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50 CFR Part 17

**Endangered and Threatened Wildlife and
Plants; Designation of Critical Habitat for
the Peninsular Ranges Population of
Desert Bighorn Sheep (*Ovis canadensis
nelsoni*); Proposed Rule**

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[FWS-R8-ES-2008-0005; 92210-1117-0000-B4]

RIN 1018-AV09

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Peninsular Ranges Population of Desert Bighorn Sheep (*Ovis canadensis nelsoni*)**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule; reopening of comment period, revised proposed critical habitat, notice of availability of draft economic analysis, notice of public hearings, and amended required determinations.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period and the scheduling of public hearings on our October 10, 2007, proposed revision to critical habitat for the Peninsular bighorn sheep (*Ovis canadensis nelsoni*) under the Endangered Species Act of 1973, as amended (Act). In this document, we propose to add approximately 36,240 acres (ac) (14,667 hectares (ha)) to our proposed revision of critical habitat. We also announce the availability of the draft economic analysis (DEA) of the proposed revision to critical habitat and amended required determinations. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed revisions to critical habitat, the associated DEA, and the amended required determinations section. Please do not resend comments that you submitted on the October 10, 2007, proposed rule. We considered those comments in our revisions to the proposed critical habitat that are set forth in this supplemental proposed rule. Comments previously submitted are included in the public record for this rulemaking.

DATES: *Written Comments:* We will accept comments received or postmarked on or before October 27, 2008. Any comments received after the closing date may not be considered in the final designation of critical habitat.

Public Hearings: The public hearings will take place on September 10, 2008 from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. at The Living Desert, 47-900 Portola Ave., Palm Desert, California.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018-AV07, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011; telephone 760/431-9440; facsimile 760/431-5901. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:**Public Comments**

We will accept written comments and information during this reopened comment period on our proposed revision to critical habitat for the Peninsular Ranges population of desert bighorn sheep published in the **Federal Register** on October 10, 2007 (72 FR 57740), the proposed revisions to the October 2007 proposed rule outlined in this notice, the DEA of the proposed revised designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why habitat should or should not be designated as critical habitat under section 4 of the Act (16 U.S.C. 1531 *et seq.*), specifically the benefits of excluding or the benefits of including any particular area as critical habitat.

(2) Specific information on:

- The amount and distribution of habitat for Peninsular bighorn sheep,
- What areas occupied by the Peninsular bighorn sheep at the time of listing that contain features essential for the conservation of the Peninsular bighorn sheep we should include in the designation and why, and

- What areas not occupied by the Peninsular bighorn sheep at the time of listing are essential to the conservation of the Peninsular bighorn sheep and why.

(3) Specific information on dispersal areas important for habitat connectivity, the role of such areas in the conservation and recovery of the Peninsular bighorn sheep, and why such areas should or should not be included in the critical habitat designation.

(4) Our proposed revision of criteria used to identify critical habitat, our addition of 36,240 ac (14,667 ha) to proposed critical habitat, and removal of 163 ac (66 ha) from proposed critical habitat as described in this notice (see Changes to Proposed Critical Habitat section below).

(5) Our proposed exclusion of approximately 4,790 ac (1,938 ha) of Peninsular bighorn sheep habitat located on the Agua Caliente Band of Cahuilla Indian's tribal lands in consideration of Secretarial Order 3206, "American Indian Tribal Rights, Federal Tribal Trust Responsibilities, and the Endangered Species Act" (June 5, 1997); the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951); Executive Order 13175; and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2), which are also covered under the Tribe's draft Habitat Conservation Plan (Tribal HCP). Additionally, we are interested in comments related to whether the benefits of excluding these areas would outweigh the benefits of including these areas under section 4(b)(2) of the Act (see the Areas Considered for Exclusion Under Section 4(b)(2) of the Act section of the October 10, 2007, proposed rule (72 FR 57740) and the Changes to Areas Considered for Exclusion section of this document for a detailed discussion).

(6) Our consideration of excluding approximately 18,801 ac (7,609 ha) of private land and permittee-owned land in Peninsular bighorn sheep habitat covered under the draft Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) and whether the benefits of excluding these areas would outweigh the benefits of including these areas as critical habitat under section 4(b)(2) of the Act (see the Areas Considered for Exclusion Under Section 4(b)(2) of the Act section of the October 10, 2007, proposed rule (72 FR 57740) and the Changes to Areas Considered for Exclusion section of this document for a detailed discussion).

(7) Any areas included in the proposed revision of critical habitat that are covered by existing or proposed conservation or management plans that we should consider for exclusion from the revised final designation under

section 4(b)(2) of the Act. We specifically request information on any operative or draft Habitat Conservation Plans (HCP) for the Peninsular bighorn sheep that have been prepared under section 10(a)(1)(B) of the Act, as well as any other management plan, conservation plan, or agreement that benefits the Peninsular bighorn sheep or the essential physical and biological features of its habitat.

(8) Specific information regarding the current status of plan implementation for the draft Tribal HCP and the draft CVMShCP.

(9) Land use designations and current or planned activities in the subject areas, and their possible impacts on proposed revised critical habitat.

(10) Information on the extent to which any Federal, State, and local environmental protection measures we reference in the DEA may have been adopted largely as a result of listing the Peninsular bighorn sheep under the Act.

(11) Information on whether the DEA identifies all Federal, State, and local costs and benefits attributable to the proposed revision of critical habitat, and information on any costs or benefits that we may have overlooked.

(12) Information on whether the DEA makes appropriate assumptions regarding current practices and any regulatory changes that likely may occur if we designate revised critical habitat.

(13) Information on whether the DEA correctly assesses the effect on regional costs associated with any land use controls that may result from the revised designation of critical habitat.

(14) Information on areas that the revised critical habitat designation could potentially impact to a disproportionate degree.

(15) Any foreseeable economic, national security, or other relevant impacts resulting from the proposed revised designation and, in particular, any impacts on small entities, and information on the benefits of including or excluding areas that exhibit these impacts.

(16) Information on whether the DEA appropriately identifies all costs that could result from the proposed revised designation.

(17) Whether the categorization of estimated economic impacts into pre-designation and post-designation baseline economic impacts and incremental impacts is accurate.

(18) Information on any quantifiable economic benefits of the revised designation of critical habitat.

(19) Whether the benefits of excluding any particular area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(20) Economic data on the incremental costs of designating any particular area as revised critical habitat.

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

If you submitted comments or information on the October 10, 2007, proposed rule (72 FR 57740) during the initial comment period from October 10 to December 10, 2007, please do not resubmit them. Comments previously submitted are included in the public record and we will fully consider them in preparation of our final determination. Our final determination concerning revised critical habitat for the Peninsular bighorn sheep will take into consideration all written comments we receive, oral or written comments we receive at the public hearing on September 10, 2008, and any additional information we receive during all comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas within those proposed do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas are appropriate for exclusion under section 4(b)(2) of the Act.

You may submit your comments and materials concerning our proposed rule, amended required determinations, and DEA by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** sections.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

You may obtain copies of the proposed rule to revise critical habitat and the DEA on the Internet at <http://www.regulations.gov>, or by mail from the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On February 1, 2001, we designated approximately 844,897 ac (341,919 ha) of land in Riverside, San Diego, and Imperial counties, California, as critical habitat for the Peninsular Ranges Population of bighorn sheep (66 FR 8649; February 1, 2001). On March 7, 2005, the Agua Caliente Band of Cahuilla Indians filed a complaint against the Service alleging that the economic analysis developed for our 2001 designation used a methodology similar to that ruled to be insufficient by the Tenth Circuit Court in *New Mexico Cattle Growers Association v. U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001). Other parties subsequently intervened as plaintiffs in the case. A July 31, 2006, court-approved consent decree enacted a limited partial vacature of Tribal, mining, and Desert Riders lands (29,925 ac (12,110 ha)) and remanded the critical habitat designation back to the Service for new rulemaking. On October 10, 2007, we published a proposed rule to revise critical habitat for the Peninsular bighorn sheep (72 FR 57740), identifying approximately 384,410 ac (155,564 ha) in Riverside, San Diego, and Imperial counties, California, that meet the definition of critical habitat for the Peninsular bighorn sheep. Of this, we proposed to exclude approximately 4,512 ac (1,826 ha) of Tribal land covered by the draft Tribal HCP and announced that we would evaluate and consider the possible exclusion of approximately 19,211 ac (7,774 ha) of private land covered under the draft CVMShCP from the final designation under section 4(b)(2) of the Act (see the Areas Considered for Exclusion Under Section 4(b)(2) of the Act section of the October 10, 2007, proposed rule (72 FR 57740) for a detailed discussion).

In the 1998 final listing rule, Peninsular bighorn sheep were listed as a distinct population segment (DPS) of the species *Ovis canadensis*. As stated in the October 10, 2007, proposed rule, we are formally proposing a taxonomic revision to amend the final listing rule from a DPS of the species *Ovis canadensis*, to a DPS of the subspecies *Ovis canadensis nelsoni*, which is the currently accepted taxonomy. Within this document we will refer to the listed entity as a distinct population segment (DPS) of desert bighorn sheep (*Ovis canadensis nelsoni*), not as a subspecies

as we did in the October 10, 2007, proposed rule. This DPS occupies the Peninsular Ranges of southern California, previously identified at the time of listing as the Peninsular Ranges population of bighorn sheep. The taxonomic revision does not materially affect discreteness and significance of Peninsular bighorn sheep as a DPS entity. For a detailed discussion of the DPS analysis for Peninsular bighorn sheep, see the Distinct Vertebrate Population Segment section of the 1998 final listing rule (63 FR 13134).

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Under section 4(b)(2) of the Act, we may exclude an area from critical habitat if we determine that the benefits of such exclusion outweigh the benefits of including that particular area as critical habitat, unless failure to designate that specific area as critical habitat will result in the extinction of the species. In making a decision to exclude areas, we consider the economic impacts, national security, or any other relevant impacts of the designation.

Changes to Proposed Revised Critical Habitat

Criteria Used To Identify Critical Habitat

In this document, we are advising the public of revisions we made to the criteria used to identify critical habitat (as described in the October 10, 2007, proposed rule (72 FR 57740)). During the first comment period for the proposed rule, we received significant comments from the public, including biologists familiar with Peninsular bighorn sheep, which led us to reevaluate and revise the criteria used to identify critical habitat. The major

change to our criteria is the consideration of a larger data set dating back another 10 years from 1998 to 1988, thereby incorporating data for the average lifespan of any Peninsular bighorn sheep alive at the time of listing. Below, we present our revised “Criteria Used To Identify Critical Habitat” section, which replaces the “Criteria Used To Identify Critical Habitat” section provided in the October 10, 2007, proposed rule.

