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50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Proposed Designation of Critical Habitat for Brodiaea filifolia (thread-leaved brodiaea); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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RIN 1018–AT75

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Brodiaea filifolia (thread-leaved brodiaea)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the federally threatened *Brodiaea filifolia* (thread-leaved brodiaea). We have determined that 9,403 acres (ac) (3,805 hectares (ha)) of habitat with essential features exists for *Brodiaea filifolia* in Los Angeles, San Bernardino, Orange, Riverside, and San Diego counties. Of this eligible habitat, we are proposing to designate approximately 4,690 ac (1,898 ha) of land in 10 units in Los Angeles, San Bernardino, Orange, and San Diego Counties, California, as critical habitat for this species. Eligible habitat in Riverside and portions of San Diego counties covered by approved and/or pending habitat conservation plans is being proposed for exclusion from critical habitat under 4(b)(2) of the Act.

DATES: We will accept comments from all interested parties until February 7, 2005. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by January 24, 2005.

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

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92009.

2. You may hand-deliver written comments and information to our office at the above address.

3. You may send comments and information by electronic mail (e-mail) *fw1cfwo_brfi@fws.gov*. Please see the ''Public Comments Solicited'' section below for file format and other information about electronic filing.

4. You may fax your comments to 760–431–3624.

Comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office (at the above address) (telephone number 760–431–9440).

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Service (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal be as accurate as possible. Accordingly, we hereby solicit comments or suggestions from the public, other governmental agencies and entities, Tribes, the scientific community, industry, and any other interested parties regarding this proposed rule. In particular, we seek comments concerning:

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

(2) Specific information on the amount and distribution of *Brodiaea filifolia* and its habitat, specifically updated information on specific populations or occurrences and what habitat or habitat components or features are essential to the conservation of this species and why;

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

(4) Any foreseeable economic, national security, or other potential impacts which could result from the proposed designation and, in particular, any impacts to small entities; and

(5) 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.

(6) We request information from the Department of Defense to assist the Secretary of the Interior in evaluating critical habitat on lands administered by or under the control of the Department of Defense based on any benefit provided by an Integrated Natural Resources Management Plan (INRMP) to the conservation of *Brodiaea filifolia*; and information regarding impacts to national security associated with proposed designation of critical habitat.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to *fw1cfwo_brfi@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: *Brodiaea filifolia*'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760–431–9440. Please note that the Internet address *fw1cfwo_brfi@fws.gov* will be closed out at the termination of the public comment period.

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

Designation of Critical Habitat Provides Little Additional Protection to Species

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

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

While attention to and protection of habitat is paramount to successful conservation actions, we have consistently found that, in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation resources. Sidle (1987) stated, ''Because the Act can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7.'' Currently, only 467 species or 37 percent of the 1,255 listed species in the United States under our jurisdiction have designated critical habitat. We address the habitat needs of all 1,255 listed species through conservation mechanisms such as listing, section 7 consultations, the Section 4 recovery planning process, the Section 9 protective prohibitions of unauthorized take, Section 6 funding to the States, and the Section 10 incidental take permit process. We believe that it is these measures that may make the difference between extinction and survival for many species.

We note, however, that a recent 9th Circuit judicial opinion, *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service*, has invalidated the Service's regulation defining destruction or adverse modification of critical habitat. We are currently reviewing the decision to determine what effect it may have on the outcome of consultations pursuant to Section 7 of the Act.

Procedural and Resource Difficulties in Designating Critical Habitat

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

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

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

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with NEPA; all are part of the cost of critical habitat designation. None of these costs result in any benefit to the species that is not already afforded by the protections of the Act enumerated earlier, and they directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule and that clarify the species description and biology provided in the final listing rule. Additional information on the biology and ecology of *Brodiaea filifolia* and the factors affecting the species can be found in the final rule listing the species as threatened, published in the **Federal Register** on October 13, 1998 (63 FR 54975).

Brodiaea filifolia is a perennial herb in the Liliaceae (lily family) that produces leaves and flower stalks from dark-brown, fibrous-coated underground corms (underground bulb-like storage stem that lacks succulent leaves). Corms are dormant in the summer but begin growing after the first significant fall rains saturate the soil. Leaves grow slowly throughout the winter. At the time of flowering, generally early summer, the leaves of *Brodiaea* are dead or nearly so and next season's corms are mature. The flowering period lasts for two to three weeks, and development of the capsules and seeds takes four to eight weeks. The rate of deposition and duration of seeds in the soil is unknown. However, it is likely that the majority of seeds produced in the capsules are dispersed nearby and as such would be expected to be scattered among the standing plants at any given occurrence. Conditions conducive to triggering natural germination are also unknown. Leaves are likely produced every year. Young plants may produce only leaves for a few seasons before having enough food stores to be capable of producing flower stalks. Leaves appear in early spring and die back by the time of flowering which typically occurs from May to June. Even mature specimens may not flower every year, depending upon environmental conditions. The flower stalks are 20 to 40 cm (8 in to 16 in) tall. The tubular flowers are 9 mm to 12 mm (0.4 in to 0.5 in) long and are arranged in loose umbels. The six perianth segments are violet, with their tips spreading. The staminodia (characteristic sterile stamens) are narrow and pointed.

All species of *Brodiaea* are self-incompatible, requiring cross-pollination to set seed. The corm is the principal means by which plants of the genus *Brodiaea* perpetuate themselves (Niehaus 1971). Seedlings produce contractile roots (roots of specialized form designed to shrink vertically under conditions of seasonal drying) for the first few years. These roots swell with moisture in the wet season creating a space in the malleable clay substrate. As the season progresses, the succulent root dries and shrinks vertically, drawing the young corm down into the ground. This is repeated for a few years until the soil moisture is insufficient to support the contractile root. The corm from the previous year is replaced by an adjacent new corm each year. The new corm of a mature plant often produces two to fifteen cormlets (Niehaus 1971).

The historical range of *Brodiaea filifolia* extends from the foothills of the San Gabriel Mountains in Los Angeles County (Glendora and San Dimas), east to the western foothills of the San Bernardino Mountains in San Bernardino County (Arrowhead Hot Springs), south through eastern Orange and western Riverside Counties to northern San Diego County (Highland Valley) (USFWS 1998; CNDDB 2003; City of San Diego 1997; SANDAG 2003). This species is usually found in herbaceous plant communities that occur in open areas on clay soils, soils with clay subsurface, or clay lenses within loamy, silty loam, or alkaline soils, and elevations of 100 ft (30 m) to 2,500 ft (765 m), depending on soil

series. These plant communities are generally classified as non-native grassland, valley needlegrass grassland, valley sacaton grassland, alkali playa, southern interior basalt vernal pools, San Diego mesa hardpan vernal pools, and San Diego mesa claypan vernal pools (Holland 1986). Based upon dominant species, these communities have been further divided into series which include, but are not limited to, California annual grassland, nodding needlegrass, purple needlegrass, foothill needlegrass, saltgrass, alkali grassland, alkali playa, and bush seepweed and habitats such as San Diego mesa vernal pools, San Jacinto Valley vernal pools, and Santa Rosa Plateau vernal pools (Sawyer and Keeler-Wolf 1994). *Brodiaea filifolia* grows in association with coastal sage scrub vegetation in some areas, such as Los Angeles and San Bernardino Counties.

Brodiaea filifolia has also been found in the San Mateo Wilderness Area near the northern border of San Diego and Riverside counties and in the Miller Peak area in the Santa Ana Mountains of western Riverside County. These occurrences appear to include some hybrids between *B. filifolia* and *B. orcuttii*. Occurrences in the San Mateo Wilderness Area have been observed along the banks of, and within, intermittent stream channels, and those in the Miller Peak area have been observed on clay soils in southern needlegrass grassland (Boyd *et al.* 1992). In Miller Canyon, a tributary that drains the southern flank of Miller Mountain, the species and some hybrids are found on deposits of gravel, cobble, and small boulders along the stream channel in association with tussocks of *Juncus macrophyllus* and *Muhlenbergia rigens* and in vernal seeps and on open, clayey benches (Boyd *et al.* 1992).

All members of the genus *Brodiaea* appear to require full sun, and many tend to occur on only one or a few soil series (Niehaus 1971). In San Diego, Orange, and Los Angeles Counties, occurrences of *Brodiaea filifolia* are highly correlated with specific clay soil series such as, but not limited to, Alo, Altamont, Auld, and Diablo or clay lens inclusions in a matrix of loamy soils such as Fallbrook, Huerhuero, and Las Flores series (63 FR 54975, CNDDB 2003, Service GIS data 2004). In San Bernardino, the species is associated with Etsel family-Rock outcrop-Springdale and Tujunga-Urban land-Hanford soils (Service GIS data 2004). In western Riverside County, the species is often found on alkaline silty-clay soil series such as, but not limited to, Domino, Grangeville, Waukena, and Willows or on clay loam soils underlain by heavy clays derived from basalt lava flows (*i.e.,* Murrieta series on the Santa Rosa Plateau) (U.S. Department of Agriculture 1971, Bramlet 1993, CNDDB 2003). On these soils, *B. filifolia* is typically found as a constituent of native perennial and non-native annual grasslands. In San Marcos, the Santa Rosa Plateau, and near Hemet, these grasslands are often part of the watersheds for vernal pool and playa complexes (Bramlet 1993, Service 1998, CNDDB 2003). These soils enable the natural process of seed dispersal and germination, cormlet deposition to an appropriate soil depth, and corm persistence through seedling and adult phases of flowering and fruit set described earlier.

