.e.*, dredge spoil sites and salt ponds and adjoining levees).

Methods

In developing the proposed rule in 1995, we considered (1) existing nesting capacity, (2) wintering capacity, (3) geographic location, and (4) the need for special management considerations to

determine those sites to propose as critical habitat. We selected areas if they supported 4 nesting pairs or 10 wintering plovers. From this process, we identified 28 critical habitat areas totaling approximately 8,097 hectares (20,000 acres) and about 338.1 kilometers (km) (210 miles (mi)) of coastline, or about 10 percent of the coastline of California, Oregon, and Washington. Of the 28 areas, 19 critical habitat areas were proposed in California, 7 in Oregon, and 2 in Washington. Within the last decade, these sites provided habitat for about 53 percent of nesting and 57 percent of wintering western snowy plovers in California; 97 percent of nesting and 98 percent of wintering plovers in Oregon; and 86 percent of nesting and 78 percent of wintering plovers in Washington. The percentages for California are lower than for Oregon and Washington due to the number of areas in California that were not proposed because of existing protections, or because of conflicts with other listed species' needs.

In the March 2, 1995, proposed rule, we did not propose as critical habitat various habitat areas where adequate protection for the western snowy plover is already provided. These areas included lands managed for plover nesting and wintering habitat within three National Wildlife Refuge complexes—Willapa National Wildlife Refuge in Washington, Salinas National Wildlife Refuge, the Southern California Coastal Complex in California, and lands owned and/or managed by the National Park Service in California. We did not propose nesting areas on the U.S. Marine Corps' Camp Pendleton in San Diego County, California, because we had nearly completed a consultation under section 7 with the Marine Corps (Department of the Navy) to protect nesting plovers on military land. We completed formal consultation on October 30, 1995 (see Issue (3f) for further information).

We also did not propose sites where a critical habitat designation would conflict with the survival and recovery objectives of other listed species. We identified conflicts between the habitat needs of snowy plovers and biological objectives for the California clapper rail (*Rallus longirostris obsoletus*) and salt marsh harvest mouse (*Reithrodontomys raviventris*) in San Francisco Bay and light-footed clapper rail (*Rallus longirostris levipes*) in southern California. The two rails and the mouse are federally listed endangered species whose survival and recovery is contingent, in part, on the restoration of diked salt ponds and diked lagoons to

tidal salt marsh. We knew these diked habitats also supported some breeding, feeding and sheltering habitat for snowy plovers in San Francisco Bay and southern California. We proposed that recovery for the coastal population of the western snowy plover should, in most cases, focus on coastal beaches and not include artificial habitats created by manmade lagoons or salt ponds.

During the recovery planning process that began in 1996, the recovery team provided additional information indicating that other areas on the Pacific coast support larger populations of nesting and/or wintering birds than was known at the time the proposed rule was published. The recovery team also concluded that maintenance of nesting populations of western snowy plovers in manmade habitats, particularly the salt ponds of San Francisco Bay, is integral to recovery of the coastal population. We will soon publish a draft recovery plan for the coastal population of the western snowy plover and request public comment. The draft recovery plan may recommend the maintenance and management of some diked habitats for the recovery of the snowy plover. We will continue to review available survey data and analyze all public comments on the draft recovery plan to determine if additional sites should be considered for critical habitat designation. Once the recovery plan is finalized, we will propose new critical habitat areas, if appropriate.

Effects of Critical Habitat Designation

Section 4(b)(8) of the Act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by such designation. Regulations found at 50 CFR 402.02 define destruction or adverse modification of critical habitat 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, that is, its primary constituent elements.

An activity likely will not adversely modify an area within designated critical habitat that does not contain any constituent elements. For example, existing areas such as parking lots, paved roads, and various kinds of structures within critical habitat boundaries would not furnish habitat or biological features for western snowy

plovers. Furthermore, some activities would not be restricted by critical habitat designation because they would have no significant adverse effect on the primary constituent elements.

Activities that may adversely affect critical habitat are subject to consultation under section 7(a)(2) of the Act if they are carried out, authorized, or funded by a Federal agency. The purpose of consultations between us and other Federal agencies is to ensure that activities are carried out in a manner that is not likely to jeopardize the continued existence of listed species or adversely modify or destroy its critical habitat. The areas designated as critical habitat are all at some time during the year, occupied by snowy plovers. Since the habitat is occupied, Federal agencies are already required to consult with us due to the listing of the species. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Activities that could adversely affect critical habitat of the coastal population of the western snowy plover fall into seven general categories and include, but are not limited to:

(1) Projects or management activities that cause, induce, or increase human-associated disturbance on beaches, including operation of off-road vehicles (ORVs) on the beach and beach cleaning. These activities may reduce the functional suitability of nesting, foraging, and roosting areas. Activities within posted, fenced, or otherwise protected nesting areas that may adversely modify critical habitat areas include camping, ORV use (day or night), walking, jogging, clam digging, livestock grazing, sunbathing, picnicking, horseback riding, hang gliding, kite flying, and beach cleaning. The extent to which such activities may need to be restricted will vary on a site-by-site basis based on factors such as configuration of nesting habitat, intensity of recreational activity, compliance with nesting area closures and recreational restrictions, and the types of recreational activities normally occurring on the beach. We will work with land managers to protect critical habitat areas. On a case-by-case basis, restrictions could be removed after the plovers have finished breeding. Activities that may adversely modify critical habitat areas that support wintering birds include beach cleaning that removes surfcast kelp and driftwood, and ORVs driven at night.

(2) Actions that would promote unnatural rates or sources of predation. For example, producing human-generated litter that attracts predators or designing enclosures that promote

perching by avian predators may adversely modify critical habitat by reducing its functional suitability to support nesting snowy plovers.

(3) Actions that would promote the invasion of nonnative vegetation.

(4) Activities associated with maintenance and operation of salt ponds. Activities that may adversely modify or destroy critical habitat when conducted during the snowy plover nesting season include flooding inactive salt ponds; raising the water level in active salt ponds; grading, resurfacing, riprapping (rocks placed on the land to prevent erosion), or placing dredged spoils on levees; and driving maintenance vehicles on levees. However, levee maintenance activities also may benefit snowy plovers by providing vegetation-free habitat for nesting. We will work with landowners to avoid harmful activities during the breeding season.

(5) Dredge spoil disposal activities that may adversely modify critical habitat when conducted during the nesting season include deposition of spoil material, laying of pipes to transport the material, and use of machinery to spread the material. However, dredge spoil disposal sites also may benefit snowy plovers by providing nesting habitat free of European beachgrass (*Ammophila arenaria*). We will work with landowners to avoid harmful activities during the breeding season.

(6) Shoreline erosion control projects and activities that may alter the topography of the beach, sand transport, and dune processes. Activities that may adversely modify or destroy nesting, foraging, and roosting habitat include, but are not limited to, beach nourishment (sand deposition, spreading of sand with machinery); construction of breakwaters and jetties (interruption of sand deposition); sand and gravel mining; dune stabilization using native and nonnative vegetation or fencing (decreased beach width, increased beach slope, reduction in blowouts and other preferred nesting habitat); beach leveling (increased tidal reach, removal of sparse vegetation used by chicks for shelter, destruction of rackline (a debris line) feeding habitat). Beach nourishment projects, however, also may have the potential to benefit nesting or wintering plover habitat on some sites experiencing serious erosion. We will work with landowners to avoid harmful activities when the birds are present.

(7) Contamination events. Contamination through oil spills or chemical releases may adversely modify

critical habitat by contaminating snowy plovers and/or their food sources.

Federal agencies that may be required to consult with us on one or more of these activities include, but are not limited to, the National Park Service, U.S. Forest Service (FS), Bureau of Land Management (BLM), Environmental Protection Agency, Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency, and the Departments of the Army (including the Corps of Engineers), Navy, and Air Force.

In addition several other species that are listed under the Act occur in the same general areas as western snowy plovers. These species share the coastal beach/dune/estuarine ecosystem with snowy plovers. All of these species occurred historically in association with western snowy plovers in this Pacific coast ecosystem. Except for the rails and mouse, the habitat requirements of these species do not significantly conflict with those of the snowy plover.

Therefore, any plans prepared for sites designated as critical habitat for the snowy plover should be considered ecosystem management plans that accommodate needs of other listed or proposed species that also occur on the site. Federal agencies proposing management actions for other listed species may affect critical habitat for the western snowy plover and would, therefore, be required to initiate formal consultation under section 7 of the Act. Conversely, proposed management actions for the benefit of the plover or its habitat may affect other listed species. We will work with other Federal agencies to develop ecosystem plans that provide for the needs of all listed species.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during formal 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 resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with

implementing a reasonable and prudent alternative are similarly variable.

Summary of Comments and Recommendations

In the March 2, 1995, proposed rule, we requested all interested parties to submit comments and suggestions relative to the proposed designation of critical habitat for the Pacific Coast population of the western snowy plover (60 FR 11769). We published a notice of availability and request for comments on the draft economic analysis on May 5, 1995 (60 FR 22404). Subsequently, we extended the comment periods for the proposed designation of critical habitat and the draft economic analysis to June 30, 1995 (60 FR 25882). We entered the comments received from March 2 through June 30, 1995, into the administrative record.

We contacted all appropriate State and Federal agencies, county governments, scientific organizations, and other interested parties and invited them to comment. We published legal notices inviting public comment in the following newspapers in California: The San Francisco Chronicle, Monterey, and Eureka newspapers; in Oregon: The World, The Register-Guard, Siuslaw News, Curry County Reporter, The News Review, The Headlight Herald, and The Oregonian; and in Washington: the Aberdeen and Long Beach newspapers. In addition, we issued the following news releases: (1) A February 24, 1995, news release announcing the proposed designation of critical habitat and soliciting public review and comment; (2) a May 5, 1995, news release announcing the availability of the draft economic analysis to the public for review and comment; and (3) a May 17, 1995, news release announcing public hearings and the extension of the comment period.

We held three public hearings on the proposed rule: At Florence, Oregon (June 7, 1995), Monterey, California (June 13, 1995), and Eureka, California (June 15, 1995). We published a notice of hearings and locations in the **Federal Register** on May 15, 1995 (60 FR 25882). A total of 976 people attended the public hearings, including 30 in Florence, 21 in Monterey, and 925 in Eureka. Transcripts of these hearings are available for inspection at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section of this final rule).

We received a total of 89 oral and 456 written comments during the comment period. Of those oral comments, 13 supported critical habitat designation, 54 were opposed to designation, and 22 provided additional information but did

not support or oppose the proposal. Of the written comments, 35 supported designation, 409 were opposed to it, and 12 provided additional information only, or were nonsubstantive or not relevant to the proposed designation. In total, we received oral and written comments from 6 Federal agencies, 7 State agencies, 14 local governments, 1 Native American individual, and 426 private organizations, companies, or individuals. In addition to these comments, we received a petition against the designation of critical habitat with 216 signatures.

We reviewed all comments received for substantive issues and new data regarding critical habitat and the snowy plover. We grouped comments of a similar nature into five issues relating specifically to critical habitat and addressed them in the following summary.

Issue 1: Biological and Physical Concerns and Access

(1a) Comment: Several commenters questioned the scientific basis for designating a specific beach or group of beaches as critical habitat and recommended excluding areas not supporting breeding or breeding habitat. One commenter stated the scientific evidence supporting designation lacked independent corroboration.

Our Response: Under the Act, we are required to use the best scientific and commercial data available in determining which areas provide the physical and biological attributes essential to the conservation of the species. The data we used were obtained by several independent researchers. In selecting appropriate areas, we identified important components related to recovery, including existing nesting capacity, wintering capacity, geographic location, and management needs. We determined that some areas were important to the conservation of the plover solely because of their significant use by wintering or nonbreeding plovers. We selected areas for designation, in part, if they supported at least 4 nesting pairs or 10 wintering individuals, and required special management considerations.

(1b) Comment: Many commenters believed there was a disproportionate number of critical habitat areas designated in northern California, Oregon, and Washington, and too few areas in southern California. They cited information in the proposed rule that the greatest number of snowy plovers and the apparent center of its range occur in southern California. They believed there should be more

designated critical habitat areas in southern California.

Our Response: We reviewed plover usage of protected lands from Monterey County south to the Mexican border. Areas providing essential habitat for the plover include designated critical habitat, as well as Service and National Park Service lands which protect snowy plovers but are not designated, and Federal lands for which a protective management plan and section 7 consultation has been completed. We estimate that these lands encompass 91 percent and 85 percent of the known nesting and wintering birds, respectively, within these counties. These estimates are comparable to those cited in the "Methods" section of this final rule for Oregon (97 percent and 98 percent) and Washington (86 percent and 78 percent). Therefore, we believe that there are an adequate number of areas designated in the southern portion of the plover's range, and that areas are adequately distributed throughout the range of the plover.

(1c) Comment: One commenter noted that in the proposed rule the wintering season was defined as occurring from September 15 through February 29, but that wintering or nonbreeding individuals occur in some wintering habitats nearly year round.

Our Response: We clarified the definition of wintering in the final rule. Both nesting and wintering areas may support nonbreeding plovers year round. Similarly, activities that could adversely modify critical habitat that support wintering birds could apply year round. Landowners may refine the time periods when plovers are present by coordinating with us to develop survey protocols appropriate for their area.

(1d) Comment: Some commenters questioned why we did not identify removal of European beachgrass as a required or proposed management action in the proposed rule, considering our statement that European beachgrass encroachment is the most important form of habitat loss affecting the plover.

Our Response: Creating management plans or prescribing specific management recommendations is not the purpose of critical habitat designation. Management needs of specific sites should be addressed in recovery plans, management plans, Habitat Conservation Plans, and section 7 consultations. As described elsewhere in this rule, we anticipate completing a draft recovery plan for the snowy plover by spring 2000. The draft recovery plan will provide recommendations and methods for control of European beachgrass.

(1e) Comment: Many commenters believed that we placed an inordinate amount of emphasis on the effects of ORVs on plovers and suggested that we more fairly emphasize the relative contribution other factors played in the plover's decline.

Our Response: In the proposed rule and here in the final rule, we list activities that could adversely modify critical habitat without placing specific emphasis on the relative contribution of any one activity. The specific threats are likely unique to each area and are best addressed in recovery plans, management plans, and section 7 consultations.

(1f) Comment: Many commenters were concerned about how designation of critical habitat would affect beach access for recreation, beach fishing, collection of driftwood, Native American ceremonial sites, commercial purposes, access to lighthouses, and for other recreational activities. Many commenters were opposed to closure of their beaches to these activities.

Our Response: Designation of critical habitat does not prescribe specific management actions, but does identify areas that are in need of special management. We anticipate that many activities presently occurring on critical habitat areas can be managed to be compatible with the plover's needs. Likely access restrictions may include partial beach closures during the plover's breeding season and restrictions on the types of activities that may occur in important snowy plover habitats. Even where partial beach closures may apply, in some instances the wave slope of closed areas may be available for activities that do not conflict with the snowy plover's needs. Furthermore, most activities occurring on those beaches selected only for their importance as wintering habitat are compatible with the plover's needs. Management needs at various beaches are specific to those locations and will be addressed in recovery plans, management plans, Habitat Conservation Plans, and through section 7 consultation.

(1g) Comment: Several commenters recommended that certain portions of proposed critical habitat areas containing features such as rocky shorelines, roads, or jetties should not be considered critical habitat.

Our Response: Even though roads or other improved structures may occur within the boundaries of critical habitat, they may not provide the identified constituent elements. This lack of constituent elements will be taken into consideration in consultations under section 7 of the Act.

Issue 2: General Selection of Designated Critical Habitat Areas

(2a) *Comment:* Many commenters recommended additional sites that should be designated as critical habitat. Several commenters recommended that other sites should be expanded to encompass all of the snowy plover's habitat. Several commenters suggested that the number of sites selected was not sufficient to recover the snowy plover.

Our Response: The Act (section 3(5)(C)) indicates that not all areas capable of being occupied by the species should be designated as critical habitat unless we determine that such designation is essential to the species' conservation. In determining what areas are critical habitat, we considered areas and constituent elements that are essential to the conservation of the species and that may require special protection or management considerations (50 CFR 424.12(b)). Thus, not all areas occupied or potentially occupied by a species warrant designation. Our rationale for not designating all occupied snowy plover sites as critical habitat is discussed in the "Methods" section of this final rule.

A draft recovery plan for the coastal population of the western snowy plover is expected to be completed and available for public comment by spring 2000. After the public comment period on the draft recovery plan has closed and we have gathered all relevant information, we will consider the need to propose additional areas as critical habitat, if appropriate.

(2b) *Comment:* Some commenters believed States or State lands have adequate conservation programs for the snowy plover and recommended excluding these lands from critical habitat designation.

Our Response: Future management practices of State trust lands are uncertain in areas we have determined essential to the conservation of the western snowy plover and may in some instances not be compatible with conservation efforts. Therefore, we believe that designation of critical habitat is warranted to emphasize the importance of these lands to recovery of the plover and promote development of management plans for the species.

(2c) *Comment:* Several commenters suggested that exclusion of areas, such as coastal lagoons, San Francisco Bay salt ponds, and the south San Diego Bay salt works, because of potential or perceived conflicts with other endangered species' recovery objectives would result in a designation of critical habitat inadequate for conservation of

the snowy plover. Commenters believed areas excluded because of conflicts can support habitat for plovers as well as endangered rails, mice, and least terns. One commenter stated many of the actions recommended in the unpublished update of the light-footed clapper rail recovery plan would also benefit snowy plovers.

Our Response: We agree that it may be possible to accommodate the recovery needs of the endangered rails and mouse and the plover at each site where their recovery needs conflict. However, it would not be prudent to designate plover critical habitat at specific sites where conflicts exist without the intensive analysis provided in the recovery planning process and subsequent site-specific restoration information. Many site constraints are not identified until the restoration planning phase. Designation of critical habitat in these areas will not ensure recovery of the plover. Recovery will be achieved by implementing actions recommended in the plover recovery plan in concert with actions recommended in revised recovery plans for the rails, mouse, and least tern.

(2d) *Comment:* Several commenters recommended excluding from designation as critical habitat areas where there were plans being formulated to construct urban improvements on or in proximity to proposed critical habitat.

Our Response: The Act (section 4(b)(2)) states that critical habitat shall be designated on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We designated as critical habitat only those areas supporting the constituent elements and features essential to the plover's conservation. We did not exclude any areas because of speculative or proposed developments. We are available to work with project proponents to develop project alternatives that will avoid and minimize adverse effects to plovers and not result in destruction or adverse modification of critical habitat.

Issue 3: Comments on Selection of Specific Sites

(3a) *Comment:* Many commenters recommended not designating as critical habitat the FS's Oregon Dunes National Recreation Area (ODNRA) because the completed Oregon Dunes Management Plan included measures benefitting the snowy plover. If critical habitat was designated for ODNRA, one commenter recommended it be consistent with the completed management plan.