All proposed revised critical habitat is within areas that we have determined were occupied at the time of listing, and that contain the physical and biological features essential to the conservation of the DPS. Lands were proposed for designation based on sufficient essential features being present to support the life processes.

We used the following data to delineate proposed revised critical habitat: (1) Areas with occupancy data indicating they are currently occupied or areas with occupancy data indicating they have been occupied at some point between 2008 (present time) and 1988 (i.e., the time of listing (1998) less 10 years, which is the average lifespan of Peninsular bighorn sheep); (2) areas within the ewe group distribution (i.e., subpopulations) boundaries identified by Rubin *et al.* (1998); (3) areas where occupancy data points indicate repeated Peninsular bighorn sheep use, but which were not captured within the ewe group distribution boundaries identified by Rubin *et al.* (1998); and (4) areas that contain the essential physical and biological features required by the DPS as determined from aerial imagery and Geographic Information System (GIS) data on vegetation, elevation, and slope. We also gathered information from our files, staff biologists, the California Department of Fish and Game, the Bighorn Institute, and known bighorn sheep experts. Our proposed revision to critical habitat is designed to capture ewe groups; lambing areas; foraging areas, including alluvial fans; water sources; ram movement; and areas used for associated herd (i.e., male, female, and young) movements and migrations.

We delineated the proposed revised critical habitat boundaries using the following steps:

(1) As a first step in the delineation process, we mapped ewe group areas from Rubin *et al.* (1998) over GIS imagery of the Peninsular Ranges to delineate the distribution of ewe groups in the proposed revised critical habitat. We consider Rubin *et al.* (1998) to be the best available data on Peninsular bighorn sheep ewe group distribution. The ewe group delineations presented in Rubin *et al.* (1998) were based on

data collected during 1993 to 1996, when the population of Peninsular bighorn sheep was at its smallest known size. Therefore, the ewe group delineations present a minimum distribution of bighorn sheep in the Peninsular Ranges. However, this is the only data we are aware of that identifies the distribution of ewe groups and subgroups within the Peninsular Ranges. Furthermore, we believe that the ewe groups presented in Rubin *et al.* (1998) accurately depict the general locations of the known ewe groups in these ranges and provide a logical starting point for the delineation of critical habitat.

(2) We compared the ewe group delineation from Rubin *et al.* (1998, pp. 539–561) with all occupancy data collected since 1988 on GIS imagery maps to: (1) Ensure that Rubin *et al.* (1998, pp. 539–561) accurately represents the boundaries of the ewe groups at larger population levels; (2) capture possible ram movement; and (3) capture other areas used by sheep in recent years. Subsequently, we expanded the delineated ewe group areas to include areas where occupancy data points indicate repeated Peninsular bighorn sheep use and sheep movements (pre- and post-Rubin *et al.* 1998, pp. 539–561), and to include areas that contain the primary constituent elements (PCEs) for Peninsular bighorn sheep. We delineated the critical habitat boundaries at these locations to capture the majority of occurrence points while still following the boundaries of the essential features, such as elevations below 4,600 feet (ft) (1,400 meters (m)) (PCE 1), areas with 30 percent canopy cover or less (PCE 1), escape terrain (PCE 3), slopes of 20 percent or greater (PCE 1), alluvial fans (PCE 4), washes (PCE 4), and water sources (PCE 5) immediately adjacent to the identified ewe groups. When it was not possible to follow boundaries of the essential features, we delineated the border around occurrence points to follow natural breaks in the terrain such as ridgelines, canyon bottoms, and toe of slope.

Specifically, we expanded the area representing the northernmost ewe group delineation (i.e., San Jacinto Mountains) to include the area north of Chino Canyon where (1) we have evidence of recent ewe and ram movements; and (2) the Bighorn Institute has released, and continues to release, captive-born sheep to help recover this DPS. We also expanded the area representing the southernmost ewe group delineation (i.e., Carizzo Canyon area) to the southeast to capture water sources (PCE 5), including habitat near

the Interstate 8-State Route 98 split south to the U.S.-Mexico border where there are consistent, recent sightings of uncollared Peninsular bighorn sheep. Finally, we expanded ewe group delineations to include areas of occupied habitat between the ewe groups in the Santa Rosa Mountains continuing south along the Peninsular Ranges to the Vallecito Mountains ewe group. Use of these areas is consistent with the Rubin *et al.* (1998, pp. 539–561) demographic study, which indicated possible connectivity between ewe groups through this area.

(3) We then examined all pre-listing occurrence data in our files to determine if our revised critical habitat missed any areas of historical repeated Peninsular bighorn sheep use. We identified an area of historical repeated use that was occupied at the time of listing between two ewe subgroups documented in Rubin *et al.* (1998, pp. 539–561) as (1) Santa Rosa Mountains east of State Route 74 (Martinez Canyon); and (2) Santa Rosa Mountains east of State Route 74 (south)). Use of this area is consistent with the Rubin *et al.* (1998, pp. 539–561) demographic study, which indicated possible connectivity between these subgroups through this area. This area is important in light of genetic findings by Boyce *et al.* (1999, pp. 99–106) that indicate ewe groups within these ranges maintain genetic connectivity, probably through male-mediated nuclear gene flow. Based on the importance of this area for connectivity between subgroups, we expanded the proposed revised critical habitat boundaries to include areas where occupancy data points indicate historically occupied habitat. Since the number of occurrence data points in historically occupied areas is relatively small, we delineated the unit boundaries in these areas to follow the boundaries of the essential features, such as elevations below 4,600 ft (1,400 m) (PCE 1), areas with 30 percent canopy cover or less (PCE 1), escape terrain (PCE 3), alluvial fans (PCE 4), washes (PCE 4), and water sources (PCE 5) immediately adjacent to the identified ewe groups.

(4) As a final step in refining our delineation, we closely examined our revised units to ensure they capture all of the features essential to the conservation of the DPS. Where appropriate, we expanded the boundaries to capture the extent of an alluvial fan or water source (PCE 4 or 5, respectively). We also removed areas that we determined do not contain essential features or otherwise do not contain suitable Peninsular bighorn sheep habitat, such as areas above 4,600

ft (1,400 m) elevation (PCE 1), areas containing conifer woodland with canopy cover greater than 30 percent (PCE 1), and slopes less than 20 percent (PCE 1), unless those areas overlapped specifically with Rubin *et al.*'s (1998, pp. 539–561) ewe group distributions and had documented use by Peninsular bighorn sheep as evidenced by occurrence data.

When determining the proposed revisions to critical habitat boundaries within this revised proposed rule, we made every effort to avoid including developed areas such lands covered by buildings, pavement, and other structures because such lands lack essential features for the Peninsular bighorn sheep. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed revision to critical habitat have been excluded by text in the revised proposed rule and are not proposed for designation as revised critical habitat. Therefore, once the critical habitat designation is finalized, Federal actions limited to these areas would not trigger section 7 consultation, unless they may affect the DPS or PCEs in adjacent critical habitat.

Areas Proposed as Critical Habitat

In this document, we are proposing additional revisions to the area of critical habitat described in the October 10, 2007, proposed rule (72 FR 57740). During the first comment period for the proposed rule, we received significant comments from the public, including biologists familiar with the Peninsular bighorn sheep, on areas essential to the conservation of the DPS that should be included in the designation. As a result of these comments, new information received, and a revision of our criteria used to identify critical habitat, we reevaluated the following areas: The eastern edge of the Santa Rosa Mountains; the San Ysidro, Pinyon, and Vallecito Mountains; and the Jacumba Mountains. Over 98 percent of these areas are currently designated as critical habitat for the Peninsular bighorn sheep (50 CFR 17.95(a)); however, we did not propose these areas as critical habitat in the October 10, 2007, proposed revision to critical habitat (72 FR 57740). Below, we describe each area we reevaluated, explain why we did not include the area in the 2007 proposed rule, and explain why we are now proposing the area for inclusion in the revised designation of critical habitat.

Eastern Edge of the Santa Rosa Mountains

The eastern edge of the Santa Rosa Mountains stretches along developed and agricultural areas of the Coachella Valley from Palm Desert southeast to the Salton Sea. Along this interface, sheep currently exist near areas of high human activity, and habitat is threatened by spreading development. Where occurrence data indicate repeated sheep use, we delineated proposed revised critical habitat along the eastern slope of the Santa Rosa Mountains, in some cases immediately adjacent to the edge of development and the existing critical habitat boundary (66 FR 8650, February 1, 2001). The eastern edge of the Santa Rosa Mountains contains low-elevation alluvial fan habitat that may be important to Peninsular bighorn sheep. Therefore, we included low-elevation alluvial fan habitat in the proposed revised designation in cases where occurrence data indicated sheep are using these areas. However, large expanses of currently designated critical habitat (2001) lack occurrence data to indicate sheep inhabit those areas, including some low-elevation alluvial habitat. As such, we did not include all currently designated critical habitat along the eastern edge of the Santa Rosa Mountains in the proposed revised critical habitat designation.

During the public comment period, a number of comments we received from biologists familiar with the Peninsular bighorn sheep provided additional information regarding the importance of low-elevation and alluvial fan habitat along the eastern edge of the Santa Rosa Mountains. We also received a limited amount of recently collected occurrence data in the wash areas along the eastern edge of the south Santa Rosa Mountains. In light of these comments and the revision of our criteria used to identify critical habitat to include occurrence data since 1988, we reevaluated and revised our proposed revised critical habitat boundary along the eastern edge of the Santa Rosa Mountains. We agree that low-elevation habitat is important for Peninsular bighorn sheep, and where occurrence data indicated sheep use, we revised our proposed revision of critical habitat to include four additional areas along the eastern edge of the Santa Rosa Mountains. These areas include approximately 32 ac (13 ha) in two parcels along the urban interface between the cities of Cathedral City and Palm Desert in Unit 2A; 3,009 ac (1,218 ha) on and around Indio Mountain in Unit 2A; and 7,477 ac (3,026 ha) of low-elevation and wash habitat to the east of the southernmost portion of the Santa

Rosa Mountains in Unit 2B.

Approximately 99 percent of these areas are currently designated as critical habitat (66 FR 8650; February 1, 2001). An approximately 77 ac (31 ha) parcel and a 3 ac (1 ha) parcel located out of Palm Desert are outside of the area currently designated as critical habitat.