Members of the genus *Brodiaea* likely rely on Tumbling Flower Beetles (Coleoptera) and Sweat Bees (Hymenoptera) for cross-pollination (Niehaus 1971). The home ranges and species fidelity of these pollinators is not known. Alternative pollen source plants may be necessary for the persistence of these insects when *Brodiaea filifolia* is not in flower seasonally or annually because of poor environmental conditions. Studies to quantify the distance that bees will fly to pollinate their host plants are limited in number, but the few that exist show that some bees will routinely fly 100 to 500 m (328 to 984 ft) to pollinate plants. Studies by Steffan-Dewenter and Tscharntke (2000) have demonstrated that it is possible for bees to fly at least 1,000 m (3,280 ft) to pollinate flowers, and at least one study suggests that bumblebees may forage many kilometers from a colony (Sudgen 1985).

The size of a particular population of *Brodiaea* species, as well as other corm and bulb forming species, is often measured by counting numbers of standing flower stalks. However, because more plants flower in wet years than dry years, flowering plants likely represent only a portion of the total population of plants present at any given site. In addition to the annual fluctuation in numbers of flowering plants, seedlings and young plants likely only produce leaves for a few years before they are able to produce flower stalks. These vegetative plants may go undetected in surveys.

By 1998, at least 25 percent of *Brodiaea filifolia* populations or occurrences were eliminated by urbanization and agricultural conversion (63 FR 54975). This species has also been impacted by non-agricultural disking for fire and weed control as well as grading (White and Bramlet 2004). Urban development and flood control projects are among the continuing threats to this species in Orange, Riverside, and San Diego Counties. White and Bramlet (2004) note that habitats for *Brodiaea filifolia* in Orange County and some in San Diego County are degraded by ''dense infestations'' of the perennial *Cynara cardunculus* (artichoke thistle). The species is also threatened by recreational activities such as off-road vehicle use; clearing for firebreaks; alteration of existing hydrologic conditions resulting from construction and operation of flood control structures; over-grazing; and competition from non-native plant species (USFWS 1998, RECON 1999, CNDDB 2003).

Translocation may also be a threat to this species. Translocation efforts associated with mitigation for development projects have not, on the whole, proved to be successful in conserving the species (Fiedler 1991). Information on file for ten mitigation based translocations suggests that there has been little consistency or recording of translocation methodology or project design, minimal effective monitoring, and success was either deemed negative or unknown. For all ten projects the stated objective of the translocation effort was to salvage plants from sites to be developed. Accounting for the numbers and origins of corms has been poorly documented. In some cases agreed-upon endowments to cover monitoring and management were not provided. Monitoring has not provided information about establishment of new plants from those translocated to the receptor sites. Even if individuals become established, the survival of transplanted corms does not necessarily indicate success for the species. Due to the lack of successful translocations of this species, listed as endangered by the State, staff at the California Department of Fish and Game (CDFG) attempt to negotiate the avoidance of translocation for this species citing take provisions under Section 2081(a) of the Fish and Game Code. The loss of all or portions of native populations of *B. filifolia* due to habitat loss coupled with the failure of translocation efforts continues to contribute to the decline of *B. filifolia.*

Previous Federal Actions

For more information on previous federal actions concerning *Brodiaea filifolia* prior to the time of listing, refer to the final rule listing the species as threatened published in the **Federal Register** on October 13, 1998 (63 FR 54975). A recovery plan for *B. filifolia* has not yet been completed. The following text discusses those Federal

actions that occurred subsequent to the listing.

On November 15, 2001, a lawsuit was filed against the Department of the Interior (DOI) and the Service by the Center for Biological Diversity and California Native Plant Society, challenging our ''not prudent'' determinations for eight plants including *Brodiaea filifolia* (No. CV–01–2101) (*CBD et al.* v. *USDOI*). A second lawsuit asserting the same challenge was filed against the DOI and the Service by the Building Industry Legal Defense Foundation (BILD) on November 21, 2001 (No. CV–01–2145) (*BILD* v. *USDOI*). Both cases consolidated on March 19, 2002, and all parties agreed to remand the critical habitat determinations to the Service for additional consideration. In a July 1, 2002, order, the U.S. District Court for the Southern District of California directed us to publish a new prudency determination and/or propose critical habitat for *B. filifolia* on or before November 30, 2004. This proposed rule to designate critical habitat complies with the court's ruling.

Critical Habitat

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

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires conference on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat, and consultation on Federal actions that may affect designated critical habitat.

In the geographic area occupied by the species, critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.,* areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species'' (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271) and our U.S. Fish and Wildlife Service Information Quality Guidelines (2002) provide criteria, establish procedures, and provide guidance to ensure that our decisions represent the best scientific and commercial data available. These policies and guidelines require us, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and Counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

This proposed critical habitat designation is not intended to suggest that habitat outside the delineated area is unimportant to *Brodiaea filifolia.* Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and applicable section 9 prohibitions, as determined on the basis of the best available information at the time of the action. We specifically anticipate federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(1)(A) of the Act, we used the best scientific and commercial data available in determining areas that contain the features that are essential to the conservation of *Brodiaea filifolia.* We designated no areas outside the geographic area presently occupied by the species. These included data and information from research and survey observations in published, peer-reviewed articles, and data provided by the California Department of Fish and Game (CDFG), and data provided by the California Natural Diversity Database (CNDDB). We also reviewed available information pertaining to the habitat requirements of this species including the final listing rule; our draft Recovery Plan; data and information included in reports submitted during section 7 consultations; information contained in species analyses for individual and regional Habitat Conservation Plans (HCPs) where *B. filifolia* is a covered species or is being proposed for coverage; data collected on Marine Corps Base (MCB) Camp Pendleton; data collected from reports submitted by researchers holding section 10(a)(1)(A) recovery permits; and information received from local species experts.

Habitat that contains the features essential to the conservation of the species was delineated by examining (1) species occurrence information in Los Angeles, San Bernardino, Orange, Riverside, and San Diego Counties from the CNDDB and from survey reports; (2) vegetation data layers from Orange, Riverside, and San Diego Counties and vegetation data layers from the U.S. Forest Service's Cleveland National Forest for Los Angeles and San Bernardino Counties; (3) Natural Resources Conservation Service's Soil Survey Geographic Database (SSURGO) soil data layers for Orange, Riverside, and San Diego Counties, and State Soil Geographic Database (STATSGO) soil data layers for Los Angeles and San Bernardino Counties; and (4) slope data derived from a 30-meter digital elevation model (DEM). These layers were overlaid on digital ortho quarter quadrangle (DOQQ) satellite imagery layers, and habitat was delineated in areas that had an extant species occurrence within them, had not undergone development, had the PCE's including suitable soil and vegetation

types, and had a slope of less than 20 degrees. After creating a GIS coverage of the eligible areas, we created legal descriptions of these areas. We used a 100-meter grid to establish Universal Transverse Mercator (UTM), North American Datum (NAD) 27 coordinates which, when connected, provided the boundaries of the eligible habitat areas.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features, otherwise referred to as primary constituent elements, essential to the conservation of the species, and which may require special management considerations or protection. These include, but are not limited to: space for individual growth and population expansion; water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

These physical and biological features provide for the following: (1) Areas for growth of individuals and populations, including sites suitable for sexual and asexual (cormlet) reproduction, pollination and pollen dispersal, seed dispersal and germination, and maintenance of seed banks; (2) intervening areas suitable to facilitate gene flow and connectivity or linkages within and among eligible occurrences; and (3) maintenance of areas that provide basic requirements for growth such as water, light, nutrients, and minerals.

The conservation of *Brodiaea filifolia* is dependent upon several factors that include, but are not limited to, the protection and management of existing populations and the habitat which supports them; the maintenance of areas of sufficient size and configuration to sustain natural ecosystem components, functions, and processes (*e.g.,* full sun exposure, natural fire and hydrologic regimes, adequate biotic balance to prevent excessive herbivory); protection of existing substrate continuity and structure, connectivity among groups of plants within geographic proximity to facilitate gene flow among the sites through pollinator activity and seed dispersal; and sufficient adjacent suitable habitat for vegetative reproduction and population expansion. The areas being proposed for designation as critical habitat provide one or more of the physical or biological features essential for the conservation of this species.