Our Response: We have not completed formal section 7 consultation with the FS on the Oregon Dunes Management Plan. We have completed formal section 7 consultation for a specific habitat restoration project within the FS's ODNRA; however, the consultation covered only a small portion of the snowy plover habitat administered by the FS's ODNRA and did not address proposed critical habitat. Therefore, we did not have an adequate basis to exclude this area from critical habitat designation.

(3b) *Comment:* Two commenters noted that some private landowners have vested property rights to placer mine sand on their property, so these areas should be excluded from critical habitat designation.

Our Response: The designation of critical habitat has no effect on non-Federal actions taken on private land, even if the private land is within the mapped boundary of designated critical habitat. Critical habitat has possible effects on activities by private landowners only if the activity involves Federal funding, a Federal permit, or other Federal action. If such a Federal nexus exists, we will work with the landowner and the appropriate Federal agency to develop a project that can be completed without jeopardizing the species or destroying or adversely modifying critical habitat.

(3c) *Comment:* The Oregon Department of Fish and Wildlife recommended deleting from critical habitat the northern portion of OR-3 to the South Jetty Road due to the lack of breeding, rare occurrence of foraging use, narrow beach, and high human use, including off-highway vehicle use.

Our Response: Based upon the above verified information, we modified the boundary of OR-3. Please see the "Summary of Changes From the Proposed Rule" section of this final rule for additional information.

(3d) *Comment:* The Oregon Department of Fish and Wildlife and several other commenters stated critical habitat area OR-6, Unit 2, should be excluded from designation because it is not suitable habitat. Although this area is fenced off from access, no plovers have been seen there in 5 years, it borders areas with high human use, is heavily vegetated, and is not physically connected to any other snowy plover habitat. Any future plover nesting at this site would probably have low nesting success, fledging success, and chick survival.

Our Response: Based upon this verified information, we deleted from critical habitat the area identified in the proposed rule as OR-6, Unit 2. Please

see the "Summary of Changes From the Proposed Rule" section of this rule for additional information.

(3e) *Comment:* One commenter stated that critical habitat area OR-6, Unit 3, which appears to include or abut a portion of Bastendorff Beach County Park, should be excluded from designation because it receives intense levels of human activity and is therefore unsuitable as habitat.

Our Response: We selected critical habitat area OR-6, Unit 3, because it has a history of plover use, supports the primary constituent elements, is in proximity to occupied habitat in OR-6, Unit 1, and requires special management considerations. With appropriate management of public access, this unit could support nesting plovers. Because of its proximity to other occupied nesting areas, we believe this unit will contribute to conservation of the plover.

(3f) *Comment:* The Navy noted that they implement conservation programs for the plover on several Navy-owned lands. The Navy's management programs for the plover are commensurate with programs at the Marine Corps base, Camp Pendleton, which merited exclusion from critical habitat designation. The Navy's proactive management efforts and the isolation and inaccessibility of their lands eliminates the need for the special protection afforded by designation of critical habitat.

Our Response: We designated critical habitat for areas determined to be essential to conservation of the plover and in need of special management considerations. We completed formal consultation on the plover conservation activities at Camp Pendleton on October 30, 1995. The Navy (Marine Corps) is providing long-term monitoring and management for plovers at this area. Thus, this site was excluded from designation. Although the Navy implements conservation measures for the plover elsewhere, it has not initiated or completed formal section 7 consultation on its management and, thus, did not merit exclusion from critical habitat. Regarding Camp Pendleton, we are periodically reviewing implementation of management measures identified in the consultation. If the special conservation activities for the plover at Camp Pendleton are not successfully implemented or fail to address the plover's needs, we may reconsider designation of critical habitat for Camp Pendleton.

(3g) *Comment:* Several commenters stated Stone Lagoon (CA-1, Unit 1) should not be designated critical habitat

because it has no nesting records and little winter habitat use. Other areas in Humboldt County are more significant to the snowy plover and should be designated critical habitat.

Our Response: We selected Stone Lagoon because of its importance as wintering habitat for the plover in northern California and because this area requires special management. We have received new information during the recovery planning process indicating that additional sites in Humboldt County may warrant designation as critical habitat. At the conclusion of the recovery planning process we will reconsider the need to designate as critical habitat additional sites in Humboldt County.

(3h) *Comment:* One commenter stated the designation for CA-15, Unit 2 is incorrect. Because no suitable habitat for the snowy plover exists within the Oxnard Shores area south of 5th Street, the area south of 5th Street should be eliminated from designation.

Our Response: This unit was selected because of verified survey data showing significant use by wintering plovers. The beach south of 5th Street in Oxnard supports the primary constituent elements necessary for the plover's conservation and was therefore included within the boundaries of critical habitat designation.

Issue 4: Legal and Procedural Comments

(4a) *Comment:* Several commenters stated that critical habitat should not be designated until a recovery plan is completed.

Our Response: Although having a recovery plan in place is extremely helpful in identifying areas as critical habitat, the Act does not require a plan to be prepared prior to such designation. Section 4 of the Act normally requires that critical habitat be designated at the time a species is listed, or within 1 year if not determinable at listing. Once a recovery plan is completed, we may revise the critical habitat described in this final rule, if appropriate, to reflect the goals and recovery strategy of the recovery plan.

(4b) *Comment:* One commenter stated that designation of critical habitat for the plover can reasonably be expected to have significant adverse effects on other threatened and even endangered species (e.g., the Smith's blue butterfly (*Euphilotes enoptes smithi*)) because of their overlapping ranges and diametrically opposite habitat requirements.

Our Response: We did not designate critical habitat for areas where we anticipated significant management conflicts between listed species, such as

exists between the snowy plover and the rails and mouse, described elsewhere in this rule. We do not anticipate significant conflicts where species like the Smith's blue butterfly and western snowy plover utilize different habitat types within the coastal dune ecosystem. A major purpose of the Act (section 2 (b)) is to conserve the ecosystems upon which threatened and endangered species depend. Therefore, critical habitat areas should be managed, to the extent feasible, as natural systems supporting a diversity of habitat types. Coastal dune systems are naturally dynamic, and we anticipate that the juxtaposition and relative abundance of habitat types will vary with time. These considerations are incorporated into recovery plans.

Designation of critical habitat will not result in adverse effects to other sensitive species using these areas because critical habitat does not mandate specific management actions. As explained above, specific management actions are best addressed in recovery plans, management plans, or Habitat Conservation Plans, or through section 7 consultation.

(4c) *Comment:* Several commenters stated the designation of critical habitat constitutes a major Federal action significantly affecting the quality of the human environment. An environmental impact statement (EIS) should be prepared.

Our Response: We have determined that we do not need to prepare Environmental Assessments (EAs) and EISs, as defined under the authority of the National Environmental Policy Act of 1969 (NEPA), in connection with regulations adopted pursuant to section 4(a) of the Act. The Ninth Circuit Court determined that NEPA does not apply to our decision to designate critical habitat for an endangered or threatened species under the Act because (1) Congress intended that the critical habitat procedures of the Act displace the NEPA requirements, (2) NEPA does not apply to actions that do not change the physical environment, and (3) to apply NEPA to the Act would further the purposes of neither statute, *Douglas County v. Babbitt*, 48 F.3d 1495, 1507-0 (9th Cir. 1995).

(4d) *Comment:* One commenter stated that designation of critical habitat will conflict with coastal uses identified in the California Coastal Management Program, authorized through the Coastal Zone Management Act of 1972, as amended.

Our Response: In many respects, the Coastal California Management Program is compatible with the management needs of the plover and its critical

habitat. We will work with individual landowners affected by the designation to develop plans that avoid destruction or adverse modification of critical habitat.

(4e) Comment: Several commenters stated that there was insufficient prior notification announcing public hearings and thus they were unable to obtain materials prior to the public hearings.

Our Response: We attempted to notify all affected and interested parties regarding the proposed designation. As noted in the introduction to this section, we published notices in the **Federal Register** announcing the proposed designation of critical habitat, the availability of the draft economic analysis, dates and locations of public hearings, and an extension of the comment period. We also published legal notices in numerous regional and local newspapers in California, Oregon, and Washington and sent letters to applicable Federal, State, local, and private parties potentially affected by the designation. In addition to these legal requirements, we issued press releases to newspapers in California, Oregon, and Washington in a further effort to reach all interested parties. Although receipt of advance notice for public hearings may have varied, we made every effort to provide an opportunity for interested individuals to provide comment. Pertinent documents were provided at the public hearings, and individuals attending these hearings had an opportunity to provide written comments. We gave equal weight to oral and written comments on the proposed designation.

(4f) Comment: A few commenters noted that Service and National Park Service lands provide important habitat for snowy plovers and stated that it is not legal to exclude these lands from critical habitat designation.

Our Response: In selecting critical habitat areas, we considered not only the habitat characteristics of each area, but also whether the area was in need of further management or protection (50 CFR 424.02(d)). We also considered measures applicable to the area. We did not designate various lands managed by the National Park Service and our National Wildlife Refuge System because the missions of these agencies are primarily natural resource management and they already protect and conserve plovers and their habitat. We therefore concluded that areas managed by these agencies are not in need of the special management or protection that would be provided by critical habitat designation. However, several commenters stated that these agencies have experienced difficulty

achieving compliance with management plans and that some management activities are inconsistent with the needs of the snowy plover. We anticipate that the completion of the snowy plover recovery planning process in spring 2000 will provide new information regarding management needs at various locations. If new information reveals it is appropriate, we will revise this designation to include those additional lands essential to the conservation of the plover and in need of special management considerations or protection. If appropriate, this new designation may include lands managed by the National Park Service and us.

(4g) Comment: Several commenters stated that section 7 consultation is not an alternative to critical habitat designation under section 4 and should not be considered a basis for omitting habitat areas from designation.

Our Response: We designated critical habitat for those areas supporting the physical and biological attributes essential to the conservation of the plover, where such areas may need special management consideration and protection. Under the Act, section 7 consultation is one mechanism for addressing special management considerations and protection. In conducting a section 7 consultation for a given action, we evaluate the species' status, its environmental baseline in the action area, the effects of the action, and any cumulative effects on the listed species and its habitat. We work with project proponents through this process to address management and protection needs of the species in the action area. Under the Act, we use the section 7 consultation process for evaluating and addressing not only effects to listed species, but also effects to their habitat.

(4h) Comment: Several commenters stated that the maps and descriptions provided were vague and violate the Act and 50 CFR 424.12(c).

Our Response: This final rule contains maps and the required legal descriptions of areas designated as critical habitat. The accompanying maps are for illustration purposes. Additional clarification is available from our Sacramento Fish and Wildlife Office (see **ADDRESSES** section). We identified specific areas referenced by specific legal description, roads, waterways, and other landmarks, which are found on standard topographic maps, as required by our regulations at 50 CFR 424.12.

(4i) Comment: One commenter stated that we should implement a program to eradicate European beachgrass instead of designating critical habitat.

Our Response: Under the Act, eradication of the beachgrass would not

be a substitute for designating critical habitat. We acknowledge the importance of beachgrass control in conservation of the western snowy plover. However, many additional factors affecting the species must be addressed before conservation of the species can be achieved. Once it is published, the approved recovery plan for the snowy plover will provide further guidance on controlling European beachgrass.

(4j) Comment: One commenter believed we should implement cooperative mechanisms with private landowners as an alternative to designating critical habitat on private property.

Our Response: We agree that private and public partnerships are an important means to implement recovery goals for the plover. However, as described in (4i) above such partnerships would not be a substitute under the Act for designating critical habitat at this time. Under section 10(a)(1)(B) of the Act, private landowners may receive authorization for incidental take of listed species on the basis of an approved Habitat Conservation Plan for the species. This option continues to be available to private landowners following designation of critical habitat.

(4k) Comment: Several commenters stated their objections to planned exemptions from designation of critical habitat for California State lands under control of the resources agencies. They do not believe California's Department of Fish and Game and Department of Parks and Recreation are qualified in protecting endangered species.

Our Response: In the proposed rule we discussed the option of not designating State resource agency lands currently providing adequate protection for plovers and their habitat. As natural resource agencies, one of the missions of the California Departments of Fish and Game and Parks and Recreation is to manage for endangered species on State lands. As noted in (2b) above, however, future management practices on State trust lands are uncertain. Until resolution of this uncertainty through adoption and implementation of adequate plans and actions to protect plover habitat, we have no basis for leaving State trust lands out of the designation.

Issue 5: Economic Impacts

(5) Comment: We received several comments concerning the continuation of specific activities on private land following a designation of critical habitat and potential subsequent economic effects.

Our Response: Activities on private or other non-Federal lands that do not involve a Federal action are not affected by a designation of critical habitat. Please refer to the "Critical Habitat" section of this rule for a more detailed discussion of this issue. We have concluded that no economic impacts are expected from critical habitat designation above and beyond those already resulting from the listing. Please refer to the "Economic Analysis" section of this rule. We will continue to work with landowners and other interested parties to avoid harmful activities to the Western snowy plover during the breeding season and we have sought the input of approximately 1,200 landowners in the development of the recovery planning document.

Summary of Changes From the Proposed Rule

Based on comments we received on the proposed rule, we did not designate portions of several proposed critical habitat areas in Oregon. The Oregon Department of Fish and Wildlife recommended, for OR-2 Heceta Head to Siuslaw River, deletion of the area from the south side of Sutton Creek to the Siuslaw River. They stated that this portion of the critical habitat area is highly developed with a riprapped foredune. The Department's survey data have shown no use by breeding plovers for many years and minimal wintering

use. We modified the legal description of this critical habitat area and corresponding map to reflect this deletion. We also modified the title of the critical habitat area to more accurately reflect the geographic boundaries of the area. The title is now OR-2 Heceta Head to Sutton Creek.

The Oregon Department of Fish and Wildlife also recommended deletion of a portion of OR-3 Siuslaw River to Siltcoos River extending from the Siuslaw River south to approximately 1.61 km (1 mi) north of the Siltcoos River. The Department pointed out that this area has only minimal documented use by snowy plovers as a foraging area. We modified the legal description of this critical habitat area and corresponding map to reflect this deletion. We also modified the title of the critical habitat area to more accurately reflect the geographic boundaries of the area. The title now reads OR-2 Siltcoos River North.

The Oregon Department of Fish and Wildlife, the BLM, and other commenters recommended deletion of Unit 2 from OR-6 Horsfall Beach to Coos Bay. Survey data have shown this unit lacks any recent use by plovers and is small and isolated. Therefore, we dropped Unit 2 and its legal description from the critical habitat designation, and Unit 3 in the proposed rule now becomes Unit 2. We modified the legal description and corresponding map for

OR-6 Horsfall Beach to Coos Bay accordingly.

In California, the Department of the Navy recommended that a portion of proposed CA-19 South San Diego Coast Beaches, Unit 1—Silver Strand/Delta Beach not be designated. These areas had been developed, or verified survey data showed no use by plovers. Therefore, we did not designate two segments of the Delta beach portion of proposed Unit 1. We modified the legal description of this Unit and the corresponding map accordingly.

We also corrected legal descriptions for OR-4 Siltcoos River to Threemile Creek; OR-5 Umpqua River to Horsfall Beach; OR-6 Horsfall Beach to Coos Bay; CA-14 Santa Barbara Coast Beaches, Unit 2, Santa Barbara Harbor Beach; CA-16 San Nicholas Island Beaches, Unit SN-6; and CA-19 South San Diego Coast Beaches, Unit 2—Tijuana River Beach, as a result of typographical errors in the proposed rule.

The location of sites designated as critical habitat in this rulemaking and their use by western snowy plovers is presented in Table 1. Table 1 includes a total of 28 areas of critical habitat totaling about 7,287 ha (18,000 ac) and 290 km (180 mi) of coastline. Of the 28 critical habitat areas, 2 are designated in Washington, 7 in Oregon, and 19 in California.

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA

Site No.	Name	County	USGS quad map	Plover use
WASHINGTON				
WA-1	<i>Damon Point</i>	Grays Harbor	Point Brown	Nesting.
WA-2	<i>Leadbetter Point</i>	Pacific	Westport	Nesting. Winter.
			North Cove	
			Oysterville	
OREGON				
OR-1	<i>Bayocean Spit</i>	Tillamook	Garibaldi	Nesting. Winter.
OR-2	<i>Heceta Head to Sutton Creek</i>	Lane	Mercer Lake	Nesting. Winter.
OR-3	<i>Siltcoos River North</i>	Lane	Goose Pasture	Nesting.
			Tahkenitch	Winter.
			Creek	
OR-4	<i>Siltcoos River to Threemile Creek</i>	Lane	Tahkenitch	Nesting.
		Douglas	Creek	Winter.
			Winchester Bay	
OR-5	<i>Umpqua River to Horsfall Beach</i>	Douglas	Winchester Bay	Nesting.
		Coos	Lakeside	Winter.
			Empire	
OR-6	<i>Horsfall Beach to Coos Bay</i>	Coos	Empire	Nesting.
			Charleston	Winter.
OR-7	<i>Bandon Park to Floras Lake</i>	Coos	Bandon	Nesting.
		Curry	Langlois	Winter.
			Floras Lake	