San Ysidro, Pinyon, and Vallecito Mountains

The San Ysidro, Pinyon, and Vallecito Mountains roughly comprise the middle portion of the Peninsular bighorn sheep range in the United States. We included the majority of these mountains in the October 2007 proposed rule to revise critical habitat (72 FR 57740). However, although the areas were included in the existing critical habitat designation, we did not include some extreme western portions of the San Ysidro and Pinyon Mountains and the northeastern edge of the Vallecito Mountains in the proposed rule to revise critical habitat because we did not have occurrence data indicating repeated sheep use in these areas.

During the public comment period, we received comments from several biologists who are currently studying the Peninsular bighorn sheep indicating that we did not consider a number of areas along the western San Ysidro and Pinyon Mountains and the northeastern edge of the Vallecito Mountains that are known to be occupied. The commenters indicated the Service was provided occurrence data that indicated occupancy of these areas by bighorn sheep prior to publication of the October 10, 2007, proposed rule (72 FR 57740). Upon receiving these comments, we examined the occurrence data used to delineate the proposed revised critical habitat boundary and found that a set of data was missing from our GIS database. We have since included that occurrence data into our GIS database. In light of this data and our revised criteria used to identify critical habitat to include data since 1988, we have reevaluated the western San Ysidro and Pinyon Mountains and the northeastern edge of the Vallecito Mountains.

Because of occurrence data indicating repeated sheep use in these areas, we are proposing to include approximately 6,503 ac (2,632 ha) in five areas along the western San Ysidro Mountains, 5,176 ac (2,095 ha) in the western Pinyon Mountains, and 2,751 ac (1,113 ha) along the northeastern edge of the Vallecito Mountains (all in Unit 2B) in the revision to critical habitat for the Peninsular bighorn sheep.

Approximately 97 percent of these areas are currently designated as critical habitat (see 66 FR 8650, February 1, 2001). An approximately 53 ac (21 ha) parcel located near Parks Canyon and an approximately 360 ac (146 ha) parcel located in the San Ysidro Mountains west of Borrego Springs, are outside of the area currently designated as critical habitat.

Jacumba Mountains

The Jacumba Mountains represent the southernmost portion of the Peninsular Ranges in the United States, and the southernmost extent of the Peninsular bighorn sheep's extant range in the United States. Part of the Jacumba Mountains were included in the 2007 proposed revised designation, including an area known as the Interstate 8 "Island" where there had been a number of recent sheep sightings. However, we had limited data at the time of the proposed critical habitat rule indicating occupancy or sheep use in the rest of the southeast Jacumba Mountains and the rugged terrain extending east and south to the United States-Mexico border. As a result, we included a small amount of the currently designated critical habitat just north of the United States-Mexico border in Imperial County in the October 10, 2007, proposed revision to critical habitat (72 FR 57740).

Since the proposed revised critical habitat was published, there have been additional sightings and reports of sheep activity around and within the Interstate 8 "Island," including suitable habitat areas that extend south to the United States-Mexico border. Data

recently collected by Service biologists and other biologists familiar with the DPS include actual sightings of multiple sheep and reports of sheep scat and tracks throughout the area, indicating that this area is currently occupied by a group of Peninsular bighorn sheep. This area exhibits rugged habitat that contains the features essential for Peninsular bighorn sheep conservation and is continuous with habitat in Mexico. The Jacumba Mountains represent the only area of habitat connecting the DPS listed in the United States with other bighorn sheep populations that occupy the Peninsular Ranges in Mexico. Because of recent occurrence data and to be consistent with the delineation process we have used to include areas of repeated sheep use in critical habitat, we are proposing to include approximately 11,292 ac (4,570 ha) of habitat in the Jacumba Mountains in the revision to critical habitat for the Peninsular bighorn sheep. This area is currently designated as critical habitat (66 FR 8650; February 1, 2001).

In total, we are adding approximately 36,240 ac (14,667 ha) of private, Federal, and State land to the October 10, 2007, proposed revision to critical habitat (72 FR 57740) for the Peninsular bighorn sheep (Table 1).

Areas Removed From Proposed Critical Habitat

While reevaluating the boundaries of the proposed revised critical habitat as described above, we noticed three areas that did not accurately follow the boundaries of the essential features and do not contain suitable habitat. These areas consist of high-elevation habitat above 4,600 ft (1,400 m) and do not meet our criteria used to delineate critical habitat. We are removing approximately 66 ac (28 ha) in proposed Unit 1 and two parcels totaling approximately 97 ac (39 ha) in proposed Unit 2B from the October 10, 2007, proposed revision to critical habitat (72 FR 57740) for the Peninsular bighorn sheep (Table 1).

TABLE 1—LAND OWNERSHIP, AREAS PROPOSED AS REVISED CRITICAL HABITAT IN THE OCTOBER 10, 2007, PROPOSED RULE (72 FR 57740), ADDITIONAL AREAS PROPOSED IN THIS DOCUMENT, AND AREAS REMOVED FROM PROPOSED CRITICAL HABITAT. AREAS ARE PROVIDED IN ACRES (HECTARES)

[Area estimates reflect all land within revised proposed critical habitat unit boundaries]

Critical habitat unit	Land ownership	Proposed revised critical habitat (72 FR 57740) ¹⁰	Additions to proposed revised critical habitat	Areas removed from proposed revised critical habitat	New acreage
1. San Jacinto Mts	Tribal ¹	4,323 (1,749)	.....	.....	.....
	BLM ²	3,135 (1,269)	.....	.....	.....
	USFS ³	1,237 (501)	.....	66 (27)	.....
	State ⁴	276 (112)	.....	.....	.....

TABLE 1—LAND OWNERSHIP, AREAS PROPOSED AS REVISED CRITICAL HABITAT IN THE OCTOBER 10, 2007, PROPOSED RULE (72 FR 57740), ADDITIONAL AREAS PROPOSED IN THIS DOCUMENT, AND AREAS REMOVED FROM PROPOSED CRITICAL HABITAT. AREAS ARE PROVIDED IN ACRES (HECTARES)—Continued

[Area estimates reflect all land within revised proposed critical habitat unit boundaries]

Critical habitat unit	Land ownership	Proposed revised critical habitat (72 FR 57740) ¹⁰	Additions to proposed revised critical habitat	Areas removed from proposed revised critical habitat	New acreage
	Private ⁵	6,302 (2,550)	.....	.....	.....
Subtotal .....	.....	15,273 (6,181)	0 (0)	66 (27)	15,207
2A. N. Santa Rosa Mts	BLM	44,485 (18,003)	613 (248)	.....	.....
	State ⁶	17,547 (7,101)	1,490 (603)	.....	.....
	Private ⁵	12,499 (5,058)	938 (380)	.....	.....
	Tribal ¹	467 (189)	.....	.....	.....
Subtotal .....	.....	74,998 (30,351)	3,041 (1,231)	0 (0)	78,039
2B. S. Santa Rosa Mts south to Vallecito Mts.	BLM	16,266 (6,583)	.....	.....	.....
	State ⁷	197,509 (79,929)	19,794 (8,011)	97 (39)	.....
	Private	12,436 (5,033)	2,113 (855)	.....	.....
Subtotal .....	.....	226,211 (91,545)	21,907 (8,866)	97 (39)	248,021 (100,371)
3. Carrizo Canyon	BLM	27,762 (11,235)	9,985 (4,041)	.....	.....
	State ⁸	35,475 (14,356)	58 (23)	.....	.....
	Private	4,177 (1,690)	1,249 (505)	.....	.....
	Local ⁹	514 (208)	.....	.....	.....
Subtotal .....	.....	67,928 (27,489)	11,292 (4,570)	0 (0)	79,220 (32,059)
Total .....	.....	384,410 (155,565)	36,240 (14,667)	163 (66)	420,487 (170,166)

¹ Tribal = Agua Caliente Band of Cahuilla Indians Reservation and Tribal Lands.

² BLM = Bureau of Land Management.

³ USFS = United States Forest Service.

⁴ State = Coachella Valley Mountains Conservancy (CVMC).

⁵ Private = Private and/or draft CVMSHCP permittee.

⁶ State = University of California Natural Reserve System, CVMC, Wildlife Conservation Board, and State undetermined.

⁷ State = California Department of Fish and Game, California State Lands Commission, and California Department of Parks and Recreation (CDPR).

⁸ State = CDPR.

⁹ Local = City/County Park.

¹⁰ Proposed critical habitat acreages for ownership types reported in this column do not match those reported in the October 10, 2007, proposed rule (72 FR 57740) as they have been revised to reflect updated ownership information obtained since the proposed rule published.

Changes to Areas Currently Being Considered for Exclusion

We are revising the areas currently considered for exclusion based on ownership data that has been updated since the publication of the proposed rule (Table 1). Based on the ownership updates, there are approximately 4,323 ac (1,749 ha) of Tribal Lands of the Agua Caliente Band of Cahuilla Indians (Tribal land) within Unit 1 and 467 ac (189 ha) in Unit 2A. We are now proposing to exclude from the final designation of critical habitat a total of approximately 4,790 ac (1,938 ha) of Tribal land in consideration of Secretarial Order 3206, "American Indian Tribal Rights, Federal Tribal Trust Responsibilities, and the Endangered Species Act" (June 5, 1997); the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951); Executive

Order 13175; and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2). Based on ownership updates and additions to the proposed revised critical habitat described in this document, there are approximately 6,302 ac (2,550 ha) of private and draft CVMSHCP permittee-owned land in Unit 1 and 12,499 ac (5,058 ha) in Unit 2A. We are now evaluating and considering the possible exclusion from the final revised critical habitat designation approximately 18,801 ac (7,609 ha) of private and draft CVMSHCP permittee-owned lands covered by the draft CVMSHCP under section 4(b)(2) of the Act. Aside from these revisions, the remainder of the exclusion discussion presented in the proposed revised rule remains unchanged. The DEA was prepared prior to identification of the specific acreage revisions that resulted from

updated land ownership information obtained since the proposed rule published (see Table 1, footnote 10 above). Specifically, the DEA acknowledges Tribal lands are located in subunit 2A, as reported above in Table 1, however at the time of the preparation of the DEA the exact location of those lands was not known (page 2–6, footnote 36 of the DEA). Ownership information will be updated in the final economic analysis.

Revised Unit Descriptions

Below we present revised unit descriptions for Peninsular bighorn sheep critical habitat units 1, 2A, 2B, and 3, which replace the descriptions for these units presented in the October 10, 2007, proposed rule (72 FR 57740).