Lands being proposed for designation as critical habitat for *B. filifolia* occur within the historical range of the species. Based on the best available scientific and commercial information available regarding the life history, ecology, and distribution of this species, we believe that the primary constituent elements of critical habitat for *B. filifolia* consist of the following:

(1) Appropriate soil series and associated vegetation at suitable elevations of either:

(A) Clay soil series of various origins (*e.g.,* Alo, Altamont, Auld, Diablo), clay lenses found as unmapped inclusions in other soils series, or within loamy soils underlain by a clay subsoil (*e.g.,* Fallbrook, Huerhuero, Las Flores) that generally occur on mesas and gentle to moderate slopes, or in association with vernal pools, between the elevations of 100 ft (30 m) and 2,500 ft (765 m) and support open native or non-native grassland communities, open coastal sage scrub, or coastal sage scrub-chaparral communities; or

(B) Silty loam soil series underlain by a clay subsoil or caliche that are generally poorly drained, moderately to strongly alkaline, granitic in origin (*e.g.,* Domino, Grangeville, Waukena, Willows), that generally occur in low-lying areas and floodplains, often in association with vernal pool or playa complexes, between the elevations of 600 ft (180 m) and 1,800 ft (550 m) and support native, non-native, or alkali grassland or scrub communities; or

(C) Clay loam soil series (*e.g.,* Murrieta) underlain by heavy clay loams or clays derived from olivine basalt lava flows, that generally occur on mesas and gentle to moderate slopes between the elevations of 1,700 ft (520 m) and 2,500 ft (765 m) and support native or non-native grassland or oak woodland savannah communities associated with basalt vernal pools; or

(D) Sandy loam soils derived from basalt and granodiorite parent materials, deposits of gravel, cobble, and boulders, or hydrologically-fractured weathered granite in intermittent streams and seeps that support open riparian and freshwater marsh communities associated with intermittent drainages, floodplains, and seeps generally between 1,800 ft (550 m) and 2,500 ft (765 m).

(2) Areas with an intact surface and subsurface structure not permanently altered by anthropogenic land use activities (*e.g.,* deep, repetitive disking; grading). These features as well as associated physical processes (*e.g.,* full sunlight exposure) are essential to maintain those substrate and vegetation types where *Brodiaea filifolia* is found and to support pollinator assemblages necessary to facilitate gene flow within and among populations of *B. filifolia.*

Criteria Used To Identify Critical Habitat

As discussed in the *Methods* section, we identified 9,403 ac (3,806 ha) of eligible habitat for *Brodiaea filifolia.* We delineated proposed critical habitat using the following criteria: (1) Essential occurrences; (2) presence of suitable vegetation; (3) presence of suitable soil types; and (4) an area about 250 m of vegetation surrounding each occurrence to provide for pollinator habitat. We then analyzed the critical habitat areas to determine if any areas should be excluded from the proposed designation under section 4(b)(2) of the Act (see ''Exclusions Under Section 4(b)(2) of the Act'' for a detailed discussion).

We defined eligible occurrences as areas of intact, occupied habitat supporting 1,000 or more naturally occurring individuals of *Brodiaea filifolia,* areas necessary to maintain gene flow, and/or areas containing significant populations. We defined significant populations as those found in unique habitat, supported by historical records in Niehaus 1971 and/or the CNDDB 2003 reports for the species. For example, populations found within an atypical vegetative community, on atypical soils, and/or at an atypical elevation. Essential occurrences found within unique habitat types harbor genetic diversity that may allow for their persistence in these areas. This overall diversity may be important to the conservation of the species.

Significant populations are also often peripheral populations. Peripheral populations of a species are separable by geographical and/or ecological differences from central populations (Lesica and Allendorf 1995). Conservation of species may depend upon protecting the genetic variability present across the range of a species. Reduced gene flow and limited seed dispersal may contribute to the genetic diversity of peripheral populations attributable to genetic drift from central populations. Population divergence may also be attributed to differences in habitat such as soil types, fire frequency, and climate (Lessica and Allendorf 1995). Ornduff (1966) found the highest concentration of morphological and cytological variants at the margin of the geographic range of species of *Lasthenia.* For these reasons,

conservation of geographically (*e.g.* Los Angeles and San Bernardino Counties) and ecologically (*e.g.* Devil's Canyon) peripheral populations may be essential for the conservation of this species.

Currently, the exact number of extant populations or occurrences of *Brodiaea filifolia* is unknown. Reasons for this include the lack of surveys in areas of suitable habitat, false negative survey results yielded during inappropriate seasons, and variation in how survey data is recorded. For example, some surveyors may record populations within close proximity as a single occurrence while others may record each population as an individual occurrence. According to Table 3 of White and Bramlet (2004), approximately 83 occurrences of this species are currently known throughout its range. We were recently made aware of an occurrence at Highland Valley (San Diego County) not included in White and Bramlet's Table 3. Of the 84 currently known occurrences, we are proposing to designate critical habitat for 31 occurrences. Of the remaining occurrences, 26 are considered to be eligible but are being proposed for exclusion, and 27 are not included because we do not have adequate information about the occurrence or the area does not contain any of the PCEs for the species. Occurrences comprised solely of translocated plants were not considered eligible occurrences because their potential for long-term survival and their contribution to the species gene pool is currently unknown. However, several translocated plants are included in this proposed designation due to their proximity to or occurrence within a naturally-occurring population.

To determine which occurrences are eligible, we also used recovery criteria from a draft recovery plan that includes this species (page 60, Bramlet and White 2004). The draft recovery plan states that *Brodiaea filifolia* should be evaluated for delisting when, among other criteria, the following occurrences have been fully protected: (1) All known occurrences in Los Angeles and San Bernardino counties, (2) at least 10 core occurrences in Orange County, (3) at least 10 core occurrences in western Riverside County, (4) at least 12 core occurrences on Camp Pendleton, and (5) at least 20 core occurrences in northwestern San Diego County, especially in the San Marcos area.

Where possible, we delineated a vegetative area of 250 m around each eligible occurrence to provide for pollinator habitat. Studies indicate that if pollinator habitat within 1,000 m of some host plants is eliminated, seed set of some plant species may be decreased by as much as 50 percent. Additional studies suggest that the degradation of pollinator habitat is likely to adversely affect the abundance of pollinator species (Jennersten 1988; Rathcke and Jules 1993). As discussed in the Background section, *Brodiaea* likely rely on Tumbling Flowers Beetles (Coleoptera) and Sweat Bees (Hymenoptera) for cross pollination (Niehasus 1971). Studies to quantify the distance that bees will fly to pollinate their host plants are limited in number, but the few that exist show that some bees will routinely fly 100 to 500 m (328 to 984 ft) to pollinate plants with some flying at least 1,000 m (3,280 ft) to pollinate flowers (Steffan-Dewenter and Tscharntke 2000). Since we do not currently have information on specific pollinator species of *Brodiaea filifolia,* we based the 250-m distance on the mean routine flight distance for bees.

These 250-m areas include suitable soils and vegetation required by *Brodiaea filifolia.* These 250-m areas include habitat where the species may be present as mature but non-flowering corms or immature corms rather than currently flowering plants. These areas provide some areas needed for gene flow, pollen dispersal, seed dispersal, germination, and maintenance of seed banks.

It is also necessary to maintain the natural hydrological and fire regimes associated with this species. However, sufficient information is not currently available to quantify the extent of the area necessary to maintain the natural fire and hydrological regimes for particular populations. Therefore, we are unable to fully incorporate these areas into our identification of essential habitat.

Whenever possible, areas not containing the primary constituent elements, such as developed areas, were not included in the boundaries of proposed critical habitat. However, we did not map critical habitat in enough detail to exclude all developed areas, or other areas unlikely to contain the primary constituent elements essential for the conservation of *Brodiaea filifolia.* Such areas within the boundaries of the mapped units, such as buildings, roads, parking lots, railroad tracks, canals, and other paved areas, are excluded from the designation by text, but these exclusions do not show on the maps because their scale is too small.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the physical and biological features determined to be essential for conservation may require special management considerations or protection. We have also considered how designation highlights habitat that needs special management consideration or protection. For example, in the development of regional HCPs, critical habitat can be useful to determine which *Brodiaea filifolia* habitat should be highest priority for special management or protection. The final designation will guide the Service and applicants to ensure habitat conservation planning efforts are consistent with conservation objectives for *B. filifolia.*

Many of the known occurrences face the following common threats: direct and indirect effects from habitat fragmentation and loss resulting from urban development (and associated infrastructure projects) and agricultural activities continue to be the most significant potential threats to *Brodiaea filifolia.* Other threats include repeated mowing and disking associated with fire suppression activities and weed control, military training, alteration of existing hydrologic conditions (particularly in western Riverside County), off-road vehicle and other recreational activities, over-grazing, and competition from non-native plant species. Unsuccessful translocation efforts may also contribute to the decline of this species.

Proposed Critical Habitat Designation

We determined that approximately 9,403 ac (3,805 ha) of eligible habitat exists for *Brodiaea filifolia* in Los Angeles, San Bernardino, Orange, Riverside and San Diego Counties, California. We are proposing to designate approximately 4,690 ac (1,898 ha) of the total eligible habitat in 10 units as critical habitat in Los Angeles, San Bernardino, Orange, and San Diego Counties, California (Table 1). The 10 proposed critical habitat units encompass 3, 2, 13, and 15 eligible occurrences in Los Angeles, San Bernardino, Orange, and San Diego counties, respectively. Twelve eligible occurrences in Riverside and 13 eligible occurrences in San Diego counties covered by approved and/or pending habitat conservation plans are being proposed for exclusion from the critical habitat designation (*See* ''Exclusions Under Section 4(b)(2) of the Act'' for a detailed discussion). Areas proposed as critical habitat are under Federal, State, local, and private ownership. The species is not currently known to occur on any Tribally-owned lands within its range. Therefore, no Tribally-owned lands are being proposed for designation. Table 2 provides the approximate area of proposed critical habitat by county and land ownership.