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA—Continued

Site No.	Name	County	USGS quad map	Plover use
CALIFORNIA				
CA-1	<i>Humboldt Coast</i>			
	<i>Lagoon Beaches.</i>			
Unit 1	Stone Lagoon	Humboldt	Orick	Winter.
Unit 2	Big Lagoon	Humboldt	Rodgers Peak	Nesting.
			Rodgers Peak	
			Trinidad	
CA-2	<i>Eel River Beaches.</i>			
Unit 1	Eel River North	Humboldt	Cannibal Island	Nesting.
Unit 2	Eel River South	Humboldt	Cannibal	Winter.
			Island	Nesting.
			Ferndale	Winter.
CA-3	<i>Bodega Bay.</i>			
Unit 1	Bodega Harbor	Sonoma	Bodega Head	Winter.
Unit 2	Doran Spit	Sonoma	Bodega Head	Winter.
CA-4	<i>Dillon Beach</i>	Marin	Tomales	Winter.
CA-5	<i>Half Moon Bay</i>	San Mateo	Half Moon Bay	Nesting.
	<i>Beaches</i>			Winter.
CA-6	<i>Santa Cruz</i>			
	<i>Coast Beaches.</i>			
Unit 1	Waddell Creek	Santa Cruz	Ano Nuevo	Nesting.
	Beach			Winter.
Unit 2	Scott Creek	Santa Cruz	Davenport	Nesting.
	Beach			Winter.
Unit 3	Laguna Creek	Santa Cruz	Santa Cruz	Nesting.
	Beach			Winter.
Unit 4	Wilder Creek Beach	Santa Cruz	Santa Cruz	Nesting.
				Winter.
CA-7	<i>Monterey Bay.</i>			
	<i>Beaches.</i>			
Unit 1	Sunset Beach	Santa Cruz	Watsonville	Nesting.
			West	Winter.
Unit 2	Mudowski Beach	Monterey	Moss Landing	Nesting.
			Moss Landing	Winter.
Unit 3	Elkhorn Slough	Monterey	Moss Landing	Nesting.
	Mud Flat/Salt Pond			Winter.
Unit 4	Salinas River	Monterey	Moss Landing	Nesting.
	Beach		Marina	Winter.
Unit 5	Fort Ord/Seaside	Monterey	Marina	Nesting.
	Beaches		Seaside	Winter.
CA-8	<i>Point Sur</i>	Monterey	Point Sur	Nesting.
	<i>Beach</i>			Winter.
CA-9	<i>Arroyo Hondo</i>	San Luis	Burro Mt.	Winter.
	<i>Creek Beach</i>	Obispo	Piedras Blancas	
CA-10	<i>Arroyo Laguna</i>	San Luis	San Simeon	Nesting.
	<i>Creek Beach</i>	Obispo		Winter.
CA-11	<i>Morro Bay.</i>			
	<i>Beaches.</i>			
Unit 1	Toro Creek	San Luis	Morro Bay	Nesting.
	Beach	Obispo	North	Winter.
Unit 2	Atascadero	San Luis	Morro Bay	Nesting.
	Beach	Obispo	North/South	Winter.
Unit 3	Morro Bay Beach	San Luis	Morro Bay	Nesting.
		Obispo	South	Winter.
CA-12	<i>Pismo Beach/</i>	San Luis	Oceano	Nesting.
	<i>Nipomo Dunes</i>	Obispo	Point Sal	Winter.
		Santa Barbara		
CA-13	<i>Point Sal to</i>			
	<i>Point Conception.</i>			
Unit 1	Vandenberg Air Force Base	Santa Barbara	Casmalia	Nesting.
				Winter.
Unit 2	Santa Ynez	Santa Barbara	Surf	Nesting.
	River Mouth/			Winter.
	Ocean Beach			
Unit 3	Jalama Beach	Santa Barbara	Tranquillon	Winter.
			Mt./Lompoc	
			Hills/Point	
			Conception	

TABLE 1.—LOCATION AND HISTORICAL SNOWY PLOVER USE OF CRITICAL HABITAT AREAS IN WASHINGTON, OREGON, AND CALIFORNIA—Continued

Site No.	Name	County	USGS quad map	Plover use
CA-14	<i>Santa Barbara Coast Beaches.</i>			
Unit 1	Devereaux Beach	Santa Barbara	Dos Pueblos	Nesting.
			Canyon	Winter.
			Goleta	
Unit 2	Point Castillo/	Santa Barbara	Santa Barbara	Winter.
	Santa Barbara			
	Harbor Beach			
Unit 3	Carpinteria	Santa Barbara	Carpinteria	Winter.
	Beach			
CA-15	<i>Oxnard Lowlands.</i>			
Unit 1	San Buenaventura	Ventura	Ventura	Winter.
	Beach			
Unit 2	Mandalay Bay/	Ventura	Oxnard	Nesting.
	Santa Clara			Winter.
	River Mouth			
Unit 3	Ormond Beach	Ventura	Oxnard	Nesting.
			Point Mugu	Winter.
Unit 4	Mugu Lagoon	Ventura	Point Mugu	Nesting.
	Beach			Winter.
CA-16	<i>San Nicolas Island Beaches</i>	Ventura	San Nicolas	Nesting.
			Island	Winter.
CA-17	<i>Malibu Lagoon</i>	Los Angeles	Malibu Beach	Winter.
CA-18	<i>Mission Beach and Bay</i>	San Diego	La Jolla	Winter.
	<i>Units 1-3</i>			
CA-19	<i>South San Diego Coast Beaches.</i>			
Unit 1	Silver Strand/	San Diego	Point Loma	Nesting.
	Delta Beach		Imperial Beach	Winter.
Unit 2	Tijuana River	San Diego	Imperial Beach	Nesting.
	Beach			Winter.

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 areas from critical habitat if such exclusion would result in the extinction of the species concerned.

The economic effects already caused by the listing of the coastal population of the western snowy plover as threatened or by existing legal requirements are the baseline upon which we analyzed the economic effects of critical habitat. The critical habitat economic analysis examined the incremental economic and conservation effects of designating a particular area. The economic effects of a designation were evaluated by measuring changes in national, regional, or local indicators in the area considered for designation. We prepared an analysis of the economic

effects of the proposed western snowy plover critical habitat designation in draft form (Service 1995) and made the draft available for public review (May 5, 1995; 60 FR 22404). We concluded in the final analysis, which included a review of and incorporated public comments, that no economic impacts are expected from critical habitat designation above and beyond those already resulting from the original listing of the coastal population of the western snowy plover. Potential economic effects of critical habitat designation are limited to impacts on activities funded, authorized, or carried out by a Federal agency. These activities would be subject to section 7 consultation if they may affect critical habitat. However, activities that may affect an area considered for critical habitat usually affect the listed species, and would thus be subject to consultation on the issue of jeopardy. Also, changes or minimizing measures that might increase the cost of the project would be imposed only as a result of critical habitat if the project would adversely modify or destroy that critical habitat. In most cases, a project that would adversely modify or destroy

critical habitat would also likely jeopardize the continued existence of the species. In such a case, reasonable and prudent alternatives to avoid jeopardizing the species should also avoid adverse modification of critical habitat. The areas designated as critical habitat are all at some time during the year, occupied by snowy plovers. Since the habitat is occupied, Federal agencies are already required to consult with us due to the listing of the species. Thus, regulatory burdens or additional costs due to the critical habitat designations for the plover are not likely to exceed those already resulting from the species' listing.

A copy of the economic analysis and description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting our office (see ADDRESSES section).

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, we submitted this action for review by the Office of Management and Budget. Because the economic analysis identified above no economic benefits

from excluding any of the proposed critical habitat areas, no critical habitat areas were excluded from this final rule for economic reasons. No inconsistencies with other agencies' actions and/or effects on entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients were identified in the economic analysis. This rule does not raise novel legal or policy issues.

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

In the economic analysis, we determined that designation of critical habitat will not have a significant effect on a substantial number of small entities. As discussed in that document and in this final rule, this designation of plover critical habitat is not likely to restrict the actions of small entities beyond those already resulting from the listing of the coastal population of the western snowy plover. We recognize that some towns, counties, and private entities are considered small entities in accordance with the Regulatory Flexibility Act, however, they also are not affected by this designation of plover critical habitat because additional restrictions on their economic activities from this designation are not likely to occur.

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

In the economic analysis, we determined that designation of critical habitat will not cause—(a) any effect on the economy of \$100 million or more; (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions in the economic analysis; or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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

In the economic analysis, we determined that no effects would occur to small governments as a result of this plover critical habitat designation.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This designation will not "take" private property and will not alter the value of private property.

Critical habitat designation is directly applicable only to Federal lands. Private lands are not affected except to the extent of Federal funding or permitting activities.

Federalism

In accordance with Executive Order 13132, this rule will not affect the structure or role of States and will not have direct, substantial, or significant effects on States. As previously stated, critical habitat is directly applicable only to Federal lands. Non-Federal lands are not affected except to the extent of Federal funding or permitting actions. Also, the economic analysis indicates that additional economic impacts would not result from the plover critical habitat designation.

In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of the critical habitat proposal with appropriate State resource agencies in California, Oregon, and Washington, as well as during the listing process. In addition, all three States have one or more representatives on the Service's recovery team for this species. The Service will continue to coordinate any future designation of critical habitat for the snowy plover with the appropriate State agencies.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have made every effort to ensure that this final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

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

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

We have determined that we do not need to prepare EAs and EISs, as defined under the authority of the National Environmental Policy Act of 1969 (NEPA), 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** in October 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2: We understand that we must relate to federally recognized Tribes on a Government-to-Government basis. Secretarial Order 3206, American Indian Tribal Rights, Federal-Tribal Trust Responsibilities and the Endangered Species Act, states that "Critical habitat shall not be designated in such areas that may impact Tribal trust resources unless it is determined essential to conserve a listed species. In designating critical habitat, we shall evaluate and document the extent to which the conservation needs of a listed species can be achieved by limiting the designation to other lands." Western snowy plover critical habitat does not contain any Tribal lands nor lands that we have identified as impacting Tribal trust resources.

References Cited

You may request a complete list of all references cited herein, as well as others, from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authors: The primary authors of this notice are Karen J. Miller, Daniel Buford, and Harry Mossman (see **ADDRESSES** section of this final rule).

List of Subjects in 50 CFR Part 17

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

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

PART 17—[AMENDED]

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

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

2. In § 17.11(h) revise the entry for "Plover, western snowy", under "BIRDS" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Plover, Western snowy.	<i>Charadrius alexandrinus nivosus</i> .	U.S.A. (AZ, CA, CO, KS, NM, NV, OK, OR, TX, UT, WA); Mexico.	U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast).	T	493	§ 17.95(b)	NA
*	*	*	*	*	*		*

3. Amend § 17.95(b) by adding critical habitat for the Pacific coast population of the western snowy plover (*Charadrius alexandrinus nivosus*) in the same alphabetical order as the species occurs in § 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

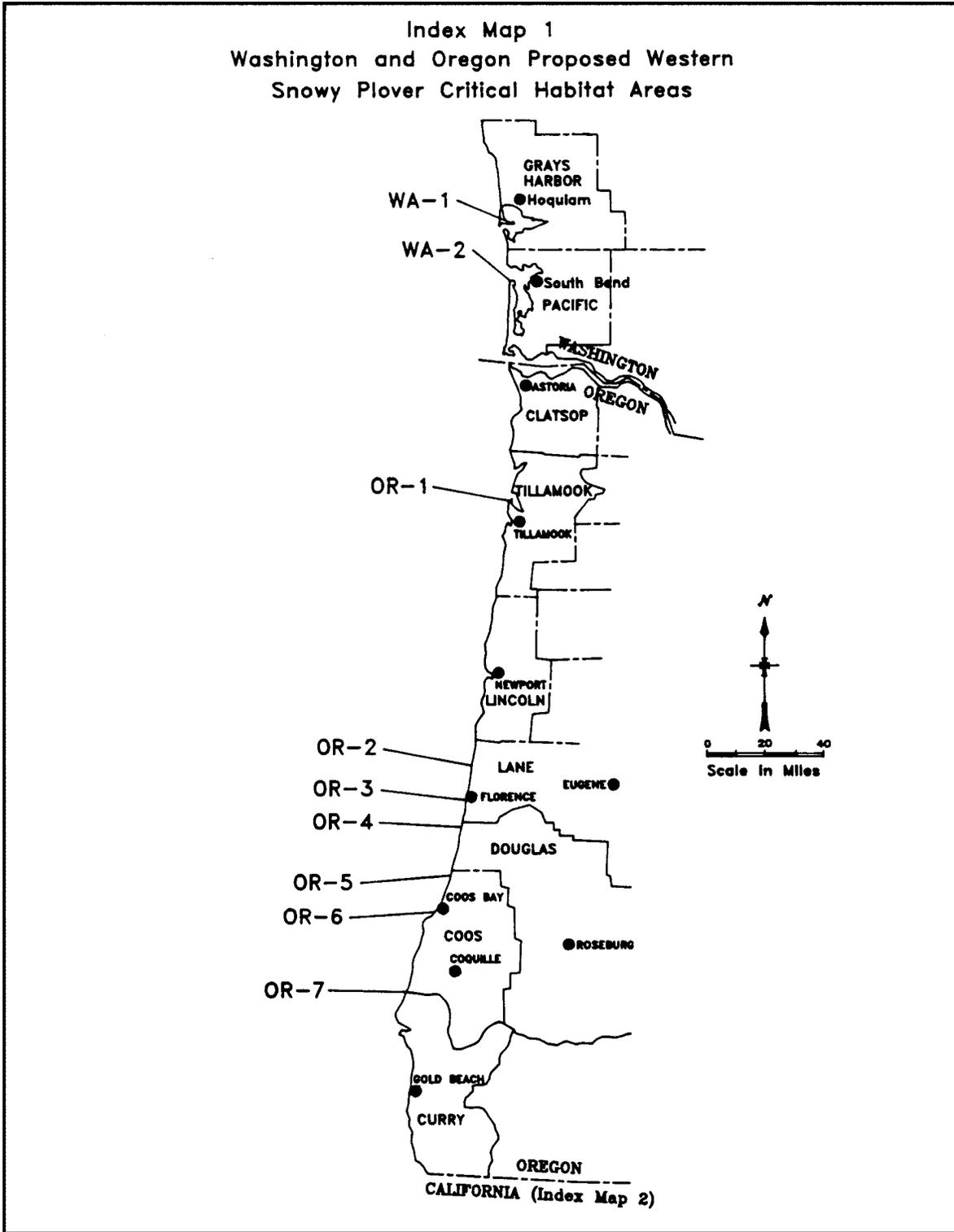
* * * * *

WESTERN SNOWY PLOVER (*Charadrius alexandrinus nivosus*)—Pacific coast population

1. The primary constituent elements are those habitat components that are essential for the primary biological needs of foraging, nesting, rearing of young, roosting, and dispersal, or the capacity to develop those habitat components. The primary constituent elements are found in areas that support or have the potential to support intertidal beaches (between mean low water and mean high tide), associated dune systems, and river

estuaries. Important components of the beach/dune/estuarine ecosystem include surf-cast kelp, sparsely vegetated foredunes, interdunal flats, spits, washover areas, blowouts, intertidal flats, salt flats, flat rocky outcrops, and gravel bars. Several of these components (sparse vegetation, salt flats) are mimicked in artificial habitat types used less commonly by snowy plovers (*i.e.*, dredge spoil sites and salt ponds and adjoining levees).

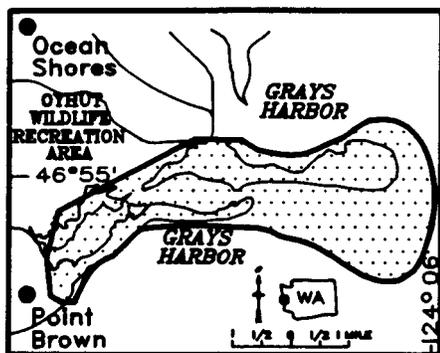
BILLING CODE 4310-55-P



Washington. Areas of land and water as follows:

WA-1. Damon Point, Grays Harbor County (Index Map 1)

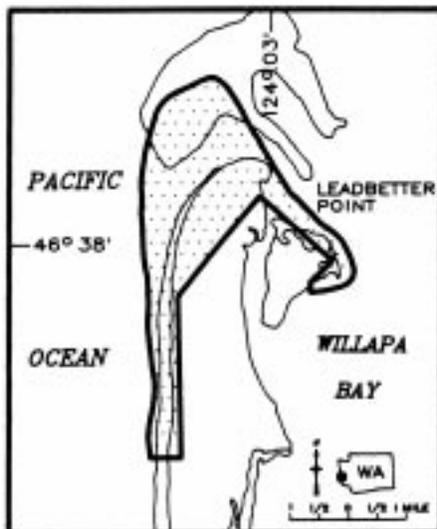
Beginning at 46°55'55" N, 124°09'07" W, thence northwesterly following the property line of the Oyhut Wildlife Recreation Area to 46°55'58" N, 124°09'14" W, thence northwesterly to 46°56'12" N, 124°09'16" W, thence northeasterly to 46°56'27" N, 124°09'11" W, thence northeasterly to 46°56'52" N, 124°08'02" W, thence east to MLW, thence southeasterly, southerly, and southwesterly following MLW around Damon Point to a point directly east of the point of beginning, thence west to the point of beginning. (Point Brown and Westport USGS 7.5" Quads 1983).



WA-1 DAMON POINT

WA-2. Leadbetter Point, Pacific County (Index Map 1)

Beginning at 46°36'22" N, 124°03'51" W, thence northeasterly to 46°37'38" N, 124°03'55" W, thence northeasterly to 46°38'30" N, 124°03'01" W, thence southeasterly to 46°37'58" N, 124°02'05" W, thence southwesterly to 46°37'48" N, 124°02'20" W, thence south to MLW, thence northeasterly around the north end of Leadbetter Point, thence southerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. Excludes all our property. (North Cove and Oysterville USGS 7.5" Quads 1984).

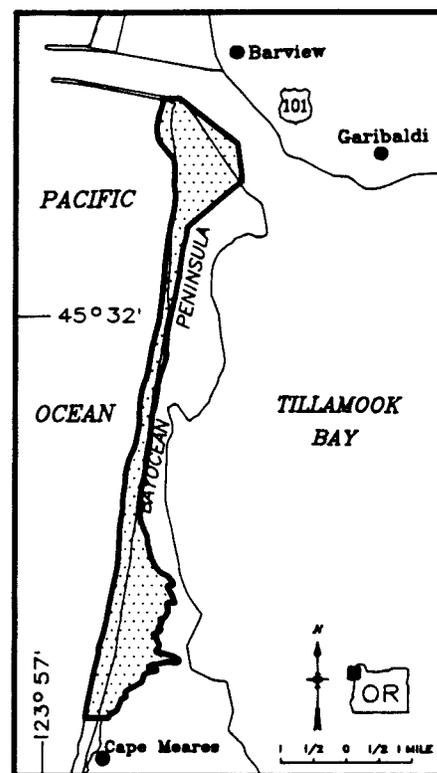


WA-2 LEADBETTER POINT

Oregon. Areas of land and water as follows:

OR-1. Bayocean Spit, Tillamook County (Index Map 1)

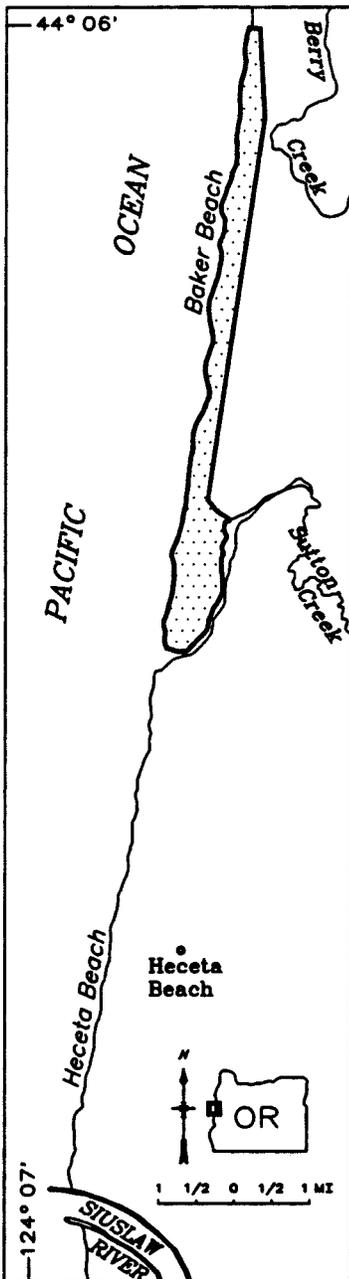
Beginning at 45°33'57" N, 123°56'50" W, thence north to MLW, thence southeasterly following MLW to 45°33'42" N, 123°56'21" W, thence southerly to 45°33'28" N, 123°56'18" W, thence southwesterly to 45°33'12" N, 123°56'45" W, thence southerly following the easterly edge of the sand depicted on the topographic map as a dashed line to 45°32'28" N, 123°56'54" W, thence southerly to 45°32'23" N, 123°56'56" W, thence southerly following the easterly edge of the sand depicted on the topographic map as a dashed line to 45°30'21" N, 123°57'21" W, thence west to MLW, thence northerly following MLW to the toe of the South Jetty, thence directly west to the point of beginning. (Garibaldi USGS 7.5" Quad 1985).