Unit 1: San Jacinto Mountains

Unit 1 consists of approximately 15,207 ac (6,154 ha) in the San Jacinto

Mountains, Riverside County. Unit 1 is generally located within an area bounded on the east by the city of Palm Springs, bounded on the north by Windy Point and Snow Canyon, and extends south to the northern Palm Canyon area. Land ownership within the unit includes approximately 4,323 ac (1,749 ha) of Tribal land; 3,135 ac (1,269 ha) of BLM land; 1,171 ac (474 ha) of USFS land; and 6,302 ac (2,550 ha) of private and draft CVMSHCP permittee-owned land (Table 1).

Unit 1 begins at a low elevation of about 450 ft (137 m) on the eastern slope and rises to about 4,600 ft (1,400 m) to the west. It is the northernmost unit proposed as revised critical habitat for the Peninsular bighorn sheep. This unit was occupied at the time of listing and is currently occupied. This unit contains features that are essential to the conservation of the Peninsular bighorn sheep including a range of vegetation types (PCE 2), foraging and watering areas including alluvial fans (PCE 4 and 5), and steep to very steep, rocky terrain with elevations and slopes that provide for sheltering, lambing, mating, movement among and between ewe groups (PCE 1), and predator evasion (PCE 3).

The essential features in Unit 1 may require special management considerations or protection to ameliorate the threats of urban and industrial development (particularly in lower elevation areas) due to the proximity of this unit to the Palms Springs area, and to decrease the direct and indirect effects of human disturbance to the Peninsular bighorn sheep and its habitat. Please see the "Special Management Considerations or Protection" section of the proposed rule (72 FR 57740) for a detailed discussion of the threats to Peninsular bighorn sheep habitat and potential management considerations.

This unit includes approximately 4,323 ac (1,749 ha) of Tribal land meeting the definition of critical habitat for Peninsular bighorn sheep. We are proposing to exclude these lands from the final designation. The designation of critical habitat would be expected to adversely impact our working relationship with the Tribe, and we believe that Federal regulation through critical habitat designation would be viewed as an unwarranted and unwanted intrusion into tribal natural resource programs. Furthermore, the approximately 4,323 ac (1,749 ha) of Tribal land are currently managed in a manner that provides conservation benefits to the Peninsular bighorn sheep, and are also within the plan area of the draft Tribal HCP (see October 10,

2007, proposed rule (72 FR 57740), "Proposed Exclusion of Agua Caliente Band of Cahuilla Indians Tribal Lands Under Section 4(b)(2) of the Act" for a detailed discussion).

This unit also includes lands within the plan area for the draft CVMSHCP. We are considering whether to exclude approximately 6,302 ac (2,550 ha) of private and draft CVMSHCP land from the final critical habitat designation based, at least in part, on the benefits provided to the Peninsular bighorn sheep and its habitat by the CVMSHCP, which is in draft form and under review by the Service (see October 10, 2007, proposed rule (72 FR 57740), "Lands Covered by Management Plans—Exclusions Under Section 4(b)(2) of the Act" for a detailed discussion).

Unit 2A: North Santa Rosa Mountains

Unit 2A consists of approximately 78,039 ac (31,581 ha) in the northern Santa Rosa Mountains, Riverside County. Unit 2A is generally located on the east-facing slopes of the northern Santa Rosa Mountains, and extends from near the City of Rancho Mirage in the north to Martinez Canyon in the south, limited to the east by the communities of the northern Coachella Valley. Land ownership within the unit includes approximately 43,872 ac (17,754 ha) of BLM land; 16,057 ac (6,498 ha) of land owned by the State of California; 467 ac (189 ha) of Tribal land; and 11,561 ac (4,679 ha) of private and draft CVMSHCP permittee-owned land (Table 1).

Unit 2A begins at a low elevation of about 50 ft (15 m) on the eastern slope and rises to about 4,600 ft (1,400 m) to the west. This unit was occupied at the time of listing and remains occupied. This unit contains features that are essential to the conservation of the Peninsular bighorn sheep including a range of vegetation types (PCE 2), foraging and watering areas including alluvial fans (PCE 4 and 5), and steep to very steep, rocky terrain with elevations and slopes that provide for sheltering, lambing, mating, movement among and between ewe groups (PCE 1), and predator evasion (PCE 3).

The essential features in Unit 2A may require special management considerations or protection to ameliorate the threats of urban, industrial, and agricultural development, and to decrease the direct and indirect effects of human disturbance to Peninsular bighorn sheep and its habitat, due to the proximity of this unit to the highly developed northern Coachella Valley. In particular, the essential features in this unit may require special management

considerations or protection to alleviate threats to Peninsular bighorn sheep and its habitat associated with roadways, such as State Route 74 that cuts through the midsection of this unit and may impede movement between ewe groups. Please see the "Special Management Considerations or Protection" section of the October 10, 2007, proposed rule (72 FR 57740) for a detailed discussion of the threats to Peninsular bighorn sheep habitat and potential management considerations.

This unit includes approximately 467 ac (189 ha) of Agua Caliente Band of Cahuilla Indians (Tribe) tribal lands meeting the definition of critical habitat for Peninsular bighorn sheep. We are proposing to exclude these lands from the final designation. As stated above under the description of Unit 1, the designation of critical habitat would be expected to adversely impact our working relationship with the Tribe, and we believe that Federal regulation through critical habitat designation would be viewed as an unwarranted and unwanted intrusion into tribal natural resource programs. Furthermore, these approximately 467 ac (189 ha) of Tribal land are currently managed by the Tribe in a manner that provides some conservation benefits to the Peninsular bighorn sheep, and are also within the plan area of the draft Tribal HCP (see October 10, 2007, proposed rule (72 FR 57740), "Proposed Exclusion of Agua Caliente Band of Cahuilla Indians Tribal Lands Under Section 4(b)(2) of the Act" for a detailed discussion).

This unit includes lands that are within the plan area for the draft CVMSHCP. We are considering the possible exclusion of approximately 11,561 ac (4,679 ha) of private and draft CVMSHCP permittee owned land in Unit 2A from the final critical habitat designation based on benefits provided to the Peninsular bighorn sheep and its habitat under this plan, which is in draft form and under review by the Service (see October 10, 2007, proposed rule (72 FR 57740), "Areas Considered for Exclusion Under Section 4(b)(2) of the Act" for a detailed discussion).

Unit 2B: South Santa Rosa Mountains South to Vallecito Mountains

Unit 2B consists of approximately 248,021 ac (100,371 ha) in the southern Santa Rosa Mountains, Coyote Canyon, San Ysidro Mountains, Pinyon Mountains, and Vallecito Mountains, in Riverside, San Diego, and Imperial counties. Unit 2B is generally located on the east-facing slopes of the above ranges, loosely bounded on the east by the Coachella Valley floor, and extends from the southern Santa Rosa

Mountains in the north to the Fish Creek Mountains in the south. Land ownership within the unit includes approximately 16,266 ac (6,583 ha) of BLM land; 217,206 ac (87,901 ha) of land owned by the State of California; and 14,549 ac (5,888 ha) of private land (Table 1). Portions of the Anza-Borrego Desert State Park occur within this unit.

Unit 2B begins at a low elevation of about 150 ft (45 m) on the eastern slope and rises to about 4,600 ft (1,400 m) to the west. This unit was occupied at the time of listing and remains occupied. This unit contains features that are essential to the conservation of the Peninsular bighorn sheep including a range of vegetation types (PCE 2), foraging and watering areas including alluvial fans (PCE 4 and 5), and steep to very steep, rocky terrain with elevations and slopes that provide for sheltering, lambing, mating, movement among and between ewe groups (PCE 1), and predator evasion (PCE 3).

The essential features in Unit 2B may require special management considerations or protection to (1) ameliorate threats of urban, industrial, and agricultural development due to the proximity of this unit to the Coachella Valley, especially the lower elevation areas in the northeastern portions of this unit; (2) decrease the direct and indirect effects of human disturbance to Peninsular bighorn sheep and its habitat due to recreational activity, since most of this unit includes lands within Anza-Borrego Desert State Park, which is open to recreational activities; (3) alleviate threats to Peninsular bighorn sheep and its habitat associated with State Route 78, which cuts through the southern portion of this unit and may impede movement between ewe groups; and (4) alleviate threats to Peninsular bighorn sheep and its habitat associated with mining operations at Fish Canyon Quarry and various mining claims in the unit. Please see the "Special Management Considerations or Protection" section of the October 10, 2007, proposed rule (72 FR 57740) for a detailed discussion of the threats to Peninsular bighorn sheep habitat and potential management considerations.

Unit 3: Carrizo Canyon

Unit 3 consists of approximately 79,220 ac (32,059 ha) in the Carrizo Canyon area of San Diego and Imperial counties, extending south to the U.S.-Mexico border. Unit 3 is generally located in Carrizo Canyon and the surrounding In-Ko-Pah Mountains, Jacumba Mountains, Coyote Mountains, and Tierra Blanca Mountains; it is loosely bounded on the north, east, and west by the Coachella Valley floor. Land

ownership within the unit includes approximately 37,747 ac (15,276 ha) of BLM land; 35,533 ac (14,380 ha) of land owned by the State of California; 5,426 ac (2,196 ha) of private land; and 514 ac (208 ha) of local park land (Table 1). Portions of the Anza-Borrego Desert State Park occur within this unit.

Unit 3 begins at a low elevation of about 400 ft (122 m) on the eastern slope and rises to about 4,600 ft (1,400 m) to the west. This unit was occupied at the time of listing and is currently occupied. This unit contains features that are essential to the conservation of the Peninsular bighorn sheep including a range of vegetation types (PCE 2), foraging and watering areas including alluvial fans (PCE 4 and 5), and steep to very steep, rocky terrain with elevations and slopes that provide for sheltering, lambing, mating, movement among and between ewe groups (PCE 1), and predator evasion (PCE 3).

The essential features in Unit 3 may require special management considerations or protection to decrease the direct and indirect effects of human disturbance associated with recreational activities on Peninsular bighorn sheep and its habitat. Most of this unit occurs within the Anza-Borrego Desert State Park, which is open to recreational activities. Additionally, the essential features in Unit 3 may require special management considerations or protection to protect Peninsular bighorn sheep habitat from mining operations at Ocotillo Mineral Material Site. Please see the "Special Management Considerations or Protection" section of the October 10, 2007, proposed rule (72 FR 57740) for a detailed discussion of the threats to Peninsular bighorn sheep habitat and potential management considerations.