The proposed critical habitat areas described below constitute our best assessment at this time of those areas needed for the species' conservation. Each unit or subunit contains the primary constituent elements related to an intact surface and subsurface structure essential to maintain the identified soil and vegetation types where the species is found and to support pollinator assemblages necessary to facilitate gene flow within and among populations of *B. filifolia.* Lands within each unit or subunit are also are currently occupied and within the historic range of *B. filifolia.* Table 3 provides the approximate area of eligible habitat, eligible habitat excluded from the proposed designation, and total critical habitat proposed for *B. filifolia.*

Descriptions of each proposed critical habitat unit and the reasons why they are eligible for designation are listed below. Unit descriptions also include the size of the unit, the general vegetation and soil types present in the unit, any known threats specific to the unit, and numbers of individual plants, if known. Because the species may be present as mature but non-flowering corms or immature corms rather than flowering plants, the number of individuals given should be considered an estimate of the minimum number of plants present. In several cases, lands within the unit are referred to as developed. Using aerial imagery and other information, we determined that PCEs for this species are still present within each unit, although the habitat may be somewhat degraded.

TABLE 1.—ACREAGE (ACRES (AC); HECTARES (HA)) AND COUNTY OF UNITS AND SUBUNITS PROPOSED AS CRITICAL HABITAT FOR BRODIAEA FILIFOLIA

Critical habitat unit and subunit	County	ac; ha
Unit 1: Los Angeles County	Los Angeles	294; 119
1a: Glendora		96; 39
1b: San Dimas		198; 80
Unit 2: Arrowhead Hot Springs	San Bernardino	89; 36
Unit 3: Aliso Canyon	Orange	151; 61
Unit 4: Orange County		1,860; 753
4a: Arroyo Trabuco		74; 30
4b: Casper's Regional Park		259; 105
4c: Canada Gobernadora/Chiquita Ridgeline		311; 126
4d: Prima Deschecha		119; 48
4e: Forster Ranch		96; 39
4f: Telega/Segunda Deshecha		190; 77
4g: Cristianitos Canyon		588; 238
4h: Cristianitos Canyon South		72; 29
4i: Blind Canyon		151; 61
Unit 5: Northern San Diego County	San Diego	1,527; 618
5a: Miller Mountain		1,263; 511
5b: Devil's Canyon		264; 107
Unit 6: Oceanside		198; 81
6a: Alta Creek		49; 20
6b: Mesa Drive		5; 2
6c: Oceanside East/Mission Avenue		64; 26
6d: Taylor/Darwin		80; 33
Unit 7: Carlsbad		125; 50
7a: Fox-Miller		93; 38
7b: Rancho Carillo		32; 13
Unit 8: San Marcos		315; 127
8a: Rancho Santa Fe Road North		86; 35
8b: Rancho Santalina/Loma Alta		82; 33
8c: Grand Avenue		10; 4
8d: Upham		117; 47
8e: Linda Vista		20; 8
Unit 9: Double LL Ranch		57; 23
Unit 10: Highland Valley		74; 30
Total		4,690; 1,898

TABLE 2.—AREA (ACRES (AC) AND HECTARES (HA)) INCLUDED IN PROPOSED CRITICAL HABITAT FOR BRODIAEA FILIFOLIA BY COUNTY AND LANDOWNERSHIP

County	Federal*	State or local	Private	Total
Los Angeles	20 ac; 8 ha	0 ac; 0 ac	274 ac; 111 ha	294 ac; 119 ha.
San Bernardino	0 ac; 0 ha	0 ac; 0 ha	89 ac; 36 ha	89 ac; 36 ha.
Orange	0 ac; 0 ha	219 ac; 89 ha	1,792 ac; 725 ha	2,011 ac; 814 ha.
Riverside**	47 ac; 19 ha	0 ac; 0 ha	0 ac; 0 ha	47 ac; 19 ha.
San Diego	1,239 ac; 501 ha	0 ac; 0 ha	1,010 ac; 409 ha	2,249 ac; 910 ha.
Total	1,306 ac; 529 ha	219 ac; 89 ha	3,165 ac; 1,281 ha	4,690 ac; 1,898 ha.

* Federal lands include Bureau of Land Management, DOD, National Forest, and Fish and Wildlife Service lands.
** Proposed critical habitat in Riverside County is entirely on National Forest lands.

NOTE: The proposed designation does not include any Tribally-owned lands.

TABLE 3.—TOTAL ELIGIBLE HABITAT, ELIGIBLE HABITAT EXCLUDED FROM THE PROPOSED DESIGNATION, AND TOTAL CRITICAL HABITAT PROPOSED FOR BRODIAEA FILIFOLIA IN ACRES (AC) AND HECTARES (HA)

County	Total eligible habitat	Eligible habitat excluded	Proposed critical habitat
Los Angeles	294 ac; 119 ha	0 ac 0 ha;	294 ac; 119 ha.
San Bernardino	89 ac; 36 ha	0 ac; 0 ha	89 ac; 36 ha.
Orange	2,011 ac; 814 ha	0 ac; 0 ha	2,011 ac; 814 ha.
Riverside	3,314 ac; 1,341 ha	3,267 ac; 1,322 ha	47 ac*; 19 ha.
San Diego	3,695 ac; 1,495 ha	1,446 ac; 585 ha	2,249 ac; 910 ha.
Total	9,403 ac; 3,805 ha	4,713 ac; 1,907 ha	4,690 ac; 1,898 ha.

* Proposed critical habitat in Riverside County is entirely on National Forest lands.

Unit Descriptions

Los Angeles County—There are currently three known occurrences of *Brodiaea filifolia* in Los Angeles County, each of which is proposed as critical habitat.

Unit 1: Los Angeles County Unit—This unit consists of 294 ac (119 ha) divided into 2 subunits.

Subunit 1a: Glendora. This subunit consists of 96 ac (39 ha) of private lands in the city of Glendora, in the foothills of the San Gabriel Mountains in eastern Los Angeles County. Lands within this subunit contain Cieneba-Exchequer-Sobrant soils, a type of silty loam, and consist primarily of northern mixed chaparral and coastal sage scrub. This population represents only one of two occurrences located in the foothills of the San Gabriel Mountains part of the Transverse Ranges, where the species was historically found, and represents the nearest genetic connection to the San Dimas subunit. Lands within this subunit support an occurrence of about 2,000 plants associated in part with northern mixed chaparral. This occurrence represents a peripheral location (Lesica and Allendorf 1995), being the northernmost known occurrence of the species, with populations known since 1991 [and rediscovery of population not reported since 1921] (CNDDB 2003, p. 16). The site is owned and managed by the Glendora Community Conservancy (GCC); however, we are not aware of a specific conservation or management plan protecting or managing for this species on the GCC's property. Management actions to control invasive species may be required to maintain the identified vegetation types essential to the conservation of the species since invasive species can outcompete native species for resources.

Subunit 1b: San Dimas subunit. This subunit consists of 198 ac (80 ha) of privately owned and Federal (Angeles National Forest) lands in the city of San Dimas in the foothills of the San Gabriel Mountains of eastern Los Angeles County. Lands within this subunit contain Cieneba-Exchequer-Sobrant soils, a type of silty loam, and consist primarily of coastal sage scrub and northern mixed chaparral. This is one of only two units in the foothills of the San Gabriel Mountains of the Transverse Ranges where it occurred historically and represents the only likely genetic connection to the Glendora subunit. This subunit supports two occurrences totaling about 6,000 plants and is associated with chaparral, with plants recorded since 1990 (CNDDB 2003, p. 35). While this species is not currently known to occur on the Angeles National Forest, the species occurs directly outside of the National Forest so approximately 20 ac of the national forest was included in the proposed designation to provide for pollinator habitat. This site is threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

San Bernardino County—There are currently two known occurrences of *Brodiaea filifolia* in San Bernardino County, both of are being proposed as critical habitat.

Unit 2: Arrowhead Hot Springs Unit. This unit consists of 89 ac (36 ha) of privately owned land at the southwestern base of the San Bernardino Mountains. Lands within this unit contain Etsel family-Rock outcrop-Springdale and Tujunga-Urban land-Hanford soils, some of which are considered alluvial, and consist primarily of coastal sage scrub. This unit supports the only occurrence of this plant in the foothills of the San Bernardino Mountains of the Transverse Ranges, where it occurred historically with collections dating since the late 1800s (Niehaus 1971, CNDDB 2003 p. 5) and most recently 1000 plants observed in 1993, represents a peripheral location at the northern limits of the species range (Lesica and Allendorf 1995), and represents the type locality for the species. Lands within this unit support two occurrences, totaling about 1,000 plants, that are associated with coastal sage scrub. Occurrences in this unit are threatened by invasive exotic plants. Therefore, management actions to control invasive species may be required to maintain the identified vegetation types essential to the conservation of the species since invasive species can outcompete native species for resources.