OR-1 BAYOCEAN SPIT

OR-2. Heceta Head to Sutton Creek,
Lane County (Index Map 1)

Beginning at 44°06'15" N, 124°07'20" W, thence southerly to 44°05'51" N, 124°07'18" W, thence southerly to 44°05'15" N, 124°07'26" W, thence southerly to 44°04'10" N, 124°07'35" W, thence southeasterly to the high water line of the north side of Sutton Creek, thence southwesterly following the high water line of the north side of Sutton Creek to its mouth, thence west to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Mercer Lake USGS 7.5" Quad 1984).



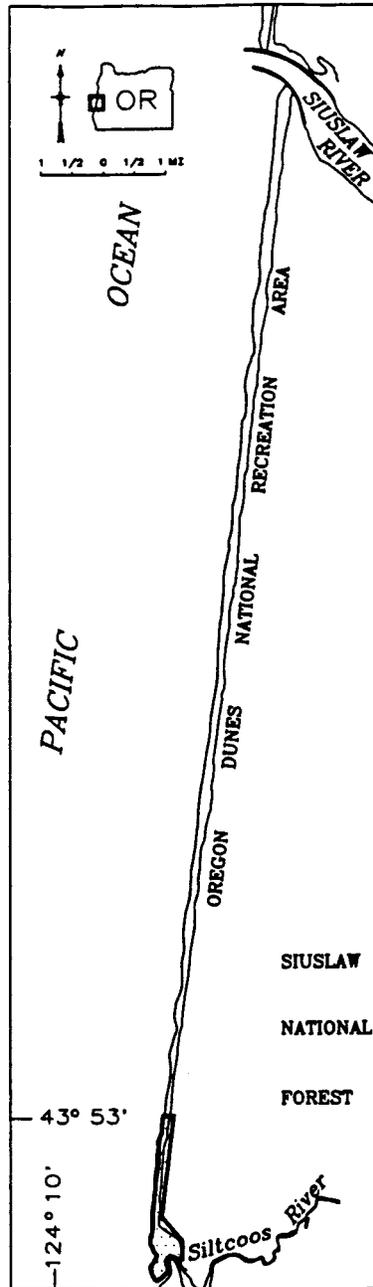
OR-2 HECETA HEAD
TO SUTTON CREEK

OR-3. Siltcoos River North, Lane County (Index Map 1)

Beginning at 43°53'40" N, 124°08'50" W, thence southerly to 43°52'55" N, 124°09'10" W, thence southeasterly to

43°52'45" N, 124°08'58" W, thence south to 43°52'38" N, 124°08'58" W, thence west to MLW, thence southerly and westerly following MLW around the southern end of the spit, thence

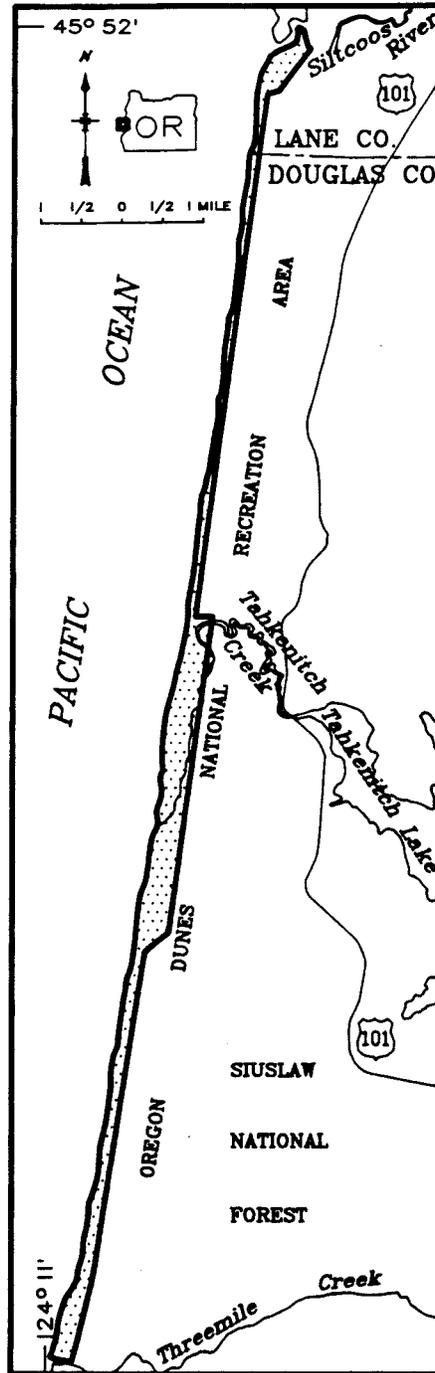
northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Goose Pasture, and Tahkenitch Creek USGS 7.5" Quads 1984).



OR-3 SILTCOOS RIVER NORTH

OR-4. Siltcoos River to Threemile Creek, Lane and Douglas County (Index Map 1)

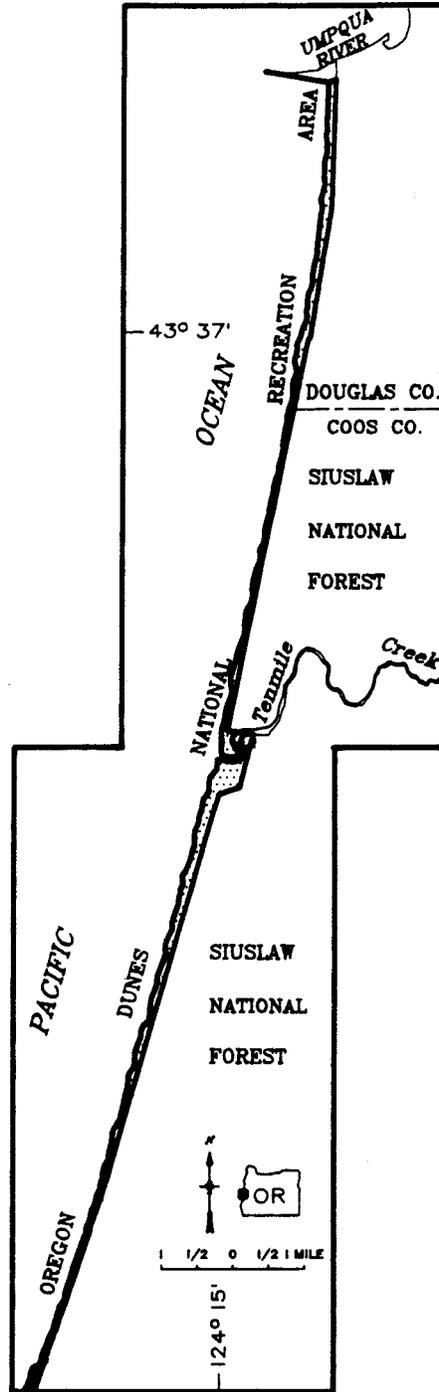
Beginning at 43°52'29" N, 124°08'55" W, thence southwesterly to 43°52'13" N, 124°09'11" W, thence westerly to 43°52'12" N, 124°09'18" W, thence southerly to 43°49'02" N, 124°09'52" W, thence east to 43°49'02" N, 124°09'43" W, thence southerly to 43°47'08" N, 124°10'04" W, thence southwesterly to 43°47'00" N, 124°10'16" W, thence southerly to 43°45'00" N, 124°10'42" W, thence west to MLW, thence northerly following MLW to a point directly north of the point of beginning, thence south to the point of beginning. (Goose Pasture and Tahkenitch Creek USGS 7.5" Quad 1984).



OR-4 SILTCOOS RIVER TO THREEMILE CREEK

OR-5. Umpqua River to Horsfall Beach, Douglas and Coos County (Index Map 1)

Beginning at 43°39'51" N, 124°12'25" W, thence southerly to 43°39'36" N, 124°12'25" W, thence southerly to 43°38'40" N, 124°12'29" W, thence southerly following 25 ft. east of road to 43°37'30" N, 124°12'46" W, thence southwesterly to 43°34'39" N, 124°13'34" W, thence southwesterly to 43°34'00" N, 124°13'46" W, thence easterly to 43°33'58" N, 124°13'26" W, thence southwesterly to 43°33'29" N, 124°13'37" W, thence westerly to 43°33'26" N, 124°13'53" W, thence southwesterly following 20 ft. contour to 43°30'00" N, 124°15'16" W, thence southwesterly to 43°27'08" N, 124°16'36" W, thence west to MLW, thence northeasterly following MLW to the southern toe of South Jetty, thence northeast to the point of beginning. (Winchester Bay and Lakeside USGS 7.5" Quads 1985, and Empire USGS 7.5" Quad 1970).



OR-5 UMPQUA RIVER TO HORSFALL BEACH

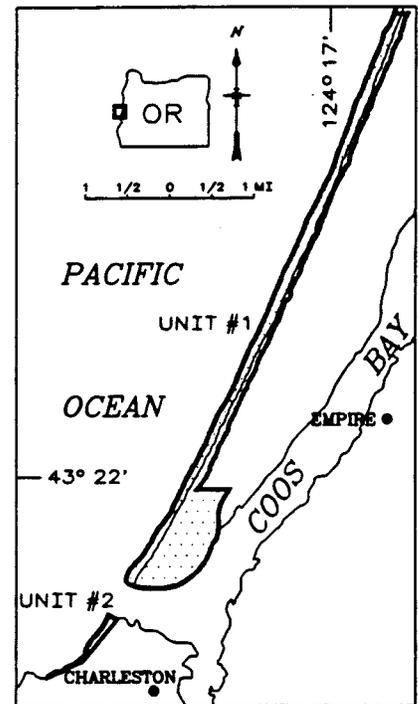
OR-6. Horsfall Beach to Coos Bay, Coos County (Index Map 1)

Unit 1

Beginning at 43°27'08" N, 124°16'36" W, thence southwesterly following 20 ft. contour to 43°25'34" N, 124°17'27" W, thence southwesterly following 20 ft. contour to 43°22'23" N, 124°19'25" W, thence east to MLW, thence southerly and westerly following MLW around the southern tip of the north spit, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Empire and Charleston USGS 7.5" Quads 1970).

Unit 2

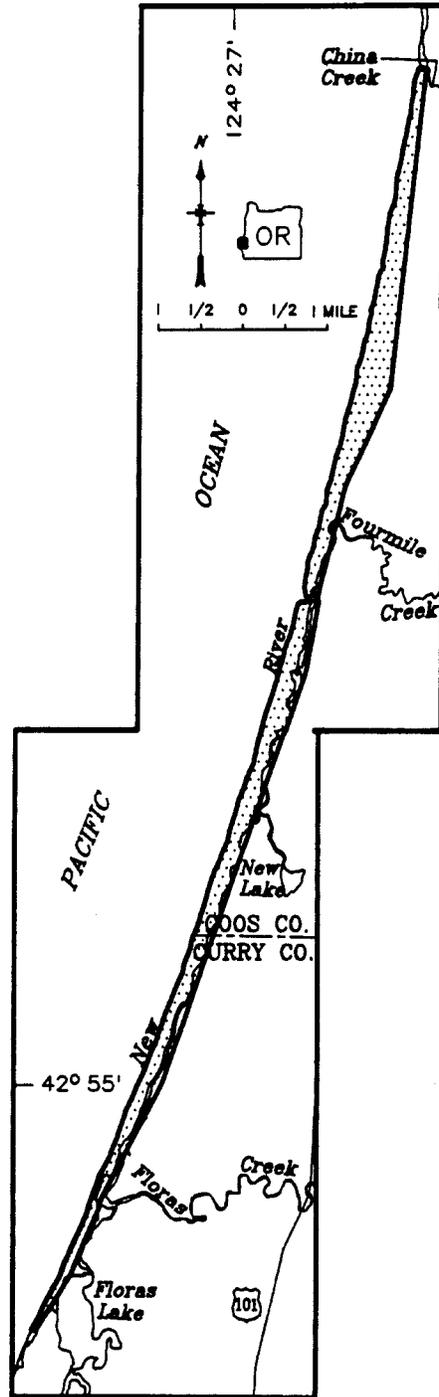
Beginning at 43°21'05" N, 124°20'26" W, thence southwesterly to 43°20'39" N, 124°20'54" W, thence southwesterly to 43°21'21" N, 124°21'21" W, thence north to MLW, thence northeasterly following MLW to the southern toe of the South Jetty, thence easterly following the toe of the South Jetty to the point of beginning. (Charleston USGS 7.5" Quad 1970).



OR-6 HORSFALL BEACH TO COOS BAY UNIT #1, #2

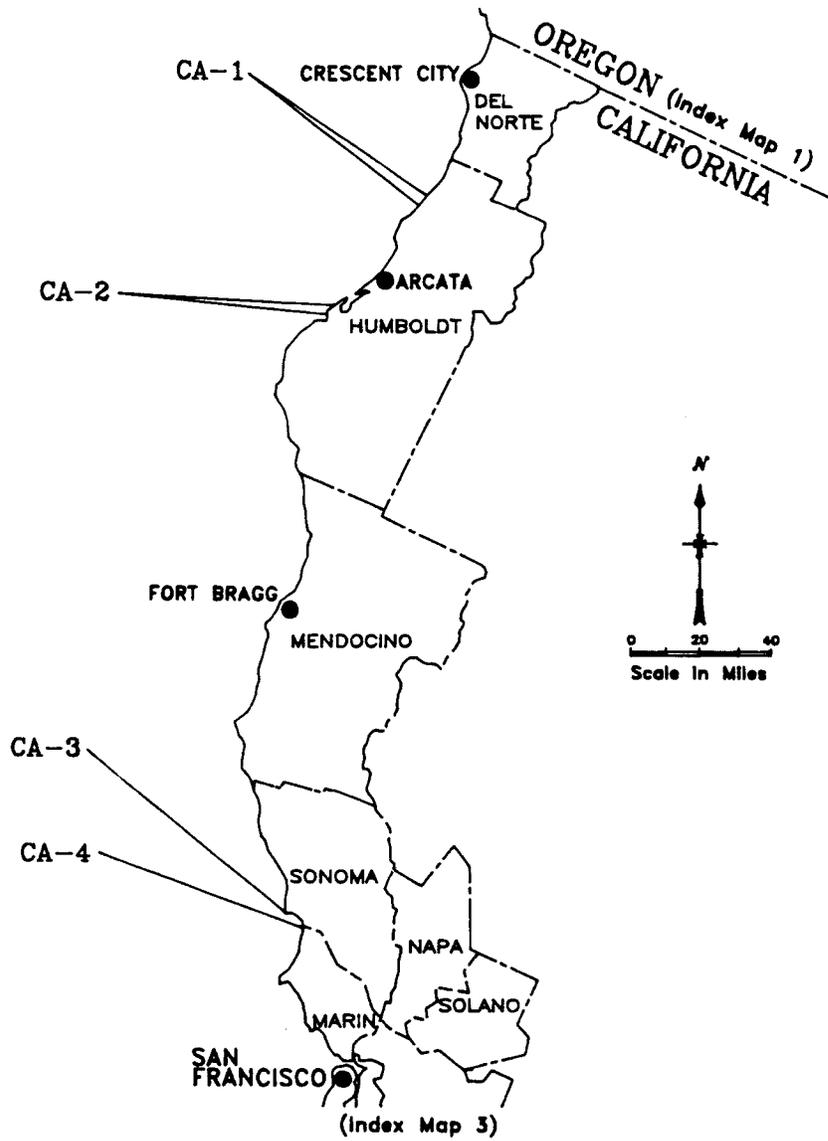
OR-7. Bandon Park to Floras Lake, Coos and Curry Counties (Index Map 1)

Beginning at 43°04'14" N, 124°26'01" W, thence southerly to 43°03'22" N, 124°26'10" W, thence southerly to 43°02'42" N, 124°26'16" W, thence southerly to 43°01'42" N, 124°26'26" W, thence southwesterly to 43°00'56" N, 124°26'58" W, thence southwesterly to 43°00'00" N, 124°27'17" W, thence southerly to 42°59'27" N, 124°27'25" W, thence southwesterly to 42°57'16" N, 124°28'24" W, thence southwesterly to 42°55'52" N, 124°29'09" W, thence southwesterly to 42°54'48" N, 124°30'00" W, thence southwesterly to 42°54'10" N, 124°30'22" W, thence southwesterly to 42°53'42" N, 124°30'49" W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Floras Lake and Langlois USGS 7.5" Quads 1986, and Bandon USGS 7.5" Quad 1970).



OR-7 BANDON TO FLORAS LAKE

Index Map 2 Northern California Proposed Western Snowy Plover Critical Habitat Areas

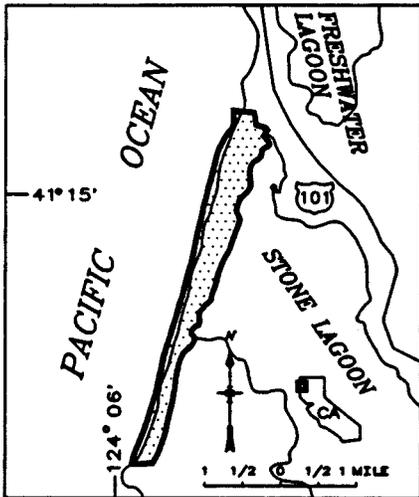


California. Areas of land and water as follows:

CA-1. Humboldt Coast Lagoon Beaches, Humboldt County (Index Map 2)

Unit 1—Stone Lagoon

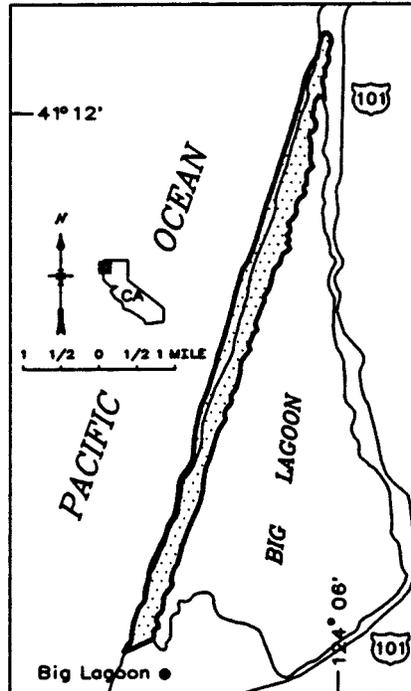
Beginning at 41°15'33" N, 124°05'54" W, thence south and east following the west side of the access road to Dry Lagoon State Park to 41°15'29" N, 124°05'49" W, thence southwesterly following the high water line of Stone Lagoon to 41°14'42" N, 124°06'08" W, thence southwesterly to 41°14'40" N, 124°06'10" W, thence southwesterly following the 40-foot contour line to 41°14'14" N, 124°06'21" W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Orick and Rodgers Peak USGS 7.5" Quads 1966).