Draft Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We have prepared a DEA of the proposed revised critical habitat designation based on the October 10, 2007, proposed rule to revise critical habitat for the Peninsular bighorn sheep (72 FR 57740) and the proposed changes herein. A final economic analysis will address all areas included in a revised final critical habitat designation.

The intent of the DEA is to quantify the baseline and incremental economic impacts of all potential conservation efforts for the Peninsular bighorn sheep.

Baseline impacts include the potential economic impacts of all actions relating to the conservation of the Peninsular bighorn sheep, including costs associated with sections 7, 9, and 10 of the Act. Baseline impacts also include the economic impacts of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation in the study area. Incremental impacts are those potential future economic impacts of conservation actions relating to the designation of critical habitat; these impacts would not be expected to occur without the designation of critical habitat. The DEA describes economic impacts of Peninsular bighorn sheep conservation efforts associated with the following categories of activity: (1) Habitat management; (2) development; (3) mining; (4) recreation; (5) transportation; and (6) utility construction.

Baseline economic impacts are those impacts that result from listing and other conservation efforts for the Peninsular bighorn sheep. Conservation efforts related to development activities constitute the majority of total baseline costs to areas proposed for critical habitat (more than 70 percent). Mining-related impacts comprise 20 percent of the impacts; these impacts result from potential conservation effort costs associated with mine operations. Recreation and habitat management related impacts comprise about 9 percent of the impacts. Post-designation baseline impacts are estimated to be approximately \$92.5 million in present value terms using a 3 percent discount rate (\$6.22 million annualized) over the next 20 years (2008 to 2027) in areas proposed as critical habitat (not including areas proposed or considered for exclusion under section 4(b)(2) of the Act). Stated in other terms, these post-designation baseline impacts are estimated to be approximately \$67.4 million (\$6.36 million annualized) in present value terms using a 7 percent discount rate.

Post-designation baseline impacts for areas proposed for exclusion were calculated separately from areas proposed as critical habitat. These impacts are related to continued habitat management practices within areas managed by the Agua Caliente Band of Cahuilla Indians Tribe and are estimated to be approximately \$499,000 (\$33,500 annualized) using a 3 percent discount rate. Stated in present value terms using a 7 percent discount rate, these impacts are estimated at \$369,000 (\$34,800 annualized). Additionally, post-designation baseline impacts for areas considered for exclusion were

calculated separately from areas proposed as critical habitat. These impacts are related to habitat management, development, and transportation, and are estimated to be approximately \$86.3 million (\$4.95 million annualized) using a 3 percent discount rate. Assuming a 7 percent discount rate, post-designation baseline impacts are estimated at \$59.7 million (\$5.15 million annualized).

The majority of incremental impacts attributed to the proposed revised critical habitat designation are expected to be related to habitat management conservation efforts. The DEA estimates potential incremental economic impacts in areas proposed as revised critical habitat over the next 20 years to be \$411,000 (\$27,600 annualized) assuming a 3 percent discount rate (not including areas proposed or considered for exclusion under section 4(b)(2) of the Act). Assuming a 7 percent discount rate, these impacts are estimated to be approximately \$306,000 (\$28,900 annualized).

Incremental impacts for areas proposed for exclusion (Tribal HCP) were calculated separately from other areas proposed as critical habitat. These impacts are related to habitat management and development and are estimated to be approximately \$11.3 million (\$758,000 annualized) assuming a 3 percent discount rate. Assuming a 7 percent discount rate, incremental impacts for areas proposed for exclusion are estimated at \$8.31 million (\$785,000 annualized). Additionally, incremental impacts for areas considered for exclusion (CVMSHCP) were also calculated separately from areas proposed as critical habitat. These impacts are related to forecast section 7 consultations and are estimated to be approximately \$8,850 (\$595 annualized) assuming a 3 percent discount rate. Assuming a 7 percent discount rate, incremental impacts for areas considered for exclusion are estimated at \$7,920 (\$747 annualized).

The economic analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the "opportunity costs" associated with the commitment of resources to comply with habitat protection measures (such as lost economic opportunities associated with restrictions on land use). The economic analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and

individuals. The analysis measures lost economic efficiency associated with residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. This information can be used by decision-makers to assess whether the effects of the revised designation might unduly burden a particular group or economic sector.

Finally, the economic analysis looks retrospectively at costs that have been incurred since the date we listed the Peninsular bighorn sheep as endangered (March 18, 1998; 63 FR 13134), and considers those costs that may occur in the years following the revised designation of critical habitat, with the timeframes for this analysis varying by activity. The baseline and incremental economic impacts of potential conservation efforts for the Peninsular bighorn sheep are associated with the following activities: (1) Habitat management; (2) development; (3) mining; (4) recreation; (5) transportation; and (6) utility construction.

As stated earlier, we are soliciting data and comments from the public on the DEA, as well as on all aspects of the proposed rule and our amended required determinations. The final designation may differ from the proposed rule based on new information we receive during the public comment periods. Our supporting record will reflect any new information used in making the final designation. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as revised critical habitat, provided such exclusion will not result in the extinction of the DPS.

Public Hearings

Section 4(b)(5)(E) of the Act requires a public hearing be held if any person requests it within 45 days of the publication of a proposed rule. In response to requests from the public, the Service will conduct public hearings for the critical habitat proposal on the date and at the address and times identified in the **DATES** and **ADDRESSES** sections above.

Persons wishing to make an oral statement for the record are encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal

consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Persons needing reasonable accommodations in order to attend and participate in the public hearings should contact Dixie Ward, Carlsbad Fish and Wildlife Office, at 760-431-9440 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding this notice is available in alternative formats upon request.

Required Determinations—Amended

In our October 10, 2007, proposed rule (72 FR 57740), we said that we would defer our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the DEA. We have now made use of the DEA to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 13132, E.O. 12988, the Paperwork Reduction Act, and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). However, based on the DEA data, we revise our required determinations concerning E.O. 12866 and the Regulatory Flexibility Act, E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act, and E.O. 12630 (Takings).

Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant and has not reviewed this proposed rule under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees,

loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)) (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Based on our DEA of the proposed revised designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the proposed revised designation of critical habitat for the Peninsular bighorn sheep would affect a substantial number of small entities, we

considered the number of affected small entities within particular types of economic activities, such as residential and commercial development. In order to determine whether it is appropriate for our agency to certify that this rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat affects activities conducted, funded, permitted, or authorized by Federal agencies.

If we finalize this proposed revised critical habitat designation, Federal agencies must consult with us under section 7 of the Act if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the DEA, we evaluated the potential economic effects on small business entities resulting from implementation of conservation actions related to the proposed revision to critical habitat for the Peninsular bighorn sheep. The DEA identifies the estimated incremental impacts associated with the proposed rulemaking as described in chapters 2 through 7, and evaluates the potential for economic impacts related to activity categories including species management, development, mining, recreation, transportation, and utilities construction and management. The DEA concludes that there are no incremental impacts resulting from this rulemaking that may be borne by small entities.

In summary, we have considered whether the proposed rule would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, this revised proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

Executive Order 13211—Energy Supply, Distribution, and Use

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB's guidance for

implementing this Executive Order outlines nine outcomes that may constitute "a significant adverse effect" when compared to no regulatory action. The DEA finds that none of these criteria are relevant to this analysis. However, the DEA identified San Diego Gas and Electric (SDG&E) as an entity involved in the production of energy. Although SDG&E is likely to incur incremental Peninsular bighorn sheep conservation costs related to their proposed Sunrise Powerlink project, these costs are not expected to rise to the level of a "significant adverse effect." Over the next 20 years, the Sunrise Powerlink project is forecast to incur total expenses of \$4,030, discounted at seven percent. These impacts are not sufficient to reduce electricity production appreciably, or to increase the cost of energy production or delivery by more than one percent. Thus, based on information in the DEA (Appendix A), the incremental impacts associated with critical habitat designation for Peninsular bighorn sheep are unlikely to be of sufficient magnitude to affect energy production or delivery, and the energy-related impacts are not considered "a significant adverse effect." As such, we do not expect the proposed revised designation of critical habitat for the Peninsular bighorn sheep to significantly affect energy supplies, distribution, or use, and a Statement of Energy Effects is not required.

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

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), we make the following findings:

(a) This rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority," if the provision would "increase the stringency of

conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding” and the State, local, or tribal governments “lack authority” to adjust accordingly. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except as (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.”

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

(b) We do not believe that this rule would significantly or uniquely affect small governments because it would not produce a Federal mandate of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The DEA concludes that there are no incremental impacts resulting from this rulemaking that may be borne by small entities. Incremental impacts stemming from various species conservation and development controls are expected to be borne by the Agua Caliente Band of Cahuilla Indians, which is not considered a small government. Similarly, potential incremental impacts stemming from the Sunrise Powerlink project will be borne by San Diego Gas and Electric, which is also not a small government.

Executive Order 12630—Takings

In accordance with E.O. 12630 (“Government Actions and Interference with Constitutionally Protected Private Property Rights”), we have analyzed the potential takings implications of proposing revised critical habitat for the Peninsular bighorn sheep in a takings implications assessment. Our takings implications assessment concludes that this proposed revision to critical habitat for the Peninsular bighorn sheep does not pose significant takings implications.

References Cited

A complete list of all references we cited in the proposed rule and this

rulemaking is available on the Internet at <http://www.regulations.gov> or by contacting the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authors

The primary authors of this rulemaking are the staff members of the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. In § 17.11(h), revise the entry for “Sheep, bighorn” under “Mammals” in the List of Endangered and Threatened Wildlife 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						
MAMMALS							
*	*	*	*	*	*	*	*
Sheep, desert bighorn.	<i>Ovis canadensis nelsoni</i> .	U.S.A. (western conterminous States), Canada (southwestern), Mexico (northern).	U.S.A. (CA–Peninsular Ranges).	E	634	17.95(a)	NA
*	*	*	*	*	*		*

2. In § 17.95, amend paragraph (a) by revising the entry for “Bighorn Sheep (Peninsular Ranges) (*Ovis canadensis*)” to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals*.

* * * * *

Desert Bighorn Sheep (Peninsular Ranges) (*Ovis canadensis nelsoni*)

(1) Critical habitat units are depicted for Riverside, San Diego, and Imperial Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for the Peninsular bighorn sheep are:

(i) Moderate to steep, open slopes (20 to 60 percent) and canyons, with canopy cover of 30 percent or less (below 4,600 feet (1,402 meters) elevation in the Peninsular Ranges) that provide space

for sheltering, predator detection, rearing of young, foraging and watering, mating, and movement within and between ewe groups.