Orange County—There are currently 23 known occurrences of *Brodiaea filifolia* in Orange County, 13 of which have been determined to have the PCEs essential to the conservation of the species and thus are being proposed as critical habitat.

Unit 3: Aliso Canyon Unit. This unit consists of 151 ac (61 ha) of publicly owned land in Aliso-Wood Canyon Regional Park, in the city of Laguna Niguel, southwestern Orange County. Lands within this unit contain clay loam or other types of loam and consist primarily of annual grassland that has been graded or disturbed. Lands within this unit support an occurrence that is associated with annual grassland and represent a peripheral location (Lesica and Allendorf 1995), being the westernmost occurrence of the species. Although this occurrence is protected from urban development as part of Aliso-Wood Regional Park, these parklands are managed for recreational use and not specifically for the conservation of *Brodiaea filifolia.* The occurrence in this unit is primarily threatened by fuel management activities (annual mowing) conducted by park staff (Julie Vanderwier, USFWS, pers. comm. 2004). Therefore, management actions to minimize disturbance to the surface structure within this unit may be required to maintain the identified vegetation types as well as pollinator habitat essential to the conservation of the species.

Unit 4: Orange County Unit—This unit consists of 1,861 ac (753 ha) divided into 9 subunits.

Subunit 4a: Arroyo Trabuco. This subunit consists of 74 ac (30 ha) of privately owned land near Rancho Mission Viejo in southern Orange County. Lands within this subunit contain clay loam or other types of loam, and consist primarily of annual grassland and coastal sage scrub. Lands within this subunit support an occurrence that represents a regionally peripheral location (Lesica and Allendorf 1995), being the westernmost occurrence of the species for the unit; and may provide gene flow to the Canada Gobernadora/Chiquita Ridgeline subunit (about 4.5 km away). Roughly half of this land appears to be under agricultural use. Therefore, management actions to minimize disturbance to the surface structure within this subunit may be required to maintain the identified vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4b: Casper's Regional Park. This subunit consists of 259 ac (105 ha) of privately owned and County (Casper's Regional Park) lands in the city of San Juan Capistrano, in the southwestern region of the Santa Ana Mountains, southern Orange County. Lands within this unit contain clay loam, sandy loam, or rocky outcrop, and consist primarily of sagebrush-buckwheat scrub. Lands within this support an occurrence of about 800 plants that is one of only two occurrences that occur in sagebrush-buckwheat scrub, are located in the foothills of the Santa Ana Mountains at or near the highest elevation of any of the Orange County occurrences, and represent the northernmost occurrence in Orange County as a regionally peripheral population (Lesica and Allendorf 1995). This occurrence also provides for gene flow to the south (subunit 4c, about 3.75 km away). Records of this plant date from 1989 with 24 plants to 850 plants in 1995 (CNDDB 2003 p. 51). While this occurrence is protected from urban development, being contained within Casper's Regional Park, park lands are primarily managed for recreational use and not specifically for the conservation of the species. Management actions to minimize disturbance to the surface structure within this subunit may be required to maintain the identified vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4c: Canada Gobernadora/Chiquita Ridgeline. This subunit consists of 311 ac (126 ha) of privately owned land near Chiquita and Gobernadora Canyons on Rancho Mission Viejo in southern Orange County. Lands within this subunit contain clay, clay loam, or sandy loam and consist primarily of dry-land croplands and sagebrush-buckwheat scrub. Lands within this subunit support two occurrences, totaling about 4,400 plants, and this subunit is one of only two subunits to include sagebrush-buckwheat scrub vegetation. Approximately 2600 plants were observed from this subunit and adjacent areas from surveys conducted in the 1990s (CNDDB 2003 p. 59). This subunit is central to Orange County populations and may provide for gene flow to surrounding populations in Unit 4 (Casper's Regional Park subunit is about 3.75 km away, and the Arroyo Trabuco subunit is about 4.5 km away). Occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4d: Prima Deschecha. This subunit consists of 119 ac (48 ha) of privately owned land northeast of San Clemente in western Orange County. Lands within this subunit contain clay soils and consist primarily of annual grassland. Lands within this subunit support an occurrence that may provide gene flow north to the Canada Gobernadora/Chiquita Ridgeline subunit (about 4.5 km away) and south to the Forster Ranch subunit (about 1.75 km away). Occurrences in this subunit are threatened by urban development. Management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4e: Forster Ranch. This subunit consists of 96 ac (39 ha) of privately owned land northeast of San Clemente in southwestern Orange County. Lands within this subunit contain clay and clay-loam soils and consist primarily of annual grassland. Lands within this subunit support an occurrence that may provide gene flow north to the Prima Deschecha subunit (about 1.75 km away) as well as to populations on MCB Camp Pendleton. Occurrences in this subunit are threatened by urban development. Management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4f: Telega/Segunda Deshecha. This subunit consists of 190 ac (77 ha) of privately owned land northeast of San Clemente in southwestern Orange County. Lands within this subunit contain clay soils and support needlegrass grassland. Lands within this subunit support an occurrence that may provide gene flow east to the Cristianitos Canyon subunit (about 1.25 km away) and to populations on MCB Camp Pendleton. Occurrences in this subunit are threatened by urban development. Management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4g: Cristianitos Canyon. This subunit consists of 588 ac (238 ha) of privately owned land in Cristianitos Canyon on Rancho Mission Viejo in southern Orange County. Lands within this subunit are underlain by clay and sandy loam soils and consist primarily of annual grassland and needlegrass grassland. Lands within this subunit support 3 occurrences, totaling about 3,000 plants, as well as several smaller occurrences and may provide for gene flow to surrounding occurrences such as Telega/Segunda Deshecha (about 1.25 km away) and those on MCB Camp Pendleton in San Diego County. Approximately 2600 plants were observed from this subunit and adjacent areas from surveys conducted in the 1990s (CNDDB 2003 p.57). Occurrences in this subunit are threatened by development of the Foothill Transportation Corridor. Management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4h: Cristianitos Canyon South. This subunit consists of 72 ac (29 ha) of privately owned land in Cristianitos Canyon on Rancho Mission Viejo in southern Orange County. Lands within this subunit contain clay, clay-loam, and loam soils that support annual grassland. Lands within this subunit support an occurrence that may provide gene flow to occurrences in Orange (such as Telega/Segunda Deshecha and Cristianitos Canyon that are about 1.75 km away) and San Diego Counties. Approximately 2600 plants

were observed from this subunit and adjacent areas from surveys conducted in the 1990s (CNDDB 2003 p. 58). Occurrences in this subunit are threatened by urban development. Management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 4i: Blind Canyon. This subunit consists of 151 ac (61 ha) of privately owned land on Rancho Mission Viejo near the border between Orange and San Diego counties. Lands within this subunit contain clay loam and sandy loam soils and consist primarily of annual grassland and coastal sage scrub. Lands within this subunit support an occurrence that may provide gene flow between occurrences in Orange County (about 2 km away from the Cristianitos Canyon subunit) and on MCB Camp Pendleton (about 1.5 km away). Occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

San Diego County—There are currently 44 known occurrences of *Brodiaea filifolia* in San Diego County, 15 of which have been determined to be eligible for designation and thus are being proposed as critical habitat.

Unit 5: Northern San Diego Unit—This unit consists of 1,527 ac (618 ha) divided into 2 subunits.

Subunit 5a: Miller Mountain. This subunit consists of 1,263 ac (511 ha) of private and publicly-owned (Cleveland National Forest) lands in northern San Diego County near the border with Riverside County. About 47 acres of Cleveland National Forest lands in this subunit lie within Riverside County. The majority of the vegetation in this subunit is valley and foothill grassland and northern mixed and chamise chaparrals. This occurrence may provide gene flow north and south into Riverside and San Diego Counties (about 3.5 km away from the closest unit, excluded, in Riverside County, and about 1.5 km away from the Devil's Canyon subunit). Lands within this subunit support an occurrence of about 20,000 plants as well as some plants thought to be intermediate between *Brodiaea filifolia* and *B. orcuttii.* This population is also historically recorded as a type locality from the late 1800s (Niehaus 1971), with surveys from 1992 of about 20,000 plants (CNDDB 2003 pp. 32 and 33). The Cleveland National Forest does not currently have a management plan specific to *Brodiaea filifolia,* however, timing of cattle grazing has been adjusted to avoid the flowering period for the species (Kirsten Winter, Forest Botanist, 2004 pers. comm.). Management actions to minimize disturbance to the surface structure within this subunit and to control invasive species may be required to maintain the identified vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 5b: Devil's Canyon. This subunit consists of 264 ac (107 ha). It occurs on private and publicly-owned (Cleveland National Forest) lands in northeastern San Diego County. The majority of the vegetation in this subunit is chaparral. Lands within this subunit support an occurrence that may provide gene flow to occurrences in Riverside County via the Miller Mountain subunit (about 1.5 km away). This population is also historically recorded as a type locality from the late 1800s (Niehaus 1971) with surveys from 1992 of several thousand plants (CNDDB 2003 p. 34). The Cleveland National Forest does not currently have a management plan specific to *Brodiaea filifolia,* however, timing of cattle grazing has been adjusted to avoid the flowering period for the species (Kirsten Winter, Forest Botanist (2004 pers. comm.). Management actions to minimize disturbance to the surface structure within this subunit and to control invasive species may be required to maintain the identified vegetation types as well as pollinator habitat essential to the conservation of the species.