CA-1 HUMBOLDT COAST LAGOON BEACHES UNIT 1—STONE LAGOON

Unit 2—Big Lagoon

Beginning at 41°13'00" N, 124°06'39" W, thence southerly following the 40-foot contour line to 41°12'47" N, 124°06'40" W, thence southerly following the Big Lagoon State Park property line to 41°12'39" N, 124°06'40" W, thence northwesterly and southwesterly following the high water line of Big Lagoon to 41°09'54" N, 124°07'49" W, thence southwesterly following the Big Lagoon State Park property line to 41°09'49" N, 124°08'00" W, thence west to MLW, thence northeasterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Rodgers Peak USGS 7.5" Quad 1966 and Trinidad USGS 7.5" Quad 1978).

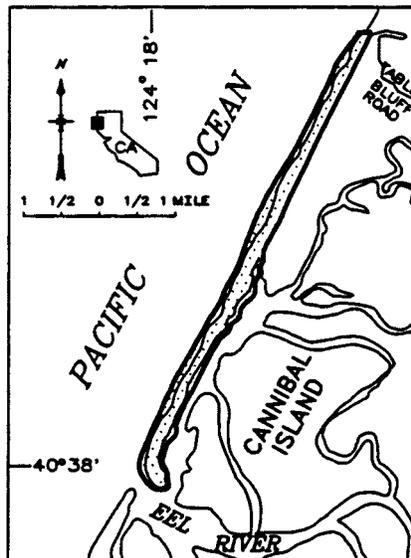


CA-1 HUMBOLDT COAST LAGOON BEACHES UNIT 2—BIG LAGOON

CA-2. Eel River Beaches, Humboldt County (Index Map 2)

Unit 1—Eel River North

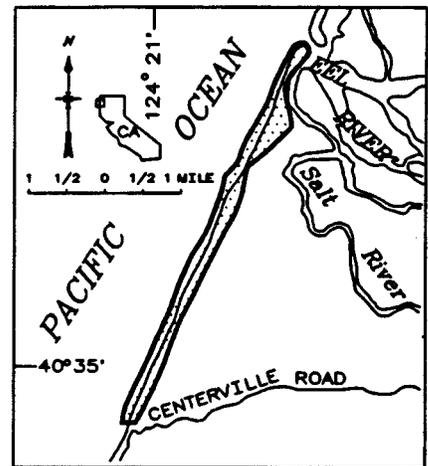
Beginning at 40°41'51" N, 124°16'27" W, thence southwesterly to 40°40'11" N, 124°17'30" W, thence south to MLW, thence southerly following MLW around the south end of the spit, thence north following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Cannibal Island USGS 7.5" Quad 1972).



CA-2 EEL RIVER BEACHES UNIT 1—EEL RIVER NORTH

Unit 2—Eel River South

Beginning at 40°34'29" N, 124°21'01" W, thence west to MLW, thence northeasterly following MLW to a point directly west of 40°38'28" N, 124°18'42" W, thence east to said point, thence east to MHW of the left bank of the Eel and Salt Rivers, thence southwesterly following MHW of the left bank of the Salt River to 40°37'54" N, 124°18'52" W, thence southerly to 40°37'38" N, 124°18'53" W, thence southwesterly to 40°37'14" N, 124°19'25" W, thence southwesterly to 40°36'44" N, 124°19'36" W, thence southwesterly to 40°34'29" N, 124°20'56" W, thence westerly to the point of beginning. (Cannibal Island and Ferndale USGS 7.5" Quads 1972).



CA-2 EEL RIVER BEACHES UNIT 2—EEL RIVER SOUTH

CA-3. Bodega Bay, Sonoma County (Index Map 2)

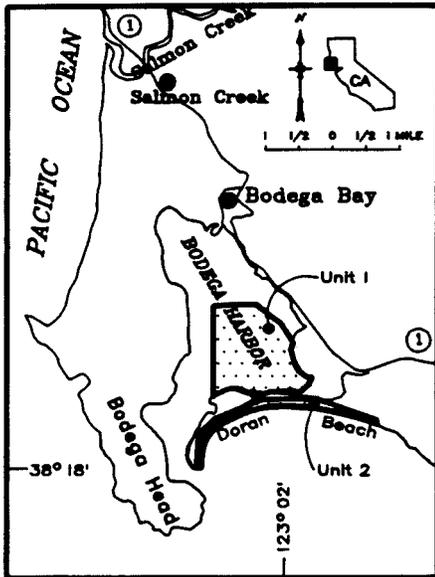
Unit 1—Bodega Harbor

Beginning at 38°18'51" N, 123°03'02" W, at MHW on Doran Spit, thence north to 38°19'30" N, 123°03'02" W, thence east to 38°19'30" N, 123°02'38" W, thence southeasterly to 38°19'22" N, 123°02'26" W, thence southerly to 38°19'13" N, 123°02'20" W, on the MHW line of Bodega Harbor, thence southerly and westerly following MHW to the point of beginning. (Bodega Head USGS 7.5" Quad 1972).

Unit 2—Doran Beach

Beginning at 38°18'22" N, 123°03'09" W, at the west end of the North Jetty, thence east to MLW, thence northerly and easterly following MLW to a point directly south of 38°18'44" N, 123°01'36" W, thence north to said point, thence northwesterly to 38°18'52" N, 123°02'07" W, thence westerly to 38°18'51" N, 123°02'34" W, thence southwesterly to 38°18'42" N, 123°03'01" W, thence southwesterly to

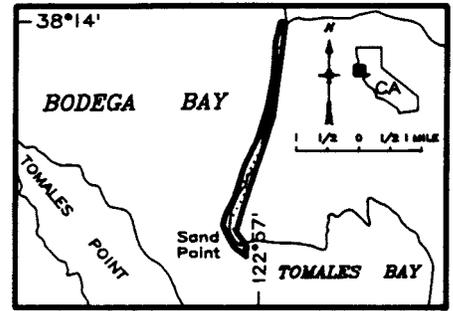
38°18'34" N, 123°03'08" W, thence southerly to the point of beginning. (Bodega Head USGS 7.5" Quad 1972).



CA-3 BODEGA BAY
UNITS 1- 2

CA-4. Dillon Beach, Marin County (Index Map 2)

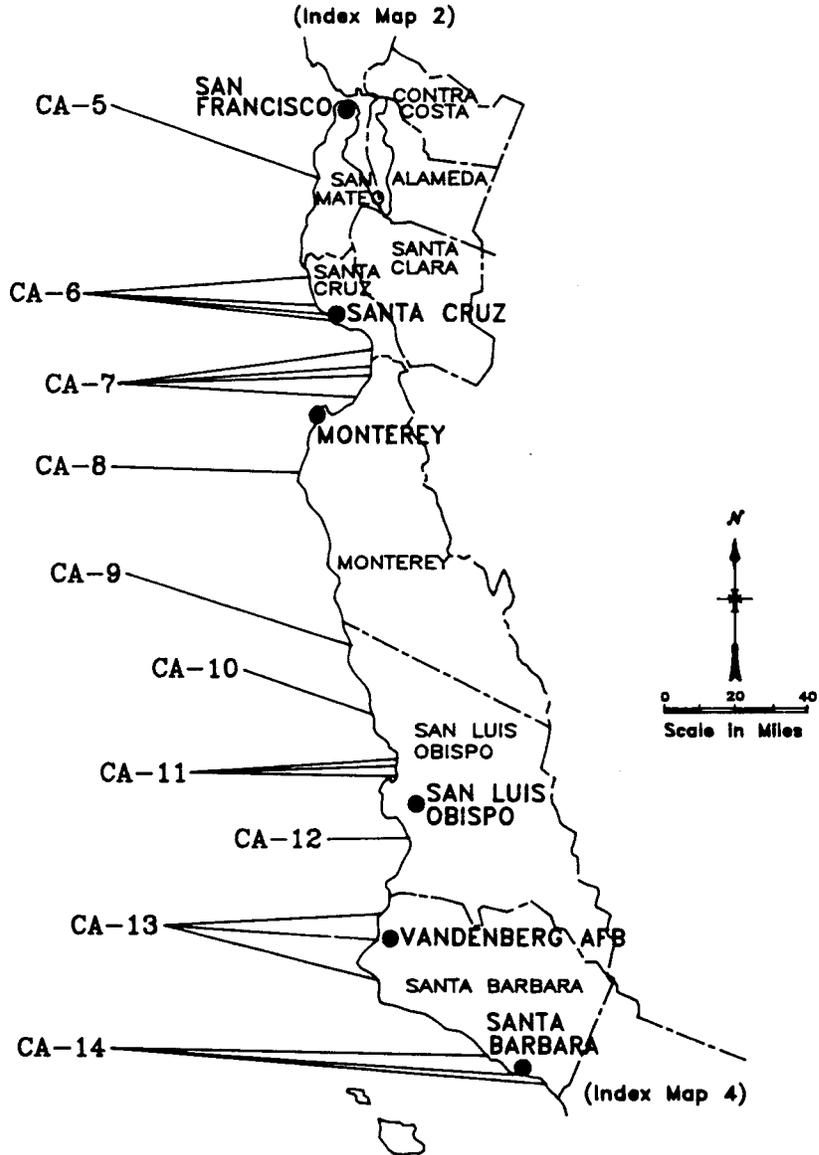
Beginning at 38°14'57" N, 122°57'58" W, thence southerly to 38°14'31" N, 122°58'01" W, thence southwesterly to 38°13'57" N, 122°58'15" W, thence southeasterly to 38°13'21" N, 122°58'12" W, thence south to MLW, thence northwesterly and northerly to a point directly west of the point of beginning, thence east to the point of beginning. (Tomales USGS 7.5" Quad 1971)



CA-4 DILLON BEACH

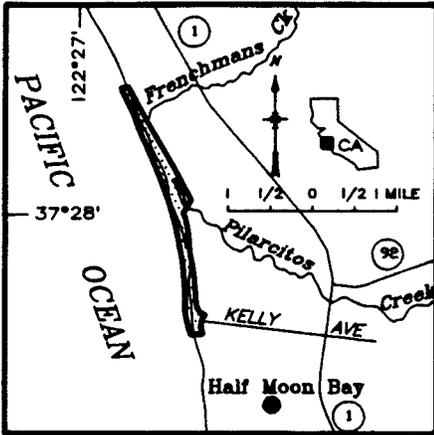
BILLING CODE 4310-55-P

Index Map 3 Central California Proposed Western Snowy Plover Critical Habitat Areas



CA-5. Half Moon Bay Beaches, San Mateo County (Index Map 3)

Beginning at 37°28'57" N, 122°27'06" W, thence southeasterly to 37°28'26" N, 122°26'45" W, thence southwesterly to 37°28'24" N, 122°26'47" W, thence southerly following the 20-foot contour line to 37°27'49" N, 122°26'40" W, thence west to MLW, thence northwesterly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Half Moon Bay USGS 7.5" Quad 1973).

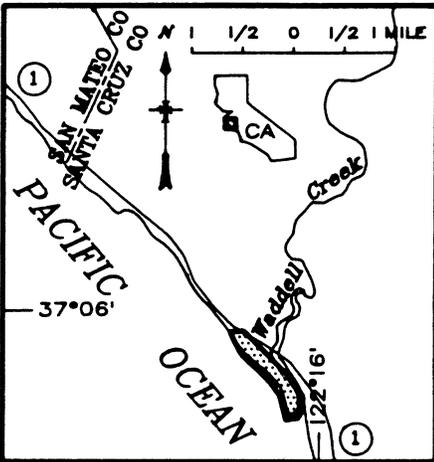


CA-5 HALF MOON BAY BEACHES

CA-6. Santa Cruz Coast Beaches, Santa Cruz County (Index Map 3)

Unit 1—Waddell Creek Beach

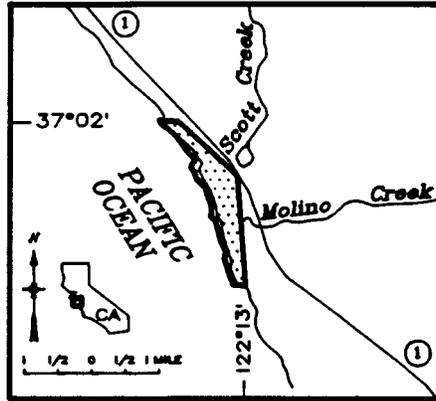
Beginning at 37°05'35" N, 122°16'32" W, thence west to MLW, thence northwesterly following MLW to a point west of 37°05'52" N, 122°16'32" W, thence east to said point, thence southeasterly to MHW line of Waddell Creek 37°05'41" N, 122°16'34" W, thence south to point of beginning. (Ano Nuevo USGS 7.5" Quad 1968).



CA-6 SANTA CRUZ COAST BEACHES
UNIT 1- WADDELL CREEK BEACH

Unit 2—Scott Creek Beach

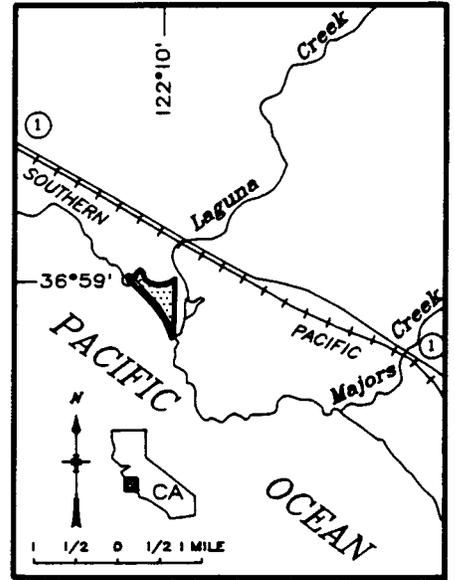
Beginning at 37°02'33" N, 122°13'53" W, located at northwest end of beach, thence southeasterly to 37°02'22" N, 122°13'36" W, located west of Highway 1 and excluding the existing Highway 1 ROW, thence south to 37°01'58" N, 122°13'34" W, located at south end of beach on 60 foot contour line, thence west to MLW, thence northwesterly following MLW to a point directly west of point of beginning, thence east to point of beginning. (Davenport USGS 7.5" Quad 1968)



CA-6 SANTA CRUZ COAST BEACHES
UNIT 2- SCOTT CREEK BEACH

Unit 3—Laguna Creek Beach

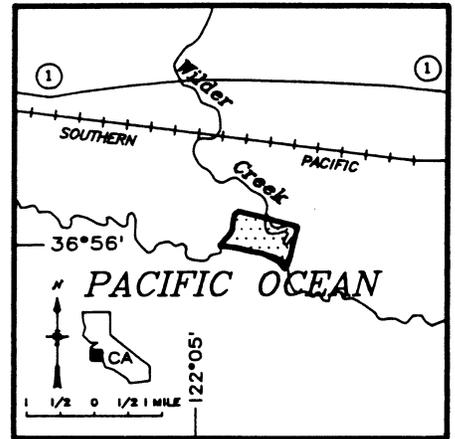
Beginning at 36°59'04" N, 122°09'26" W, located at northwest end of beach on 20 foot contour line, thence east following 20 foot contour line to 36°59'03" N, 122°09'14" W, located at Laguna Creek at a point 800 feet south of Highway 1, thence south to MLW, thence northwesterly following MLW to a point directly south of point of beginning, thence north to point of beginning. (Santa Cruz USGS 7.5" Quad 1981).



CA-6 SANTA CRUZ COAST BEACHES
UNIT 3- LAGUNA CREEK BEACH

Unit 4—Wilder Creek Beach

Beginning at 36°57'17" N, 122°04'43" W, located at northwest end of upper beach on 40 foot contour line, thence southwesterly to 36°57'16" N, 122°04'29" W, located at northeast end of upper beach east of 40 foot contour line, thence south to MLW, thence northwesterly following MLW to 40 foot contour line at west end of beach, thence north following 40 foot contour line to point of beginning. (Santa Cruz USGS 7.5" Quad 1981)



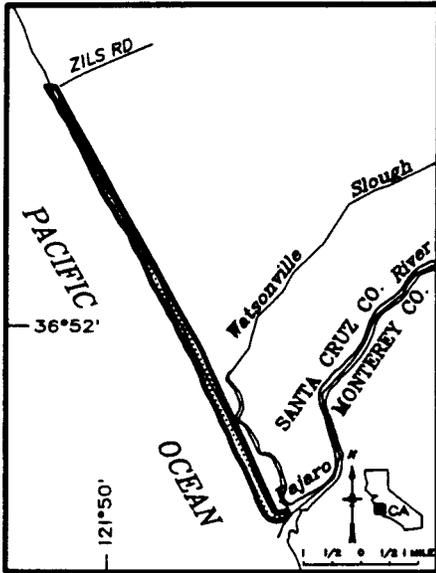
CA-6 SANTA CRUZ COAST BEACHES
UNIT 4- WILDER CREEK BEACH

CA-7. Monterey Bay Beaches, Santa Cruz and Monterey Counties (Index Map 3)

Unit 1—Sunset Beach

Beginning at 36°54'38" N, 121°50'50" W, located west of Zils Road, thence

southeasterly to 36°51'25" N, 121°48'13" W, thence east along north bank of Pajaro River to 36°51'27" N, 121°48'30" W, located south of mouth of Watson Slough, thence south to MLW, thence southerly following MLW around south end of beach, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Watsonville West and Moss Landing USGS 7.5" Quad 1980).