(ii) Presence of a variety of forage plants, indicated by the presence of shrubs (e.g., *Ambrosia* spp., *Caesalpinia* spp., *Hyptis* spp., *Sphaeralcea* spp., *Simmondsia* spp.), that provide a primary food source year round, grasses (e.g., *Aristida* spp., *Bromus* spp.) and cacti (e.g., *Opuntia* spp.) that provide a source of forage in the fall, and forbs

(e.g., *Plantago* spp., *Ditaxis* spp.) that provide a source of forage in the spring.

(iii) Steep, rugged slopes (60 percent slope or greater) (below 4,600 feet (1,402 meters) elevation in the Peninsular Ranges) that provide secluded space for lambing as well as terrain for predator evasion.

(iv) Alluvial fans, washes, and valley bottoms that provide important foraging areas where nutritious and digestible plants can be more readily found during times of drought and lactation and that provide and maintain habitat

connectivity by serving as travel routes between and within ewe groups, adjacent mountain ranges, and important resource areas, such as foraging areas and escape terrain.

(v) Intermittent and permanent water sources that are available during extended dry periods and that provide relatively nutritious plants and drinking water.

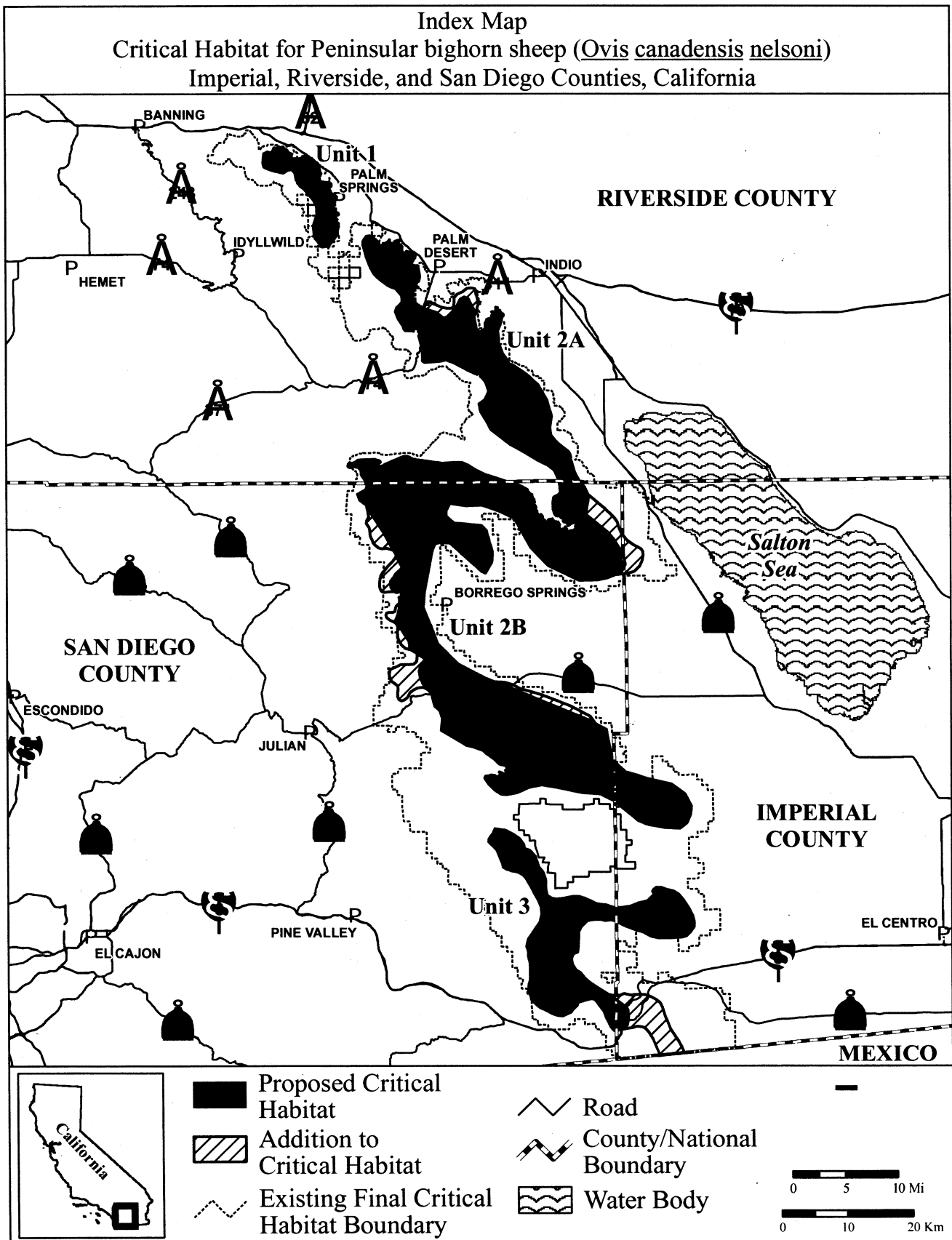
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, roads, and other paved areas) and the land on which they are located

existing within the legal boundaries on the effective date of this rule.

(4) Critical habitat map units. Data layers defining map units were created on a base of USGS 1:24,000 maps, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) **Note:** Index map of critical habitat units for the Peninsular Ranges Population of Desert Bighorn Sheep (*Ovis canadensis nelsoni*) follows:

BILLING CODE 4310-55-P



(6) Unit 1: San Jacinto Mountains, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Desert Hot Springs, Palm Springs, San Jacinto Peak, and White Water. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N): 534054, 3750217; 534386, 3749877; 534416, 3749846; 534493, 3749817; 534918, 3749652; 534713, 3749297; 534806, 3749129; 535048, 3748980; 535231, 3749003; 535347, 3749018; 535391, 3748994; 535584, 3748893; 535627, 3748870; 535627, 3748848; 535634, 3748849; 535660, 3748846; 535698, 3748833; 535737, 3748823; 535755, 3748819; 535864, 3748820; 535920, 3748820; 535921, 3748820; 535976, 3748820; 535976, 3748852; 536420, 3749105; 536848, 3749349; 537229, 3748990; 537930, 3748330; 537985, 3748278; 538456, 3747922; 538456, 3747898; 538487, 3747898; 538822, 3747644; 539027, 3747489; 539156, 3746746; 539160, 3746658; 539161, 3746651; 539174, 3746376; 539008, 3746044; 539165, 3745329; 539186, 3745340; 539482, 3745396; 539722, 3745388; 540115, 3745364; 540421, 3745296; 540421, 3745096; 540431, 3745047; 540433, 3745043; 540441, 3745043; 540528, 3745043; 540738, 3745042; 540821, 3745042; 540821, 3744996; 540821, 3744896; 540821, 3744796; 540821, 3744696; 540821, 3744596; 540721, 3744596; 540721, 3744496; 540621, 3744496; 540521, 3744496; 540521, 3744396; 540425, 3744396; 540421, 3744396; 540421, 3744296; 540424, 3744296; 540432, 3744296; 540521, 3744296; 540521, 3744196; 540521, 3744096; 540621, 3744096; 540621, 3743996; 540621, 3743896; 540721, 3743896; 540721, 3743696; 540806, 3743696; 540804, 3743538; 540827, 3743483; 540927, 3743518; 541003, 3743550; 541041, 3743550; 541092, 3743533; 541220, 3743547; 541221, 3743496; 541221, 3743434; 541221, 3743432; 541221, 3743427; 541221, 3743396; 541241, 3743396; 541241, 3743392; 541250, 3743371; 541260, 3743355; 541262, 3743341; 541264, 3743334; 541269, 3743328; 541274, 3743323; 541277, 3743318; 541283, 3743311; 541289, 3743307; 541292, 3743302; 541297, 3743294; 541298, 3743291; 541299, 3743285; 541299, 3743278; 541300, 3743271; 541301, 3743266; 541304, 3743260; 541309, 3743256; 541315, 3743249; 541324, 3743243; 541334, 3743238; 541338, 3743234; 541346, 3743228; 541352, 3743222; 541357, 3743217; 541362, 3743210; 541366, 3743202;

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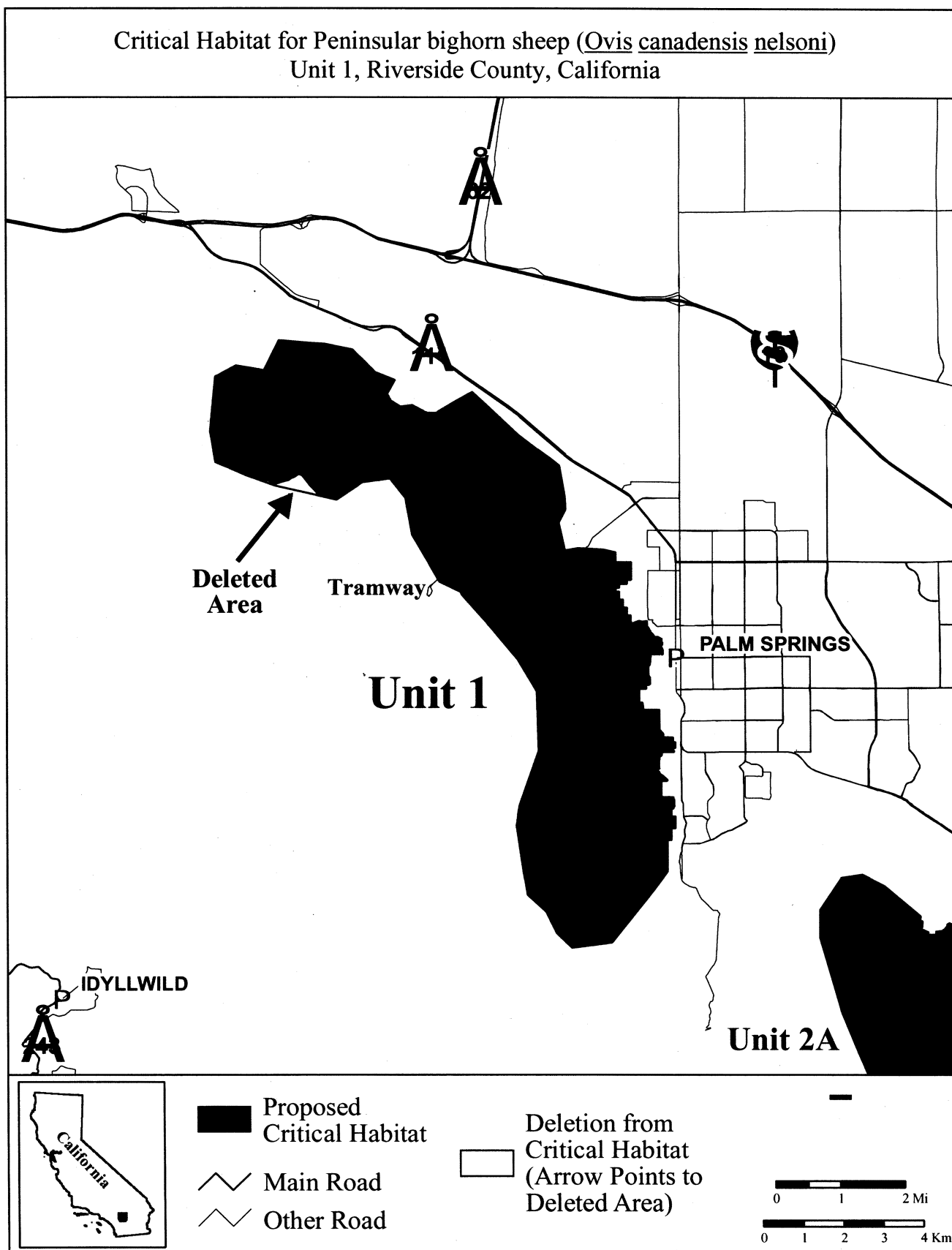
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533137, 3750568; 533857, 3750420;
533980, 3750294; thence returning to
534054, 3750217.