Unit 6: Oceanside Unit—This unit consists of 199 ac (81 ha) divided into 4 subunits.

Subunit 6a: Alta Creek. This subunit consists of 49 ac (20 ha) of private land in northern coastal San Diego County. Lands within this subunit contain fine sandy loam, loam, or loamy fine sand and consist primarily of coastal sage scrub. Lands within this subunit support an occurrence that may provide gene flow to occurrences in the Mesa Drive subunit (about 1 km away), and in Calavera Heights (about 3 km away) as well as other occurrences along coastal San Diego County. The occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 6b: Mesa Drive. This subunit consists of 5 ac (2 ha) of privately owned land in the city of Oceanside, northern coastal San Diego County. Lands within this subunit contain loamy fine sands and consists primarily of extant areas of grassland. This subunit supports an occurrence and provides potential gene flow to occurrences in Calavera Heights via Alta Creek (about 1 km away). The occurrence in this subunit is threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 6c: Oceanside East/Mission Avenue. This subunit consists of 91 ac (37 ha) of privately owned land in the city of Oceanside, northwestern San Diego County. Lands within this subunit contain fine loamy sands and consist primarily of coastal sage scrub with some disturbed areas. Lands within this subunit support an occurrence that may provide gene flow to occurrences in coastal San Diego County (the Mesa Drive subunit is about 2.5 km away). Occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 6d: Taylor/Darwin subunit. This subunit consists of 80 ac (33 ha) of privately owned land in the city of Oceanside, northwestern San Diego County. The majority of the subunit is undeveloped, but is immediately surrounded by urban development. However, areas of extant valley and foothill grasslands exist in the surrounding area Most of the soils present in this subunit are clay or loamy fine sand. Lands within this subunit support a regionally peripheral population (Lesica and Allendorf 1995), and an occurrence that may provide gene flow to the Oceanside East/Mission Avenue subunit (about 3.5 km away). Occurrences in this subunit are threatened by encroaching urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator

habitat essential to the conservation of the species.

Unit 7: Carlsbad—This unit consists of 125 ac (50 ha) divided into 2 subunits.

Subunit 7a: Fox-Miller. This subunit consists of 93 ac (38 ha) of privately owned land in the city of Carlsbad, northwestern San Diego County. Lands within this subunit contain heavy clay soils and consist primarily of non-native grassland. Lands within this subunit support an occurrence of about 19,000 plants that may provide gene flow to surrounding occurrences (this unit is about 1.5 km west of a protected unit, and thereby excluded). This occurrence is threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species. Though this unit occurs in the City of Carlsbad subarea of the Multiple Habitat Conservation Program (MHCP) Plan, we are proposing to designate this unit for the reasons provided below in ''Relationship of Critical Habitat to the City of Carlsbad Draft Habitat Management Plan—Exclusion under 4(b)(2).''

Subunit 7b: Rancho Carillo. This subunit consists of 32 ac (13 ha) of private land in San Diego County. Lands within this subunit contain clay or sandy loam soils and consist primarily of non-native grasslands and coastal sage scrub. Records of this plant date from 1991 with more than 100 plants to estimates of 300 to 24,000 plants, most as non-flowering corms (CNDDB 2003 p. 18). Lands within this subunit support an occurrence that may provide gene flow to nearby occurrences to the northeast (nearest occurrence about 1.5 km away) and occurrences in the Rancho Santa Fe Road North unit (less than 0.5 km away). Occurrences in this subunit are threatened by road realignment and urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Unit 8: San Marcos—This unit consists of 315 ac (127 ha) divided into 5 subunits.

Subunit 8a: Rancho Santa Fe Road North. This subunit consists of 86 ac (35 ha) of private land in San Diego County. Lands within this subunit contain clay or sandy loam soils and consist primarily of non-native grasslands and coastal sage scrub. Lands within this subunit support an occurrence that may provide gene flow to the northeast (about 1.5 km away from a protected unit, thereby excluded). This subunit is also immediately east of the Rancho Carillo subunit. Occurrences in this subunit are threatened by road realignment and urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 8b: Rancho Santalina/Loma Alta. This subunit consists of 82 ac (33 ha) of privately owned land in the city of San Marcos, northern San Diego County. The majority of the vegetation in the subunit is developed, however, there are areas of valley and foothill grassland and coastal sage scrub. Most of the soils in this subunit are clay, loam, or loamy fine sand. Lands within this subunit support an occurrence of about 6,000 plants, may provide gene flow to nearby occurrences (about 0.5 km from the Grand Avenue subunit), and represent a peripheral location (Lesica and Allendorf 1995), being the easternmost known occurrence of the species. Portions of this subunit have been lost as the result of urban development and some of the remaining habitat is in narrow linear areas and subject to considerable edge effects such as persistent proximity to sources of invasive exotic plants and trampling by humans and their pets. The occurrence is threatened by OHV use, invasive non-native plants, and disking. Therefore, management actions to minimize disturbance to the surface and subsurface structure and control invasive species within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 8c: Grand Avenue. This subunit consists of 10 ac (4 ha) of privately owned land in the city of San Marcos, northern San Diego County. The majority of the subunit is undeveloped, but is immediately surrounded by urban development. However, areas of extant valley and foothill grasslands exist in the surrounding area. Most of the soils in the subunit are loamy fine sand. Lands within this subunit support an occurrence that may provide gene flow to surrounding occurrences (about 0.5 km from the Rancho Santalina/Loma Alta and Upham subunits). Records of this plant date from 1993 (CNDDB 2003 p. 31). Occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 8d: Upham. This subunit consists of 117 ac (47 ha) of privately owned land in the city of San Marcos, northern San Diego County. The majority of the subunit is undeveloped, but is immediately surrounded by urban development. However, areas of extant valley and foothill grasslands exist in the surrounding area. Records of this plant date from 1978, with about 1000 or more plants seen in 1986 and 1995 (CNDDB 2003 p. 7). Lands within this subunit support an occurrence that may provide gene flow to surrounding occurrences (about 0.5 km from the Grand Avenue and Linda Vista subunits). Occurrences in this subunit are threatened by urban development. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Subunit 8e: Linda Vista. This subunit consists of 20 ac (8 ha) of privately owned land in the city of San Marcos, northern San Diego County. Much of the subunit is undeveloped; but is immediately surrounded by urban development. However, areas of extant valley and foothill grasslands exist in the surrounding area. Lands within this subunit support an occurrence that may provide gene flow to surrounding occurrences in northern San Diego County, such as the Upham subunit (about 0.5 km away). Records of this plant date from 1991 (CNDDB 2003 p. 30). This subunit is threatened by OHV activity, encroaching urban development, and trash dumping. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this subunit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Unit 9: Double LL Ranch Unit—This unit consists of 57 ac (23 ha) of privately owned land in the city of Encinitas, northwestern San Diego County. Much of the unit is undeveloped; but is immediately surrounded by urban development. However, areas of extant valley and foothill grasslands exist in the surrounding area. Most of the soils present in this unit are heavy clays. Lands within this subunit support a

regionally peripheral population (Lesica and Allendorf 1995). This unit is threatened by urban development and the indirect effects of activities associated with the road that bisects the unit. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this unit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Unit 10: Highland Valley Unit—This unit consists of 74 ac (30 ha) of privately owned land east of the community of Ramona in northeastern San Diego County. Lands within this unit contain clay or sandy loam soils and consist primarily of non-native grassland or alkali seep. Lands within this subunit support an occurrence that represents the only known occurrence in San Diego County that is on alkali soils and because it is a peripheral location (Lesica and Allendorf 1995), being the easternmost locality for the species. Populations in this unit are threatened by urban development and agricultural activities. Therefore, management actions to minimize disturbance to the surface and subsurface structure within this unit may be required to maintain the identified soil and vegetation types as well as pollinator habitat essential to the conservation of the species.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In response to recent court decisions invalidating our regulatory definition of adverse modification under 402.2, we are not relying on that definition in this discussion of critical habitat effects. Instead in evaluating whether destruction or adverse modification of critical habitat would occur, we rely on the statutory definition of critical habitat quoted earlier in this rule. We must analyze whether, if a proposed Federal agency action were implemented, critical habitat would remain functional to serve its intended conservation role for the species.

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

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

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law.

Consequently, some Federal agencies may request re-initiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

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

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

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that would impair the functionality of the primary constituent elements within a critical habitat unit to serve their intended conservation role for the species. We note that such activities may also jeopardize the continued existence of the species.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat.