CA-7 MONTEREY BAY BEACHES
UNIT 1- SUNSET BEACH

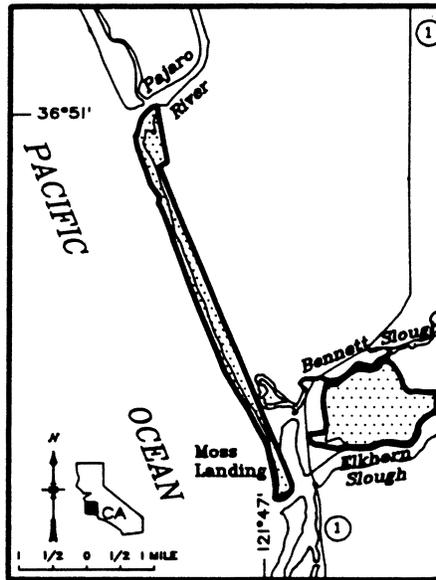
Unit 2—Mudowski Beach

Beginning at 36°49'25" N, 121°48'21" W, thence southerly to 36°50'58" N, 121°48'15" W, located north of the 10 foot contour line and west of Jensen Road, thence southwesterly to 36°51'11" N, 121°48'20" W, thence southeasterly to 36°50'43" N, 121°47'15" W, located east of seawall, thence south to MLW, thence southwesterly following MLW around south end of beach, thence northwesterly following MLW to north end of beach, thence northeasterly following MLW around north end of beach to a point north of point of beginning, thence south to point of beginning. (Moss Landing USGS 7.5" Quad 1980).

Unit 3—Elkhorn Slough Mud Flat/Salt Pond

Beginning at north bank of Elkhorn Slough 36°48'49" N, 121°46'12" W, thence west following south perimeter of mud flat and salt pond to 36°48'50" N, 121°47'02" W, which excludes the existing Highway 1 ROW, thence north following west perimeter of the salt pond, thence east following northern perimeter of salt pond to west perimeter of mud flat, thence north following west

perimeter of mud flat to 36°49'14" N, 121°46'55" W, located on south shore of Bennett Slough, thence northeasterly following south bank of Bennett Slough to 36°49'4" N, 121°46'22" W, located at the northern most point of mud flat, thence southeasterly following the east perimeter of the mud flat to 36°49'12" N, 121°46'12" W, thence easterly following the perimeter of the mud flat to 36°49'59" N, 121°45'59" W, thence south following east perimeter of mud flat to 36°49'04" N, 121°45'58" W, thence southwesterly along northern shore of Elkhorn Slough to point of beginning. (Moss Landing USGS 7.5" Quad 1980).

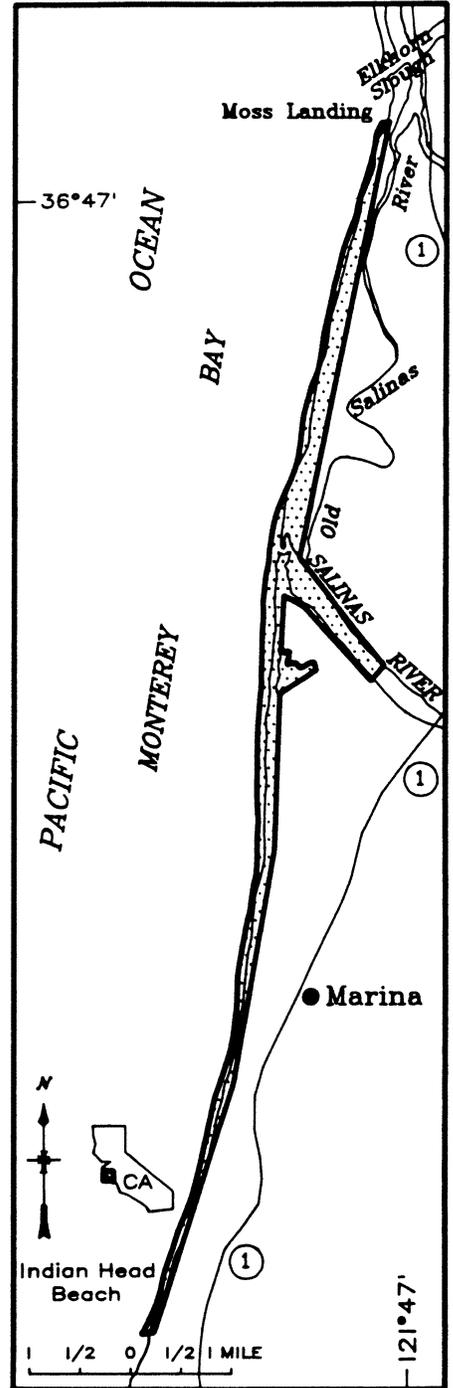


CA-7 MONTEREY BAY BEACHES
UNIT 2- MUDOWSKI BEACH
UNIT 3- ELKHORN SLOUGH
MUDFLAT/SALTPOND

Unit 4—Salinas River Beach

Beginning at 36°48'01" N, 121°47'18" W, located south of boat launch, thence southerly to 36°46'31" N, 121°47'40" W, thence southerly to 36°45'00" N, 121°48'04" W, located on north bank of Salinas River, thence southeasterly following north bank of Salinas River to 36°44'16" N, 121°47'20" W, thence southwesterly across Salinas River to 36°44'10" N, 121°47'28" W, located on south bank, thence northwesterly following south bank of Salinas River to 36°44'41" N, 121°48'02" W, thence westerly to 36°44'49" N, 121°48'12" W, thence south to 36°44'54" N, 121°48'12" W, located at northern most point of a large pond, thence southeasterly following north shore of pond to 36°44'44" N, 121°47'53" W, thence southwesterly to 36°44'34" N, 121°48'13" W, thence southerly to

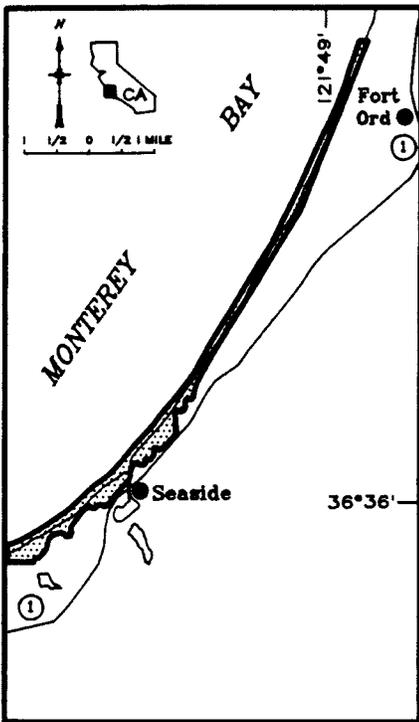
36°42'59" N, 121°48'17" W, thence southerly to 36°41'45" N, 121°48'49" W, thence southerly to 36°39'45" N, 121°49'17" W, thence west to MLW, thence northerly following MLW to a point west of point of beginning, thence east to point of beginning. Excludes all our property. (Moss Landing USGS 7.5" Quad 1980 and Marina USGS 7.5" Quad 1983)



CA-7 MONTEREY BAY BEACHES
UNIT 4- SALINAS RIVER BEACH

Unit 5—Fort Ord/Seaside Beaches

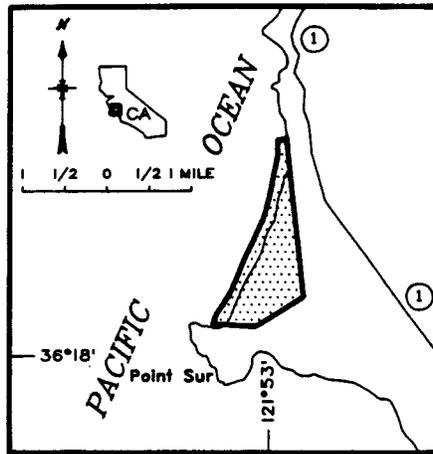
Beginning at 36°39'44" N, 121°49'17" W, located west of beach parking lot, thence southerly following upper beach where it meets toe of bluffs to 36°38'33" N, 121°49'54" W, thence southerly following upper beach where it meets toe of bluffs to 36°36'58" N, 121°51'00" W, thence continue southwesterly following upper portion of beach where it meets toe of bluffs and sand dunes to 36°36'06" N, 121°52'30" W, thence west to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Marina USGS 7.5" Quad 1983 and Seaside USGS 7.5" Quad 1968).



CA-7 MONTEREY BAY BEACHES
UNIT 5— FORT ORD/SEASIDE BEACHES

CA-8. Point Sur Beach, Monterey County (Index Map 3)

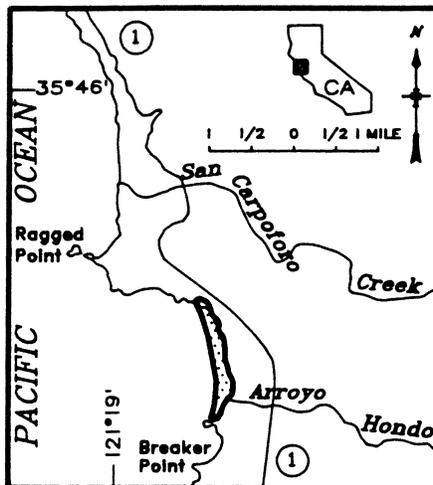
Beginning at 36°19'11" N, 121°53'39" W, located at north end of beach, thence south to 36°18'31" N, 121°53'32" W, located north of Lighthouse Road, thence southwesterly following a line north of Lighthouse Road to 36°18'37" N, 121°53'46" W, thence west to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Point Sur USGS 7.5" Quad 1983).



CA-8 POINT SUR BEACH

CA-9. Arroyo Hondo Creek Beach, San Luis Obispo County (Index Map 3)

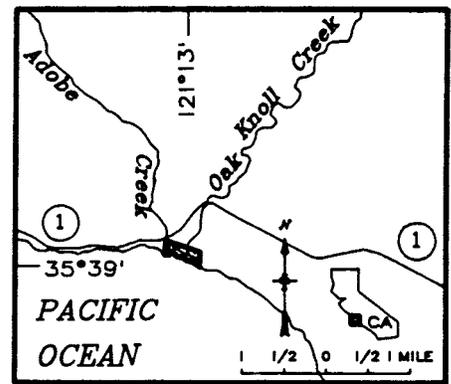
Beginning at 35°45'23" N, 121°19'02" W, thence southerly following the 20-foot contour line to 35°45'00" N, 121°18'52" W, thence southeasterly to 35°44'54" N, 121°18'55" W, thence west to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Burro Mountain USGS 7.5" Quad 1972 and Piedras Blancas USGS 7.5" Quad 1959).



CA-9 ARROYO HONDO CREEK BEACH

CA-10. Arroyo Laguna Creek Beach, San Luis Obispo County (Index Map 3)

Beginning at 35°39'08" N, 121°13'15" W, located south of Highway 1 and excluding the existing Highway 1 ROW, thence southeasterly to 35°39'05" N, 121°13'17" W, thence south to MLW, thence westerly following MLW to a point south of point of beginning, thence north to point of beginning. (San Simeon USGS 7.5" Quad 1958)

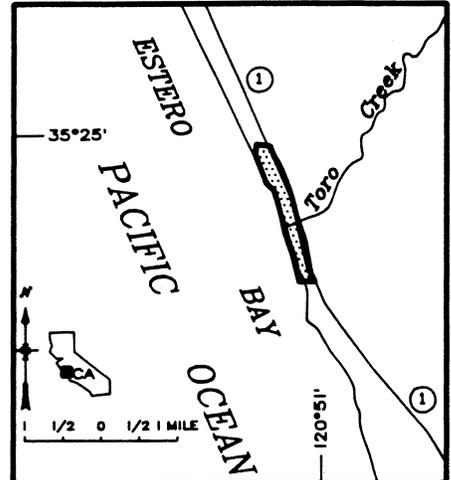


CA-10 ARROYO LAGUNA CREEK BEACH

CA-11. Morro Bay Beaches, San Luis Obispo County (Index Map 3)

Unit 1—Toro Creek

Beginning at 35°24'57" N, 120°52'27" W, located west of Highway 1 and excluding the existing Highway 1 ROW, thence southerly along a line west of Highway 1, excluding the existing Highway 1 ROW, to 35°24'30" N, 120°52'14" W, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Morro Bay North USGS 7.5" Quad 1965)

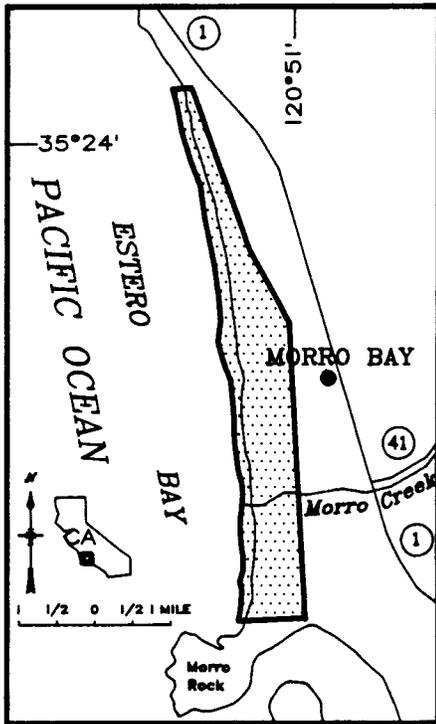


CA-11 MORRO BAY BEACHES
UNIT 1— TORO CREEK BEACH

Unit 2—Atascadero Beach

Beginning at 35°24'13" N, 120°52'02" W, located west of Beachcomber Drive, thence southeasterly along upper beach to 35°23'38" N, 120°51'48" W, located west of Sandalwood Avenue, thence south to 35°23'24" N, 120°51'39" W, thence south to 35°22'22" N, 120°51'31" W, located at the southwest end of powerplant, thence west to MLW, thence northerly following MLW to a point west of point of beginning, thence east to point of beginning. (Morro Bay

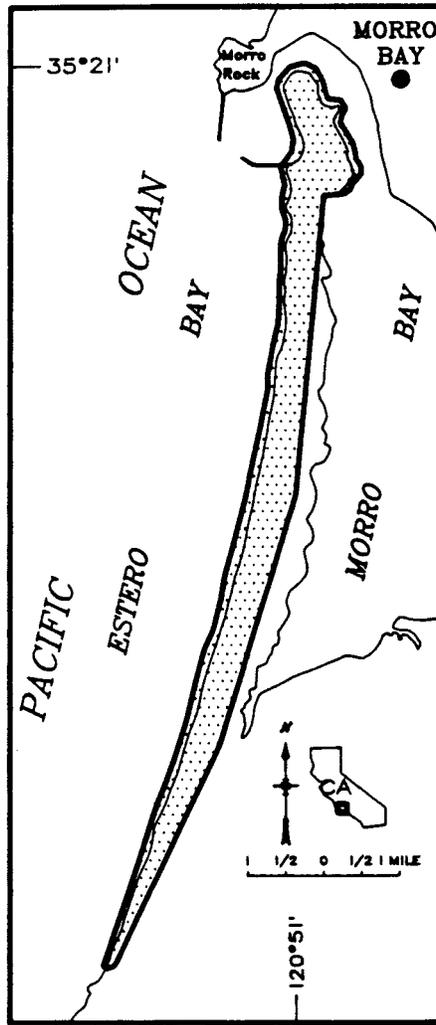
North and Morro Bay South USGS 7.5" Quads 1965)



CA-11 MORRO BAY BEACHES
UNIT 2- ATASCADERO BEACH

Unit 3—Morro Bay Beach

Beginning at 35°17'28" N, 120°52'46" W, located at south end of beach, thence west to MLW, thence northeasterly following MLW to breakwater, thence from breakwater following MLW clockwise around northern end of peninsula to a point east of 35°21'28" N, 120°51'28" W, thence west to said point, thence southwesterly to 35°19'54" N, 120° 51' 38" W, thence southwesterly to 35° 18'38" N, 120° 52'06" W, thence southwesterly to point of beginning. (Morro Bay South USGS 7.5" Quad 1978)

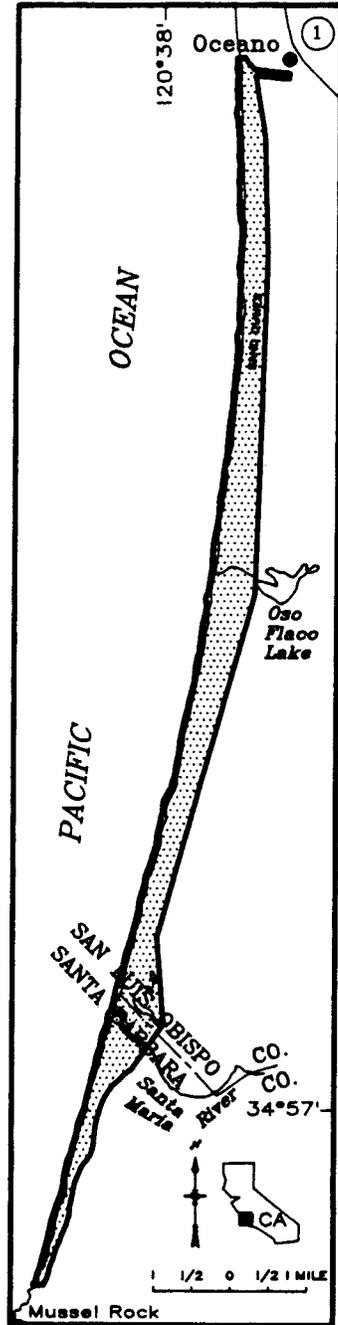


CA-11 MORRO BAY BEACHES
UNIT 3- MORRO BAY BEACH

CA-12. Pismo Beach/Nipomo Dunes, San Luis Obispo and Santa Barbara Counties (Index Map 3)

Beginning at 34°53'02" N, 120°39'40" W, located northeast of Mussel Point, thence west to MLW, thence northerly following MLW to a point west of 35°06'06" N, 120°37'45" W, thence east to said point, thence southeasterly to 35°06'01" N, 120°37'40" W, located on north bank of Arroyo Grande Creek, thence easterly following north bank of Arroyo Grande Creek to 35°05'58" N, 120°37'19" W, thence southerly across Arroyo Grande Creek to 35°05'56" N, 120°37'18" W, thence westerly to 35°05'58" N, 120°37'38" W, thence southeasterly to 35°05'27" N, 120°37'32" W, thence southerly to 35°04'27" N, 120°37'30" W, thence southwesterly to 35°02'32" N, 120°37'35" W, thence south to 35°01'42" N, 120°37'35" W, thence southwesterly to 34°58' 53" N, 120°39'02" W, thence southeasterly across Guadalupe oil field to 34°58'10"

N, 120°38'27" W, located at east end of a pond north of Santa Maria River, thence southwesterly to a point on 40-foot contour line 34°57'45" N, 120°38'59" W, located south of the Santa Maria River, thence southwesterly along the 40-foot contour line to point of beginning. (Oceano USGS 7.5" Quad 1979 and Point Sal USGS 7.5" Quad 1974).