(ii) **Note:** Map of Unit 1, San Jacinto Mountains follows:

BILLING CODE 4310-55-P



(7) Unit 2A: North Santa Rosa Mountains, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Cathedral City, Clark Lake NE, La Quinta, Martinez Mountain, Palm Springs, Palm View Peak, Rabbit Peak, Rancho Mirage, Toro Peak, and Valerie. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N): 548120, 3735700; 548120, 3735696; 548132, 3735696; 548150, 3735689; 548162, 3735684; 548174, 3735679; 548198, 3735669; 548206, 3735666; 548220, 3735661; 548220, 3735596; 548320, 3735596; 548420, 3735596; 548420, 3735676; 548435, 3735674; 548443, 3735674; 548481, 3735677; 548501, 3735683; 548511, 3735687; 548527, 3735692; 548528, 3735692; 548564, 3735686; 548579, 3735692; 548593, 3735699; 548610, 3735716; 548636, 3735741; 548640, 3735746; 548656, 3735765; 548689, 3735802; 548694, 3735810; 548703, 3735826; 548699, 3735853; 548699, 3735854; 548720, 3735873; 548742, 3735883; 548746, 3735884; 548764, 3735878; 548789, 3735870; 548795, 3735868; 548810, 3735860; 548813, 3735858; 548829, 3735849; 548876, 3735824; 548941, 3735786; 548958, 3735776; 548996, 3735747; 549006, 3735739; 549021, 3735729; 549051, 3735709; 549051, 3735721; 549045, 3735749; 549032, 3735776; 549026, 3735790; 548997, 3735850; 548994, 3735856; 548995, 3735875; 549009, 3735883; 549023, 3735878; 549018, 3735916; 549014, 3735940; 549014, 3735945; 549023, 3735953; 549053, 3735944; 549065, 3735951; 549078, 3735950; 549089, 3735934; 549100, 3735940; 549096, 3735999; 549106, 3736006; 549115, 3736012; 549126, 3736015; 549159, 3736022; 549165, 3736042; 549170, 3736049; 549172, 3736050; 549198, 3736059; 549206, 3736063; 549200, 3736076; 549203, 3736078; 549206, 3736082; 549228, 3736089; 549252, 3736092; 549270, 3736084; 549289, 3736069; 549308, 3736072; 549312, 3736077; 549338, 3736077; 549360, 3736092; 549392, 3736081; 549402, 3736078; 549405, 3736090; 549383, 3736104; 549378, 3736132; 549389, 3736159; 549395, 3736172; 549408, 3736167; 549411, 3736178; 549396, 3736200; 549402, 3736207; 549416, 3736209; 549400, 3736229; 549391, 3736252; 549396, 3736258; 549415, 3736250; 549445, 3736253; 549452, 3736254; 549464, 3736268; 549487, 3736272; 549479, 3736290; 549464, 3736290; 549457, 3736295; 549454, 3736314; 549454, 3736318; 549455, 3736321; 549456, 3736323; 549458,

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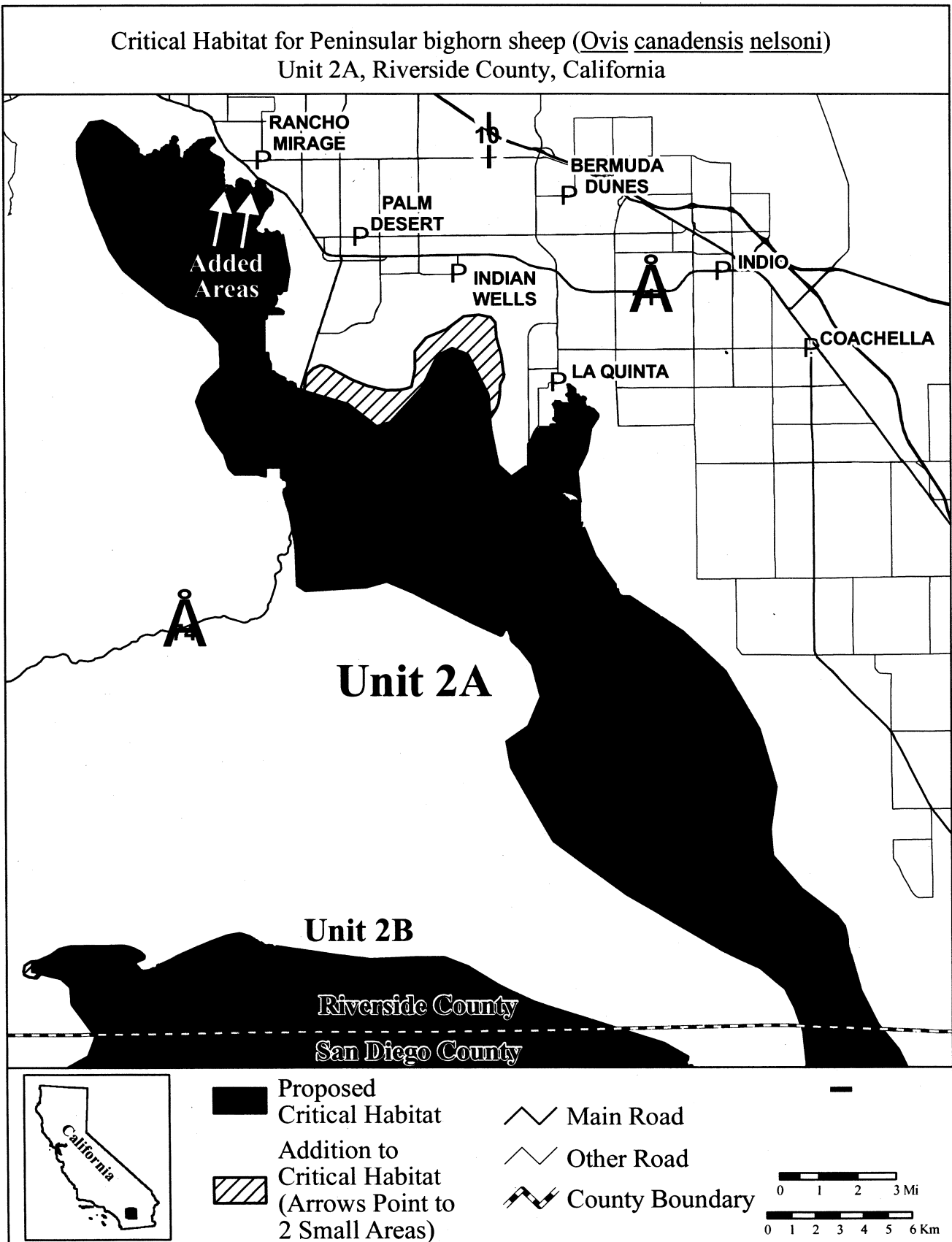
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returning to 548120, 3735700.

(ii) **Note:** Map of Unit 2A, North Santa Rosa Mountains follows:

BILLING CODE 4310-55-P



(8) Unit 2B: South Santa Rosa Mountains south to Vallecito Mountains, Riverside, San Diego, and Imperial Counties, California.

(i) From USGS 1:24,000 quadrangles Agua Caliente Springs, Arroyo Tapiado, Borrego Mountain, Borrego Mountain SE, Borrego Palm Canyon, Borrego Sink, Bucksnot Mountain, Carrizo Mountain NE, Clark Lake, Clark Lake NE, Collins Valley, Earthquake Valley, Fonts Point, Harper Canyon, Hot Springs Mountain, Oasis, Plaster City NW, Rabbit Peak, Seventeen Palms, Tubb Canyon, and Whale Peak. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N): 552693, 3702782; 552693, 3702763; 552721, 3702763; 552721, 3702735; 552749, 3702735; 552749, 3702706; 552834, 3702706; 552834, 3702678; 552863, 3702678; 552863, 3702650; 552891, 3702650; 552891, 3702621; 552920, 3702621; 552920, 3702593; 553033, 3702593; 553033, 3702564; 553090, 3702564; 553090, 3702536; 553118, 3702536; 553118, 3702508; 553175, 3702508; 553175, 3702479; 553232, 3702479; 553232, 3702451; 553260, 3702451; 553260, 3702479; 553288, 3702479; 553288, 3702508; 553373, 3702508; 553373, 3702479; 553459, 3702479; 553459, 3702451; 553487, 3702451; 553487, 3702423; 553544, 3702423; 553544, 3702394; 553572, 3702394; 553572, 3702423; 553629, 3702423; 553629, 3702451; 553637, 3702451; 554374, 3702339; 554536, 3702314; 556083, 3702087; 556587, 3702024; 556848, 3701991; 557540, 3701905; 558443, 3701948; 559451, 3701996; 560050, 3701996; 560589, 3701996; 561590, 3701586; 561648, 3701550; 562819, 3700812; 563252, 3700603; 563473, 3700496; 564230, 3700130; 564862, 3699927; 566508, 3699398; 567821, 3698976; 567859, 3698964; 569658, 3698386; 570678, 3697798; 570678, 3697742; 570650, 3697742; 570650, 3697628; 570622, 3697628; 570622, 3697600; 570593, 3697600; 570593, 3697458; 570622, 3697458; 570622, 3697401; 570650, 3697401; 570650, 3697373; 570707, 3697373; 570707, 3697401; 570735, 3697401; 570735, 3697430; 570820, 3697430; 570820, 3697373; 570849, 3697373; 570849, 3697345; 570877, 3697345; 570877, 3697316; 570934, 3697316; 570934, 3697288; 570962, 3697288; 570962, 3697260; 570934, 3697260; 570934, 3697231; 570905, 3697231; 570905, 3697146; 570877, 3697146; 570877, 3697089; 571132, 3697089; 571132, 3697061; 571303, 3697061; 571303, 3696948; 571331, 3696948; 571331, 3696862;