Activities involving a Federal action that may destroy or adversely modify critical habitat, or may be affected by the critical habitat designation include, but are not limited to:

(1) Removing, thinning, or destroying *Brodiaea filifolia* habitat (as defined in

the primary constituent elements discussion), whether by burning, mechanical, chemical, or other means (*e.g.*, plowing, grubbing, grading, grazing, woodcutting, construction, road building, mining, mechanical weed control, herbicide application, *etc.*);

(2) Activities that appreciably degrade or destroy *Brodiaea filifolia* habitat (and its primary constituent elements) include, but are not limited to, livestock grazing, clearing, disking, farming, residential or commercial development, introducing or encouraging the spread of nonnative species, off-road vehicle use, and heavy recreational use;

(3) Activities that appreciably diminish habitat value or quality through indirect effects (*e.g.*, edge effects, invasion of exotic plants or animals, or fragmentation);

(4) Any activity, including the regulation of activities by the Corps of Engineers under section 404 of the Clean Water Act or activities carried out by or licensed by the Environmental Protection Agency (EPA), that could alter watershed or soil characteristics in ways that would appreciably alter or reduce the quality or quantity of surface and subsurface flow of water needed to maintain *Brodiaea filifolia* habitat (these activities include, but are not limited to, altering the natural fire regime either through fire suppression or by using prescribed fires that are too frequent or poorly-timed; development, including road building and other direct or indirect activities; agricultural activities, livestock grazing, and vegetation manipulation such as clearing or grubbing in the watershed upslope from *Brodiaea filifolia*);

(5) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities, or any activity funded or carried out by the Department of Transportation or Department of Agriculture that could result in excavation, or mechanized land clearing of *Brodiaea filifolia* habitat; and

(6) Licensing of construction of communication sites by the Federal Communications Commission or funding of construction or development activities by the U.S. Department of Housing and Urban Development that could result in excavation, or mechanized land clearing of *Brodiaea filifolia* habitat.

The 10 proposed critical habitat units are within the geographical area occupied by the species and have the PCEs essential for the conservation of *Brodiaea filifolia.* Additionally, all habitats within this designation are likely to be used by the pollinators for the species. Federal agencies already consult with us on activities in areas currently occupied by the species or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the species.

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

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species.

In our critical habitat designations, we have used the provisions outlined in section 4(b)(2) of the Act to evaluate lands eligible for designation for possible exclusion from proposed critical habitat. Lands that we have either excluded from or not included in critical habitat based on that provision include those covered by: (1) Legally operative HCPs that cover the species and provide assurances that the conservation measures for the species will be implemented and effective; (2) draft HCPs that cover the species, have undergone public review and comment, and provide assurances that the conservation measures for the species will be implemented and effective (*i.e.*, pending HCPs); (3) Tribal conservation plans that cover the species and provide assurances that the conservation measures for the species will be implemented and effective; (4) State conservation plans that provide assurances that the conservation measures for the species will be implemented and effective; and (5) Service National Wildlife Refuge System Comprehensive Conservation Plans that provide assurances that the conservation measures for the species will be implemented and effective. A summary of the exclusions proposed in this rule follow in Table 4.

TABLE 4.—APPROXIMATE ELIGIBLE HABITAT, EXCLUDED ELIGIBLE HABITAT, AND PROPOSED CRITICAL HABITAT (ACRES (AC); HECTARES (HA)) FOR BRODIAEA FILIFOLIA

Total eligible habitat identified for *Brodiaea filifolia*	9,403 ac; 3,805 ha.
Eligible habitat excluded from the proposed critical habitat designation pursuant to section 4(b)(2) of the Act	
Western Riverside County Multiple Species Habitat Conservation Plan (Riverside County)	3,267 ac; 1,322 ha.
City of Carlsbad Draft Habitat Management Plan (San Diego County)	321 ac; 130 ha.
Villages of La Costa Habitat Conservation Plan (San Diego County)	208 ac; 84 ha.
"Mission-essential" Department of Defense lands (Marine Corps Base (MCB), Camp Pendleton, San Diego County)	917 ac; 371 ha.
Total eligible habitat excluded from proposed critical habitat	4,713 ac; 1,907 ha.
Total eligible habitat proposed as critical habitat	4,690 ac; 1,898 ha.

Relationship of Critical Habitat to Approved Habitat Conservation Plans

As described above, section 4(b)(2) of the Act requires us to consider other relevant impacts, in addition to economic and national security impacts, when designating critical habitat. Some areas occupied by *Brodiaea filifolia* involve complex HCPs that address multiple species, cover large areas, and have many participating permittees. Many of the large regional HCPs in southern California have been, or are being, developed to provide for the voluntary and cooperative conservation of numerous federally listed species and rare species and their habitat. Over time, areas in the planning area are addressed per the HCP, and key areas are acquired, managed, and monitored. These HCPs are designed to implement conservation actions to address future projects that are anticipated to occur within the planning area of the HCP, and to reduce delays in the permitting process.

Approved regional HCPs (*e.g.*, those sponsored by cities, counties or other local jurisdictions) where *Brodiaea filifolia* is addressed provide for the protection and management of habitat that contains the PCE's essential to the conservation of the species while shifting development to non-essential areas. Regional HCP development processes provide an intensive data

collection and analysis regarding habitat of *B. filifolia.* The process also enables us to develop a reserve system that provides for the biological needs and long-term conservation of the species (Schwartz 1999).

Completed HCPs and their accompanying Implementing Agreements (IA) contain management measures and protections for identified preserve areas that protect, restore, and enhance the value of these lands as habitat for *Brodiaea filifolia.* These measures include explicit standards to minimize impacts to the addressed species and its habitat. In general, HCPs are designed to ensure that the value of the conservation lands are maintained, expanded, and improved for the species that they cover.

Brodiaea filifolia is covered under the approved Western Riverside Multiple Species Habitat Conservation Plan, the approved Villages of La Costa Habitat Conservation Plan, and the City of Carlsbad Draft Habitat Management Plan. We have determined that the benefits of excluding eligible habitat areas within these pending and legally operative HCPs from the proposed critical habitat designations will outweigh the benefits of including them.

Relationship of Critical Habitat to the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP)—Exclusion Under 4(b)(2)

Areas of eligible habitat for *Brodiaea filifolia* in the Western Riverside County Management Area occur within the Western Riverside MSHCP area, and have been proposed for exclusion from proposed critical habitat pursuant to section 4(b)(2) of the Act. The Western Riverside MSHCP was developed over a period of eight years and was approved and permitted on June 22, 2004. Participants in this HCP include 14 cities, the County of Riverside (including the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department), the California Department of Parks and Recreation, and the California Department of Transportation. The Western Riverside MSHCP is a subregional plan under the State's Natural Community Conservation Plans (NCCP) and was developed in cooperation with the California Department of Fish and Game.

The MSHCP establishes a multi-species conservation program to minimize and mitigate the expected loss of habitat values of ''covered species'' and, with regard to covered animal species, their incidental take. The intent of the MSHCP is to provide avoidance, minimization, and mitigation measures for the impacts of proposed activities on covered species and their habitats. Within the 1,260,000 ac (510,000 ha) Plan Area of the MSHCP, approximately 153,000 ac (62,000 ha) of diverse habitats are to be conserved. The proposed conservation of 153,000 ac (62,000 ha) will complement other existing natural and open space areas (*e.g.*, State Parks, Forest Service, and County Park Lands). The MSHCP identifies the following species-specific conservation goals that will be implemented for the long-term conservation of *Brodiaea filifolia:* (1) To include within the MSHCP conservation area at least 6,900 ac out of an estimated 11,482 ac of suitable habitat; (2) to include within the MSHCP conservation area at least 11 major locations supporting *B. filifolia;* (3) to conduct surveys for the species in certain areas of suitable habitat until the conservation goals are met; and (4) to maintain floodplain processes along the San Jacinto River.

Relationship of Critical Habitat to the City of Carlsbad Draft Habitat Management Plan—Exclusion Under 4(b)(2)

Lands within the boundaries of the City of Carlsbad draft Habitat Management Plan (HMP) that contain eligible habitat for *B. filifolia* have been considered but are not proposed as critical habitat. The Carlsbad HMP, a draft subarea plan under the draft Multiple Habitat Conservation Plan (MHCP), is part of a large-scale habitat conservation planning effort in northwestern San Diego County. The draft MHCP includes the participation of the cities of Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach and Vista. The draft MHCP is also being proposed as a subregional plan under the State's NCCP and is being developed in cooperation with CDFG. The plan area encompasses approximately 111,908 ac (45,288 ha). Each of the cities participating in the MHCP is preparing an individual subarea plan that would authorize the issuance of an incidental take permit for those species specifically identified for coverage with a particular city's subarea plan.

The City of Carlsbad has prepared a draft subarea HMP for the MHCP. Within the boundaries of the draft HMP, five eligible populations of *B. filifolia* are currently known to occur (Calavera Heights, Lake Calavera, Fox-Miller, Carlsbad Oaks North, Poinsettia). All known populations of *B. filifolia* that occur within the boundaries of the draft HMP, with one exception, are inside planned preserve areas. The draft HMP anticipates *B. filifolia* will be fully covered under the plan, with the exception of the population known to occur on the Fox-Miller site (Unit 7a), described below. For the fully covered populations of *B. filifolia,* the draft HMP identifies the species as a narrow endemic and provides for the conservation of 100 percent of those populations of *B. filifolia* that occur within the boundaries of the proposed preserve areas. All populations of *B. filifolia,* with the exception of the Fox-Miller population, are included in the proposed preserve areas of the draft HMP. Additionally, the draft HMP includes provisions to manage the populations within the preserve areas in order to provide for the long-term conservation of the species.