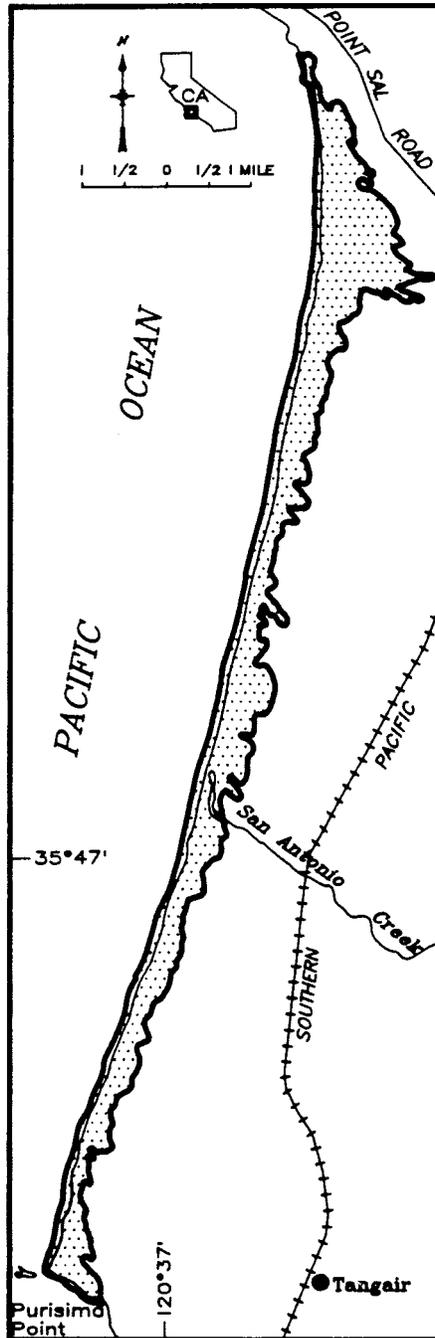


CA-12 PISMO BEACH/NIPOMO DUNES

CA-13. Point Sal to Point Conception Beaches, Santa Barbara County (Index Map 3)

Unit 1—Vandenberg Beach

Beginning at 35°51'41" N, 120°36'36" W, located on 40-foot contour line, thence southerly along 40-foot contour line to 34°45'22" N, 120°37'50" W, located southeast of Purisma Point, thence south to MLW, thence northwesterly following MLW around Purisma Point, thence north following MLW to a point west of point of beginning, thence east to point of beginning. (Casmalia USGS 7.5" Quad 1982).

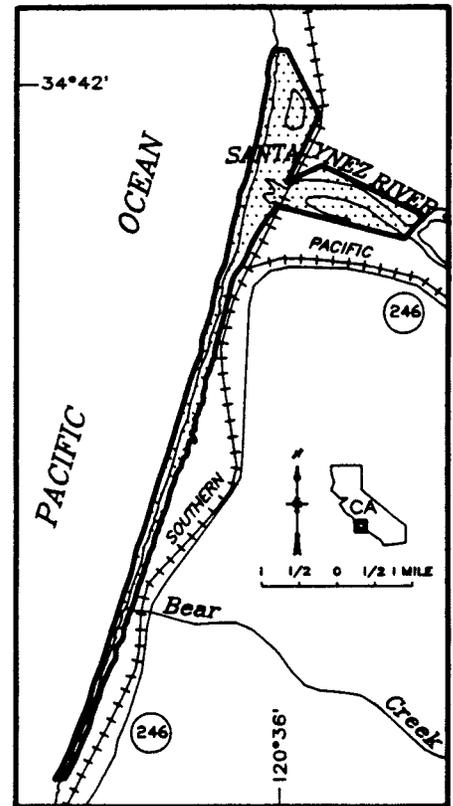


CA-13 POINT SAL TO POINT CONCEPTION
UNIT 1—VANDENBERG BEACH

Unit 2—Santa Ynez River Mouth/Ocean Beach

Beginning at 34°42'16" N, 120°35'54" W, located west of beach access road, thence southeasterly to 34°41'56" N, 120°35'45" W, located west of railroad tracks, thence southwesterly to 34°41'35" N, 120°35'55" W, located on north bank of Santa Ynez River, thence northeasterly to 34°41'41" N, 120°35'43" W, thence southeasterly along north bank of Santa Ynez River to 34°41'24" N, 120°35'05" W, located at end of Gravel Pit Road, thence southwesterly to

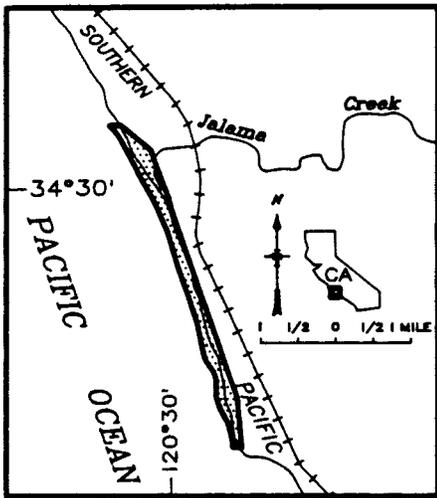
34°41'18" N, 120°35'13" W, located on south bank of Santa Ynez River, thence west across railroad tracks to 34°41'27" N, 120°35'58" W, located on 40-foot contour line, thence southwesterly along 40-foot contour line to 34°37'28" N, 120°37'16" W, located 400 feet west of railroad tracks, thence west to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (Surf USGS 7.5" Quad 1974).



CA-13 POINT SAL TO POINT CONCEPTION
UNIT 2—SANTA YNEZ RIVER MOUTH/
OCEAN BEACH

Unit 3—Jalama Beach

Beginning at 34°30'48" N, 120°30'12" W, thence southeasterly to 34°30'44" N, 120°30'04" W, located at northern end of Jalama Beach Lagoon, thence southeasterly to 34°30'23" N, 120°29'55" W, thence southeasterly to 34°29'53" N, 120°29'44" W, thence southeasterly to 34°29'43" N, 120°29'42" W, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Tranquillon Mountain USGS 7.5" Quad 1959, Lompoc Hills USGS 7.5" Quad 1971, and Point Conception USGS 7.5" Quad 1974).

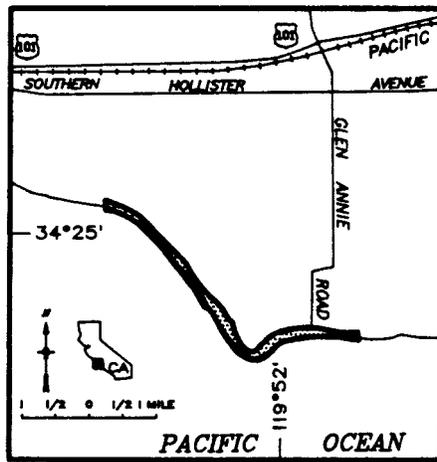


**CA-13 POINT SAL
TO POINT CONCEPTION
UNIT 3- JALAMA BEACH**

CA-14. Santa Barbara Coast Beaches,
Santa Barbara County (Index Map 3)

Unit 1—Devereaux Beach

Beginning at 34°25'13" N, 119°53'31" W, located on 20 foot contour line, thence southeasterly following 20-foot contour line, thence northeasterly around Coal Oil Point to 34°24'33" N, 119°51'57" W, located on 20 foot contour line, thence south to MLW, thence westerly following MLW, southwesterly around Coal Oil Point, thence northwesterly to a point south of point of beginning, thence north to point of beginning. (Dos Pueblos Canyon and Goleta USGS 7.5" Quad 1988).



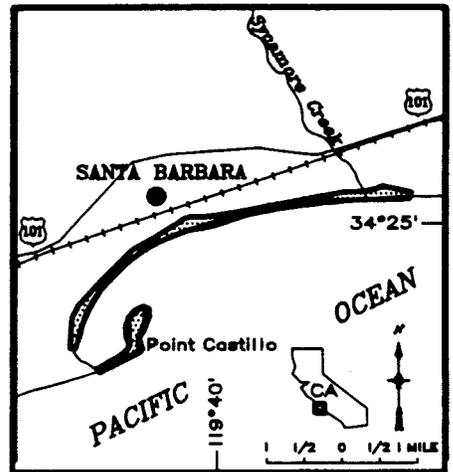
**CA-14 SANTA BARBARA COAST BEACHES
UNIT 1- DEVEREAUX BEACH**

Unit 2—Point Castillo/ Santa Barbara Harbor Beach
Point Castillo

Beginning (breakwater and sandspit) at 34°24'17" N, 119°41'13" W, located at Beacon, thence south to MLW, thence southwesterly following MLW on outside of breakwater to Point Castillo, thence northeasterly following MLW inside of breakwater to southwest end of sandspit, thence circle sandspit clockwise following MLW to a point south of point of beginning, thence north to point of beginning. (Santa Barbara USGS 7.5" Quad 1967).

Santa Barbara Harbor Beach

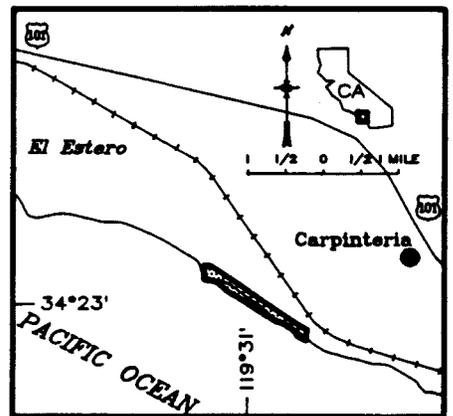
Beginning at 34°24'16" N, 119°41'37" W, located at southwest end of beach, thence northeasterly following a line south of Cabrillo Blvd. to 34°24'09" N, 119°38'22" W, located on west side of Stearns Wharf, thence northeasterly to 34°24'54" N, 119°40'52" W, thence easterly following a line just south of Cabrillo Blvd. to 34°25'03" N, 119°39'50" W, thence southeasterly to 34°25'00" N, 119°38'01" W, thence south to MLW, thence southwesterly following MLW to a point east of point of beginning, thence west to point of beginning. (Santa Barbara USGS 7.5" Quad 1967).



**CA-14 SANTA BARBARA COAST BEACH
UNIT 2- POINT CASTILLO/
SANTA BARBARA HARBOR BEACH**

Unit 3—Carpinteria Beach

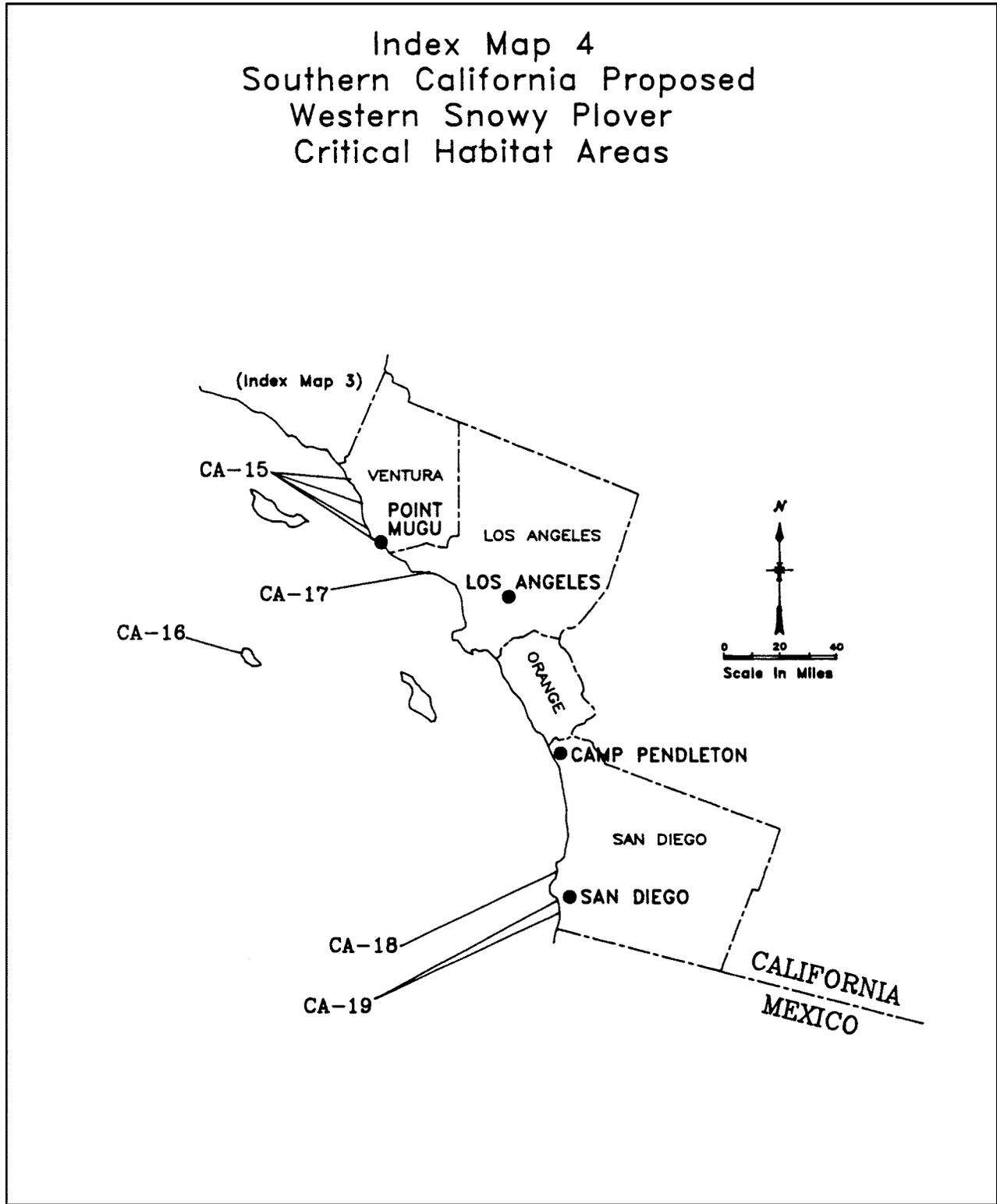
Beginning at 34°23'38" N, 119°31'26" W, located at end of Linden St. on northwest end of beach, thence southeasterly to 34°23'22" N, 119°31'02" W, located at southeast end of the beach, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Carpinteria USGS 7.5" Quad 1988).



**CA-14 SANTA BARBARA COAST BEACHES
UNIT 3- CARPINTERIA BEACH**

BILLING CODE 4310-55-P

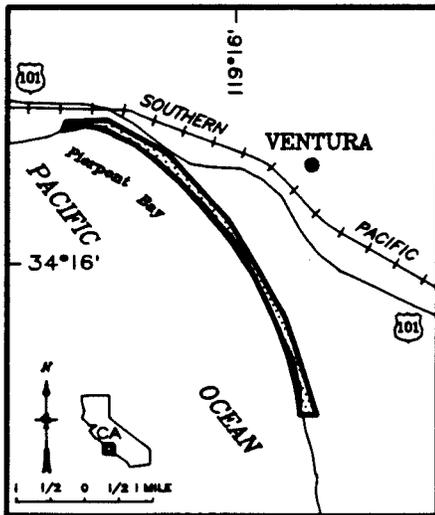
Index Map 4 Southern California Proposed Western Snowy Plover Critical Habitat Areas



CA-15. Oxnard Lowlands, Ventura County (Index Map 4)

Unit 1—San Buena/Ventura Beach

Beginning $34^{\circ}16'33''$ N, $119^{\circ}17'38''$ W, which is located at northwest end of beach, thence east to $34^{\circ}16'51''$ N, $119^{\circ}17'24''$ W, thence southeasterly to $34^{\circ}16'40''$ N, $119^{\circ}17'03''$ W, thence southeasterly to $34^{\circ}16'15''$ N, $119^{\circ}16'33''$ W, thence southeasterly to $34^{\circ}15'40''$ N, $119^{\circ}16'16''$ W, thence southeasterly to $34^{\circ}15'02''$ N, $119^{\circ}15'52''$ W, thence west to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Ventura USGS 7.5" Quad 1967).

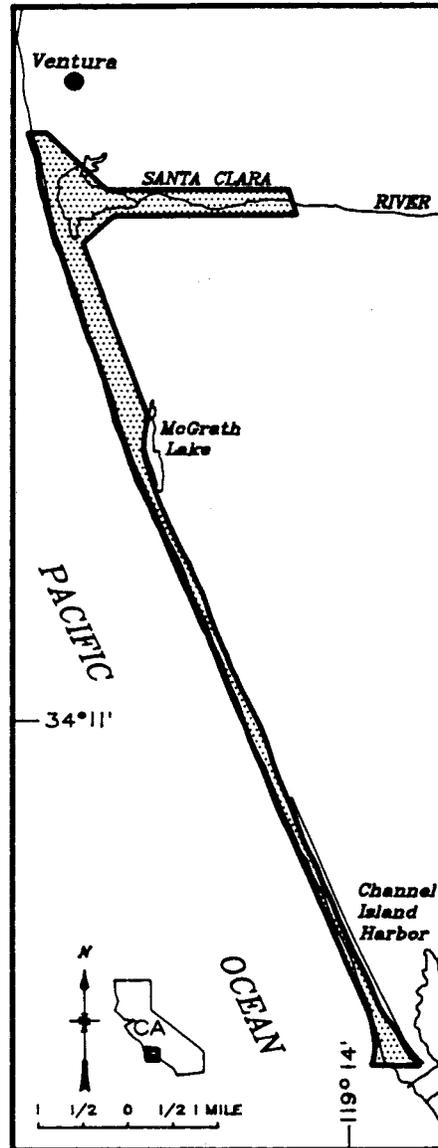


CA-15 OXNARD LOWLANDS
UNIT 1- SAN BUENA/VENTURA BEACH

Unit 2—Mandalay Beach/Santa Clara River Mouth

Beginning at $34^{\circ}14'28''$ N, $119^{\circ}16'12''$ W, located at the north end of beach, thence southeasterly to $34^{\circ}14'10''$ N, $119^{\circ}15'30''$ W, located on north bank of Santa Clara River, thence east to $34^{\circ}14'09''$ N, $119^{\circ}15'57''$ W, thence south to $34^{\circ}14'09''$ N, $119^{\circ}13'57''$ W, thence west following south bank of Santa Clara River to $34^{\circ}14'01''$ N, $119^{\circ}15'30''$ W, thence southwest to $34^{\circ}13'53''$ N, $119^{\circ}15'40''$ W, located on 15-foot contour line, thence southeasterly to $34^{\circ}12'58''$ N, $119^{\circ}15'15''$ W, located on north end of McGrath Lake, thence southeasterly following 15-

foot contour line to $34^{\circ}09'30''$ N, $119^{\circ}13'28''$ W, located on north side of boat ramp, thence west to MLW, thence northwesterly following MLW to a point west of point of beginning, thence east to point of beginning. (Oxnard USGS 7.5" Quad 1967).