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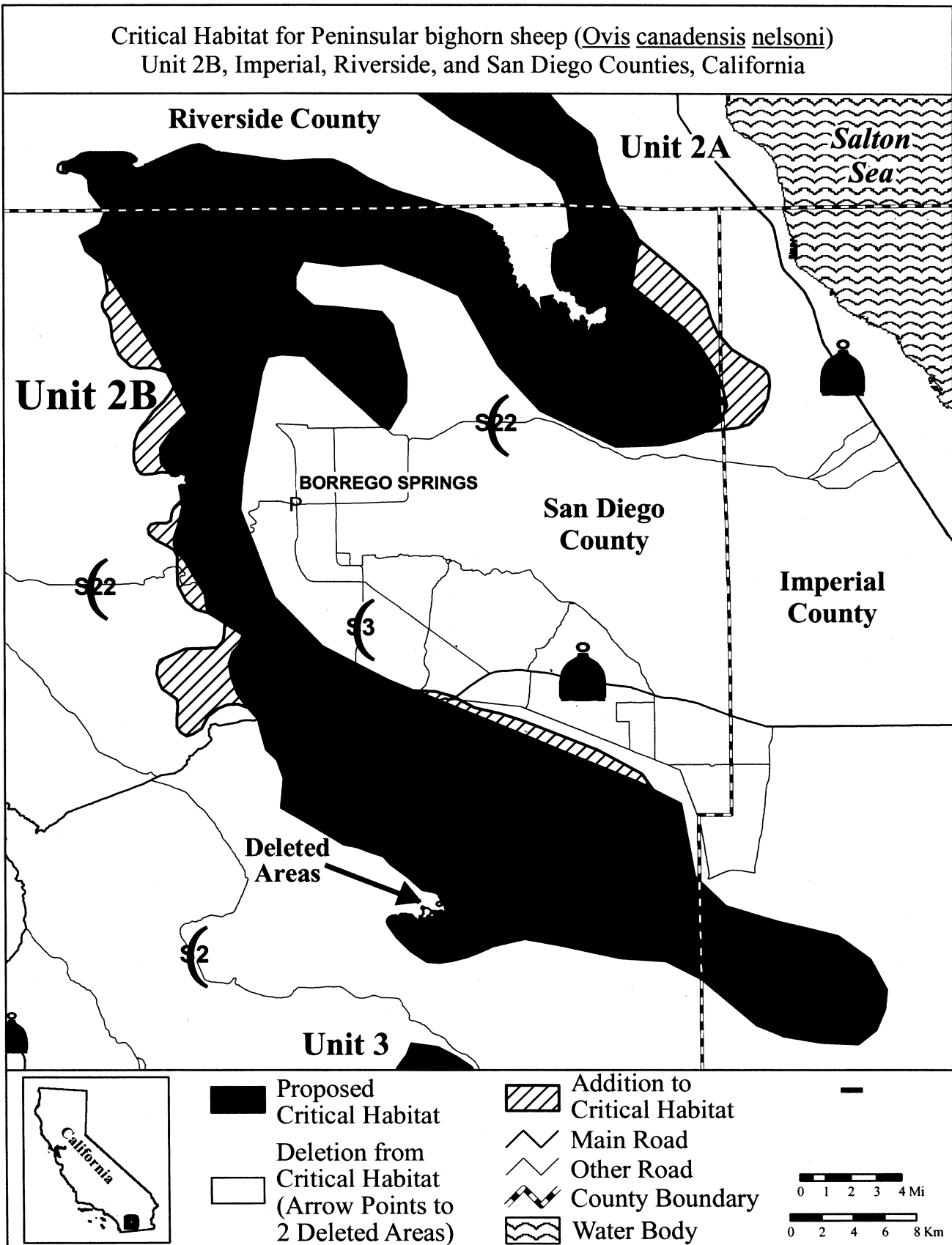
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thence returning to 552693, 3702782.

(ii) **Note:** Map of Unit 2B, South Santa Rosa Mountains south to Vallecito Mountains follows:

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(9) Unit 3: Carrizo Canyon, San Diego and Imperial Counties, California.

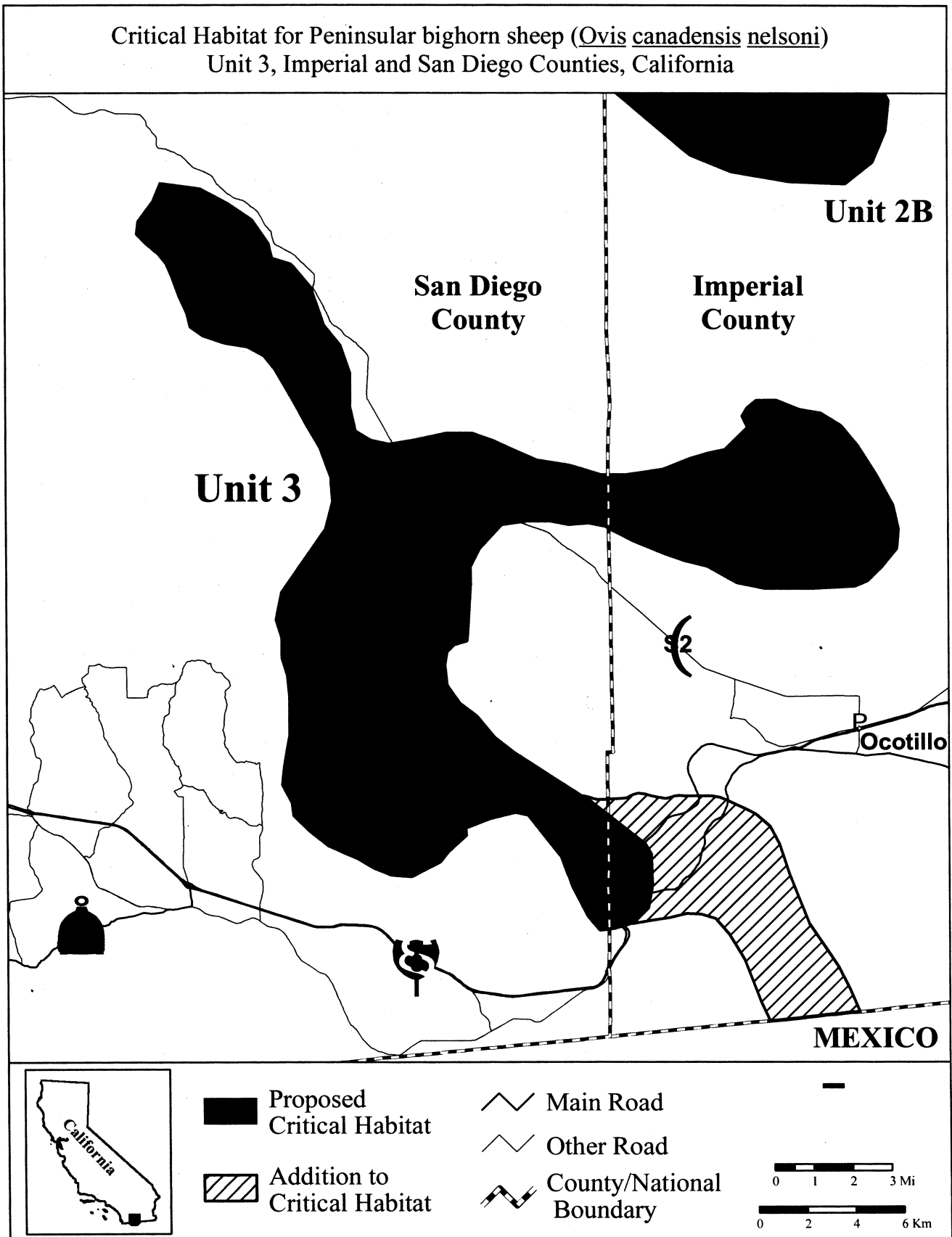
(i) From USGS 1:24,000 quadrangles Agua Caliente Springs, Arroyo Tapiado, Carrizo Mountain, Coyote Wells, In-Ko-Pah Gorge, In-Ko-Pah Gorge OE S, Jacumba, Painted Gorge, Sombrero Peak, and Sweeney Pass. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD83) coordinates (E, N): 574077, 3634457; 574841, 3634304; 575834, 3634457; 577209, 3634762; 578278, 3634762; 579118, 3634457; 579958, 3634075; 580951, 3633617; 582325, 3633388; 583623, 3633006; 583831, 3633006; 583900, 3633006; 584616, 3633006; 586143, 3633235; 587289, 3633693; 588053, 3633922; 588740, 3634075; 589656, 3634991; 589427, 3635449; 589617, 3635766; 589656, 3635831; 590038, 3636137; 590878, 3636137; 591783, 3635789; 591871, 3635755; 592711, 3635602; 593551, 3635068; 594238, 3634228; 595002, 3633006; 595689, 3631708; 595918, 3630715; 595852, 3629989; 595842, 3629875; 595803, 3629826; 595231, 3629111; 594620, 3628500; 594086, 3628271; 592329, 3628195; 591107, 3628195; 590344, 3628195; 589198, 3628424; 587976, 3629111; 587060, 3629340; 586220, 3629646; 584922, 3630180; 583919, 3630715; 583854, 3630749; 583776, 3630791; 583089, 3630944; 582249, 3630868; 581485, 3631020; 580569, 3631020; 579500, 3630868; 578583, 3629875; 578201, 3629111; 578201, 3628348; 578125, 3626897; 578049, 3625980; 577514, 3625827; 577443, 3625756;

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(ii) **Note:** Map of Unit 3, Carrizo Canyon follows:

BILLING CODE 4310-55-P



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Dated: August 13, 2008.

David M. Verhey,

*Acting Assistant Secretary for Fish and
Wildlife and Parks.*

[FR Doc. E8-19465 Filed 8-25-08; 8:45 am]

BILLING CODE 4310-55-C