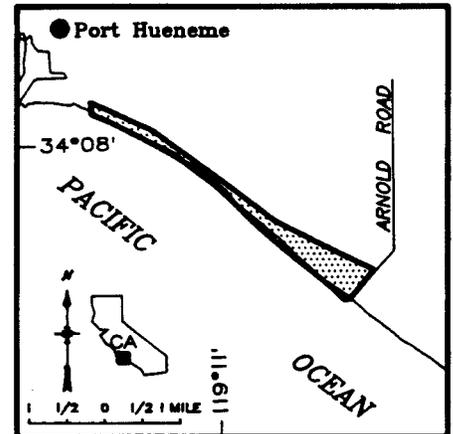


CA-15 OXNARD LOWLANDS
UNIT 2- MANDALAY BEACH/
SANTA CLARA RIVER MOUTH

Unit 3—Ormond Beach

Beginning at $34^{\circ}08'40''$ N, $119^{\circ}11'58''$ W, located east of road to jetty, thence

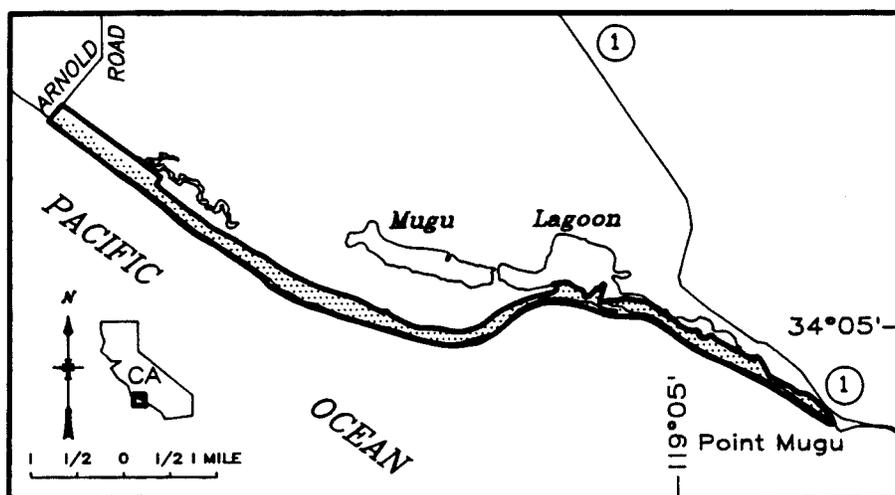
southeasterly to $34^{\circ}08'49''$ N, $119^{\circ}11'58''$ W, thence southeasterly to $34^{\circ}07'48''$ N, $119^{\circ}10'15''$ W, located at northwest end of wetlands, thence southeasterly to $34^{\circ}07'22''$ N, $119^{\circ}09'19''$ W, located on west side of Arnold Road, thence southwest along Arnold Road to $34^{\circ}07'10''$ N, $119^{\circ}09'32''$ W, located at end of Arnold Road, thence west to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (Oxnard and Point Mugu USGS 7.5" Quads 1967).



CA-15 OXNARD LOWLANDS
UNIT 3- ORMOND BEACH

Unit 4—Mugu Lagoon Beach

Beginning at $34^{\circ}07'15''$ N, $119^{\circ}09'28''$ W, thence southeasterly to $34^{\circ}06'45''$ N, $119^{\circ}08'44''$ W, thence southwest to $34^{\circ}06'42''$ N, $119^{\circ}08'47''$ W, thence southeasterly to $34^{\circ}06'31''$ N, $119^{\circ}08'32''$ W, thence southeasterly to $34^{\circ}06'20''$ N, $119^{\circ}08'10''$ W, thence southeasterly following 10-foot contour line to $34^{\circ}06'03''$ N, $119^{\circ}05'44''$ W, thence east following the HWL of Mugu Lagoon and crossing the mouth of said lagoon to $34^{\circ}05'34''$ N, $119^{\circ}04'13''$ W, thence southeasterly to $34^{\circ}05'28''$ N, $119^{\circ}04'08''$ W, located on 10 foot contour line, thence southeasterly following 10 foot contour line to $34^{\circ}05'10''$ N, $119^{\circ}03'38''$ W, located on west side of Point Mugu, thence west to MLW, thence northwesterly following MLW, but excluding the mouth of Mugu Lagoon, to a point south of point of beginning, thence north to point of beginning. (Point Mugu USGS 7.5" Quad 1967).



CA-15 OXNARD LOWLANDS
UNIT 4- MUGU LAGOON BEACH

CA-16. San Nicolas Island Beaches,
Ventura County (Index Map 4)

Unit SN-1

Beginning at 33°14'02" N, 119°26'12" W, thence east to MLW, thence southeasterly and southwesterly following MLW around east end of Island to a point east of 33°13'27" N, 119°26'11" W, thence west to said point, thence north following 25-foot contour line to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-2

Beginning at 33°12'59" N, 119°28'33" W, located south of Island Road, thence easterly to 33°12'57" N, 119°27'59" W, thence easterly to 33°13'02" N, 119°27'17" W, thence easterly to 33°13'10" N, 119°26'55" W, thence south to MLW, thence west following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956)

Unit SN-3.

Beginning at 33°13'12" N, 119°29'36" W, located south of Island Road, thence easterly to 33°13'11" N, 119°29'09" W, thence easterly to 33°13'02" N, 119°28'39" W, thence south to MLW, thence west following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-4

Beginning at 33°13'18" N, 119°30'05" W, thence southeasterly to 33°13'10" N, 119°29'48" W, thence west to MLW,

thence northwesterly to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956)

Unit SN-5

Beginning at 33°13'24" N, 119°30'25" W, thence southeasterly to 33°13'17" N, 119°30'09" W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-6

Beginning at 33°13'47" N, 119°31'12" W, thence southeasterly to 33°13'36" N, 119°30'55" W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-7

Beginning at 33°14'10" N, 119°32'49" W, thence southeasterly to 33°14'07" N, 119°32'41" W, thence southeasterly to 33°14'00" N, 119°32'38" W, thence south to MLW, thence northwesterly following MLW to a point south of point of beginning, thence north to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-8

Beach within circle with a radius of 250 feet with center at 33°14'40" N, 119°33'29" W. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-9

Beginning at 33°16'22" N, 119°33'11" W, thence southwesterly to 33°16'17" N,

119°33'22" W, thence southwesterly to 33°16'13" N, 119°33'43" W, thence north to MLW, thence northeasterly following MLW to a point north of point of beginning, thence south to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-10

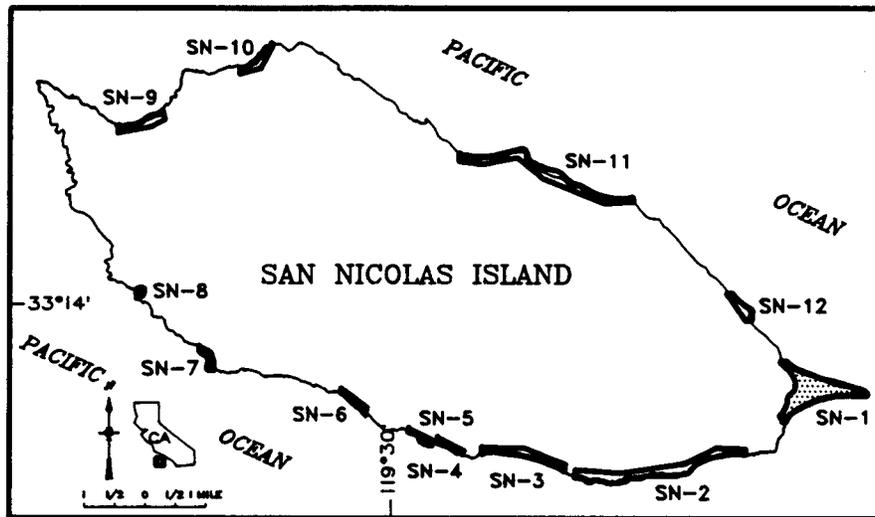
Beginning at 33°17'01" N, 119°31'58" W, thence southwesterly to 33°16'51" N, 119°32'08" W, thence southwesterly to 33°16'47" N, 119°32'21" W, thence north to MLW, thence northeasterly following MLW to a point west of point of beginning, thence east to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-11

Beginning at 33°15'31" N, 119°27'52" W, thence westerly to 33°15'32" N, 119°28'11" W, thence westerly to 33°15'46" N, 119°28'55" W, thence northwesterly to 33°15'59" N, 119°29'10" W, thence southwesterly to 33°15'54" N, 119°29'34" W, thence northwesterly to 33°15'58" N, 119°29'52" W, thence north to MLW, thence easterly following MLW to a point north of point of beginning, thence south to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).

Unit SN-12

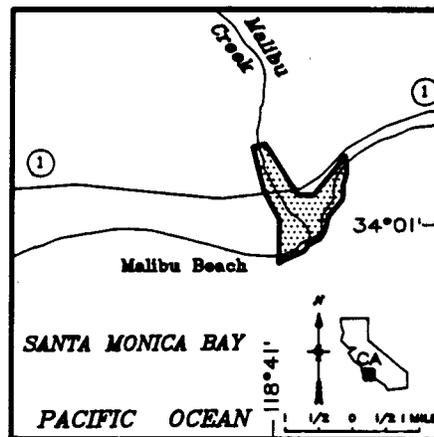
Beginning at 33°14'25" N, 119°26'35" W, thence northwesterly to 33°14'40" N, 119°26'49" W, thence east to MLW, thence southeasterly following MLW to a point east of point of beginning, thence west to point of beginning. (San Nicolas Island USGS 7.5" Quad 1956).



CA-16 SAN NICOLAS ISLAND BEACHES
UNITS 1-12

CA-17. Malibu Lagoon, Los Angeles County (Index Map 4)

Beginning at 34°01'58" N, 118°40'53" W, thence northwesterly crossing Highway 1, and excluding Highway 1 and the existing ROW north and south of Highway 1, to 34°02'04" N, 118°40'56" W, thence northwesterly to 34°02'13" N, 118°40'59" W, thence northeasterly to 34°02'14" N, 118°40'56" W, thence southeasterly to 34°02'03" N, 118°40'47" W, thence east to 34°02'03" N, 118°40'44" W, thence northeasterly to 34°02'12" N, 118°40'37" W, thence south to MLW, thence southerly and westerly following MLW to a point directly south of the point of beginning, thence north to the point of beginning. (Malibu Beach USGS 7.5 Quad 1981).



CA-17 MALIBU LAGOON

CA-18. Mission Beach and Bay, San Diego County (Index Map 4)

Unit 1—Fiesta Island

Beginning at 32°46'07" N, 117°14'34" W, thence south to MLW, thence southerly and northerly following MLW to a point directly south of 32°45'34" N, 117°14'50" W, thence north to said point, thence northwesterly to 32°45'52" N, 117°14'58" W, thence northeasterly to 32°46'16" N, 117°14'55" W, thence

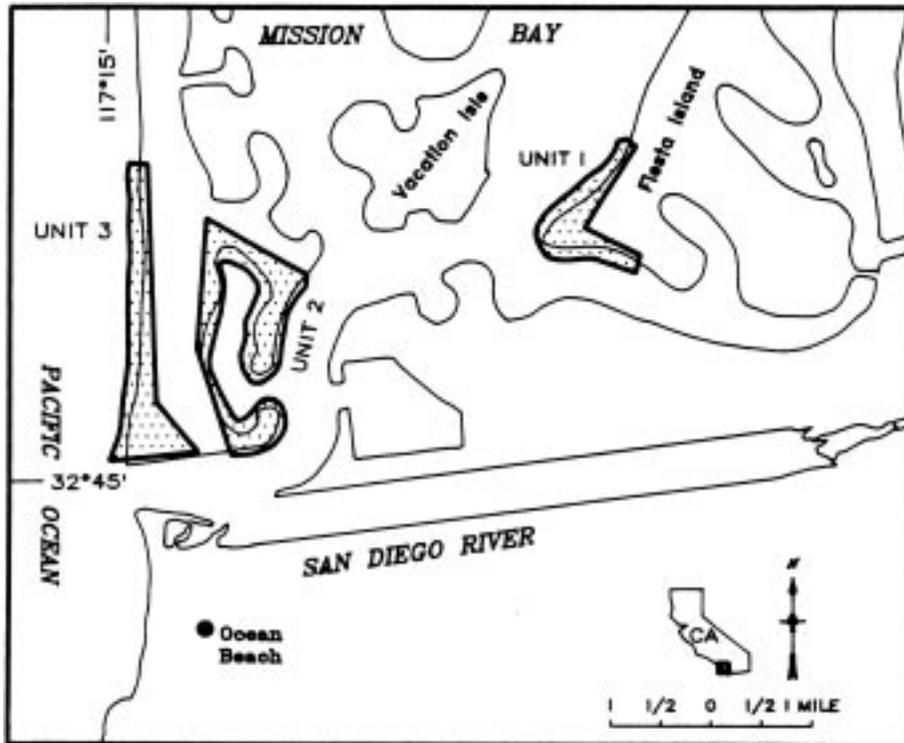
southeasterly to the point of beginning. (La Jolla USGS 7.5" Quad 1975).

Unit 2—Mariner's Basin

Beginning at 32°46'31" N, 117°13'25" W, thence southeasterly to 32°46'30" N, 117°13'23" W, thence southwesterly to 32°46'15" N, 117°13'34" W, thence southeasterly to 32°46'10" N, 117°13'23" W, thence south to MLW, thence westerly and northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (La Jolla USGS 7.5" Quad 1975).

Unit 3—Mission Beach

Beginning at 32°46'26" N, 117°15'08" W, thence southerly to 32°46'02" N, 117°15'06" W, thence southerly to 32°45'43" N, 117°15'05" W, thence southeasterly to 32°45'34" N, 117°14'57" W, which is on the north jetty to Mission Bay, thence westerly following the north side of the jetty to MLW, thence northerly following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (La Jolla USGS 7.5" Quad 1975).

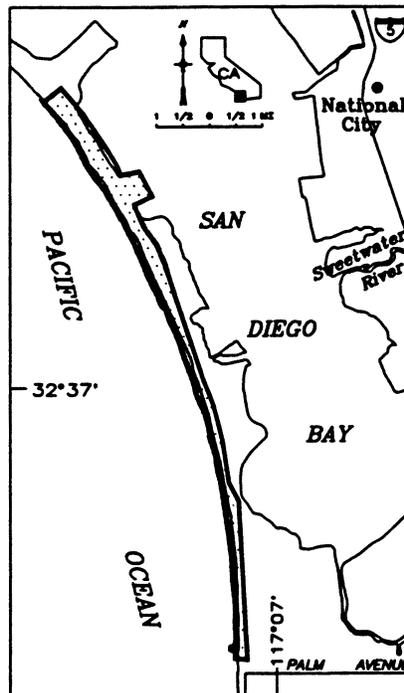


CA-18 MISSION BEACH AND BAY UNITS 1-3

CA-19. South San Diego Coast Beaches, San Diego County (Index Map 4)

Unit 1—Silver Strand/Delta Beach

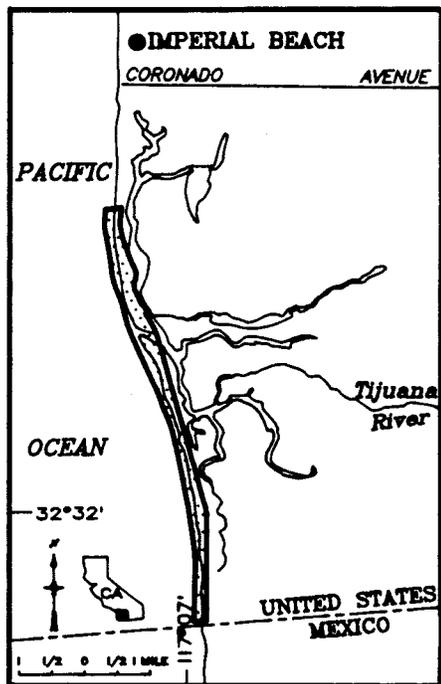
Beginning at $32^{\circ}40'08''$ N, $117^{\circ}09'54''$ W, thence northeasterly to the west side of the San Diego and Arizona Eastern Railroad tracks, thence southeasterly to $32^{\circ}40'07''$ N, $117^{\circ}09'42''$ W, thence east to MLW, thence southeasterly following MLW to a point directly north of $32^{\circ}39'27''$ N, $117^{\circ}09'10''$ W, thence south to said point, thence northeasterly to $32^{\circ}39'30''$ N, $117^{\circ}08'57''$ W, thence southeasterly to $32^{\circ}39'16''$ N, $117^{\circ}08'48''$ W, thence southwesterly to $32^{\circ}39'11''$ N, $117^{\circ}09'00''$ W, thence southeasterly following the west side of the San Diego and Arizona Eastern Railroad tracks and the west side of Silver Strand Boulevard to $32^{\circ}36'43''$ N, $117^{\circ}08'02''$ W, thence southeasterly to $32^{\circ}36'32''$ N, $117^{\circ}07'55''$ W, thence southerly to $32^{\circ}35'09''$ N, $117^{\circ}07'51''$ W, thence west to MLW, thence north following MLW to a point directly west of the point of beginning, thence east to the point of beginning. (Point Loma and Imperial Beach, Calif.—Baja Calif. Norte USGS 7.5" Quads 1975).

CA-19 SOUTH SAN DIEGO COAST BEACHES
UNIT 1—SILVER STRAND/DELTA BEACH

Unit 2—Tijuana River Beach

Beginning at $32^{\circ}34'01''$ N, $117^{\circ}07'53''$ W, thence southerly following the unimproved road to $32^{\circ}33'44''$ N, $117^{\circ}07'49''$ W, thence east to the HWL of Oneonta Slough, thence south

following the HWL of said slough to $32^{\circ}33'26''$ N, $117^{\circ}07'40''$ W, which is at the mouth of Tijuana River, thence southeasterly crossing said river to $32^{\circ}32'36''$ N, $117^{\circ}07'24''$ W, thence south to $32^{\circ}32'04''$ N, $117^{\circ}07'24''$ W, thence west to MLW, thence northerly following MLW, but excluding the mouth of Tijuana River, to a point directly west of the point of beginning, thence east to the point of beginning. Excludes all our property. (Imperial Beach, Calif.—Baja Calif. Norte USGS 7.5" Quad 1975).



Dated: November 24, 1999.
Donald J. Barry,
*Assistant Secretary for Fish and Wildlife and
Parks.*
[FR Doc. 99-31357 Filed 12-1-99; 8:45 am]
BILLING CODE 4310-55-P

CA-19 SOUTH SAN DIEGO COAST BEACHES
UNIT 2- TIJUANA RIVER BEACH