For the Fox-Miller site, the draft HMP would only include the plant as a conditionally covered species. The proposed hardline on Fox-Miller will not meet the conditions for coverage of the species due to the recent identification of 19,100 plants on the property. Modification of this hardline would need to occur for coverage of brodiaea filifolia. Thus, development that would adversely affect this species could not be permitted under Carlsbad's HMP until such coverage is received by the City. The Service and CA Department of Fish and Game will work with the City of Carlsbad and the landowner to address the conservation of this plant on that property. If the conditions to achieve this conservation are met, we may consider excluding this area from critical habitat in the final rule.

Substantial progress has been made on the City of Carlsbad's subarea HMP. On June 4, 2004, we published a Notice of Availability of a Draft Environmental Impact Statement/Report (EIS/EIR) and Receipt of and Application for an Incidental Take Permit in the **Federal Register** regarding the MHCP and the City of Carlsbad's draft subarea HMP (69 FR 31632). Public comment on these documents was accepted until July 6, 2004. The City of Carlsbad also modified their subarea HMP by addendum in order to receive a Federal consistency determination from the California Coastal Commission.

Although the draft subarea HMP for the City of Carlsbad is not yet approved and implemented, the circulation of the final EIS/EIR, solicitation of public review and comment, and initiation of the intra-Service section 7 consultation for those species, including the

Brodiaea filifolia, identified for coverage with the draft plan, demonstrates significant sustained progress in the development of this habitat conservation planning effort.

We are excluding eligible habitat for *B. filifolia* at Calavera Heights, Lake Calavera, Carlsbad Oaks North, and Poinsettia from proposed critical habitat designation pursuant to section 4(b)(2) of the Act. The population of *B. filifolia* identified as the Fox-Miller site (Unit 7) is being proposed as critical habitat.

Relationship of Critical Habitat to the Villages of La Costa Habitat Conservation Plan—Exclusion Under 4(b)(2)

The Fieldstone/La Costa project is on 1,955 acres at two locations within the City of Carlsbad. The project is a housing development with limited commercial use, a school, park, and various roadways. All of the *Brodiaea filifolia* on-site occurred in the Northwest parcel and was estimated to consist of 7,000 individuals. The project was permitted to directly impact 1,190 individuals (17 percent) due to development. As part of the HCP and section 10(a)(1)(B) permit issuance, the following conservation measures were required and have been implemented for the long-term conservation of *Brodiaea filifolia:* (1) Permanent protection of approximately 5,800 individuals (83 percent) in a 702.5-ac natural open space preserve configured to provide connectivity to other significant areas of natural habitat; (2) long-term management of conserved habitat; (3) monitoring; (4) habitat restoration and enhancement; (5) control of invasive plant species; (6) implementation of a fire management program; (7) access control measures; and (8) public education. Open space areas on Villages of La Costa lands are actively managed to maintain and enhance biological values by the Center for Natural Lands Management (Don Rideout, City of Carlsbad, pers. comm. 2004).

Other Regional Natural Community Conservation Plans and HCPs

There are other regional NCCP/HCP efforts under way in southern California that have not yet been completed but which, upon approval, will provide conservation benefits to *Brodiaea filifolia.* Lands within these HCPs are not excluded from consideration for proposed critical habitat. However, management plans and/or habitat conservation plans that provide for conservation of the species in areas being proposed as critical habitat submitted to and approved by the Service prior to the end of the public comment period for this proposed rule will be evaluated for exclusion from the final designation.

The Multiple Habitat Conservation Program (MHCP) in northwestern San Diego County encompasses approximately 112,000 ac (45,324 ha). The cities of Oceanside, Escondido, San Marcos, Vista, Carlsbad, Encinitas, and Solana Beach are involved in the development and implementation of this multiple species HCP/NCCP. As discussed above, the City of Carlsbad's Habitat Management Plan (HMP) is their subarea plan to the MHCP and has been proceeding ahead of the other cities in MHCP. The HMPs for the other participating cities are in various stages of development.

The proposed Southern Subregion NCCP/HCP in Orange County encompasses approximately 128,000 ac (51,799 ha) in its planning area. Jurisdictions and private landowners within the study area include the cities of Rancho Santa Margarita, Mission Viejo, San Juan Capistrano, San Clemente, and Rancho Mission Viejo. *B. filifolia* is being proposed as one of the species covered under this plan, but because this plan is still in review the lands in this plan have not been excluded. The preliminary draft of this plan conveys the importance of conservation of at least 75 percent of all the known *B. filifolia* occurrences (and an estimated 96 percent of documented flowering scapes) within the plan area (NCCP/SAMP Working Group 2003).

North County Subarea of the MSCP comprises approximately 14,045 ha (34,705 ac) within the unincorporated areas of San Diego. Currently, there is only one known occurrence of *Brodiaea filifolia* in this planning area, and this population is included in proposed critical habitat. The North County MSCP Subarea Plan is in the preliminary stages. Draft Plans have not been created, and the California Environmental Quality Act documents have not been drafted. However, a group of independent science advisors reviewed the process for incorporating the best available science in the North County Subarea Plan (NCSAP). Based on meetings and a review of the Independent Science Advisors (ISA) Report (ISA 2002), the County created a Revised NCSAP Preserve Planning Process Report. In addition, public scoping meetings have been held and a draft Subarea Plan Working Draft map of the planning area with draft Pre-Approved Mitigation Areas have been identified.

(1) Benefits of Inclusion

The principal effect of designated critical habitat is that federally funded or authorized activities within critical habitat may require consultation under section 7 of the Act. Consultation ensures that action entities avoid adverse modification of critical habitat. Currently approved and permitted HCPs and NCCP/HCPs ensure the long-term survival of addressed species. HCPs or NCCP/HCPs and IAs (implementing agreements) include management measures and protections for conservation lands designed to protect, restore, and enhance their value as habitat for covered species and thus provide benefits to the species well in excess of those that would result from a critical habitat designation.

Another benefit of including these lands is that the designation of critical habitat can serve to educate landowners and the public regarding the potential conservation value of an area. This may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation value for certain species.

(2) Benefits of Exclusion

The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and counties that have voluntarily adopted an HCP of the additional regulatory burden that might be imposed by critical habitat. Many HCPs become the basis for regional conservation plans consistent with the recovery objectives for listed species covered within the plan area. Many of these HCPs provide conservation benefits to unlisted, rare species. Imposing additional regulatory review after an HCP is completed solely as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas. In fact, it could result in the loss of species' benefits if participants abandon the voluntary HCP process because it may result in an additional regulatory burden requiring more of them than of other parties who have not voluntarily participated in species conservation. Designation of critical habitat within the boundaries of approved HCPs is likely to be viewed as a disincentive to those entities currently developing HCPs or contemplating them in the future.

A related benefit of excluding lands within HCPs from critical habitat designation is the continued ability by the Service to seek new partnerships. These may include future HCP participants, such as States, counties, local jurisdictions, conservation

organizations, and private landowners. These entities together may implement conservation actions that we would be unable to accomplish otherwise.

An HCP or NCCP/HCP application must undergo section 7 consultation. While this consultation does not address adverse modification to critical habitat, it will determine if the HCP jeopardizes the species in the plan area. Federal actions not covered by the HCP, but in areas occupied by listed species, still require consultation under section 7 of the Act. HCPs and NCCP/HCPs typically provide greater conservation benefits to an addressed listed species than section 7 consultations because, under the specific requirements for an HCP contained in section 10 of the Act, HCPs and NCCP/HCPs assure the long-term protection and management of a covered species and its habitat, and funding for such management through the standards found in the 5 Point Policy for HCPs (64 FR 35242). Section 7 is limited to requiring that the specific action being consulted upon does not jeopardize the continued existence of the species or destroy or adversely modify critical habitat.

(3) Benefits of Exclusion Outweigh the Benefits of Inclusion

The Western Riverside MSHCP, the Carlsbad HMP, and the Villages of La Costa HCP include *Brodiaea filifolia* as a covered species. HCPs and NCCP/HCPs provide protection for *B. filifolia* and its associated habitat. The educational benefits of critical habitat, including informing the public of areas that are essential for the long-term survival and conservation of the species, is still accomplished from material provided on our website and through public notice and comment procedures required to establish an HCP or NCCP/HCP. We have also received input from the public through the public participation that occurs in the development of many regional HCPs or NCCP/HCPs. For these reasons, we believe that proposing critical habitat has little additional benefit in areas covered by HCPs, provided that the HCP or NCCP/HCP specifically and adequately covers the species for which critical habitat is being proposed. We do not believe that this exclusion would result in the extinction of the species because the eligible habitat within these HCPs will be conserved, and we have already consulted on these HCPs under section 7 of the Act.

Relationship of Marine Corps Base Camp Pendleton to Proposed Critical Habitat

The Sikes Act Improvements Act of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. INRMPs include an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a description of management actions to be implemented to provide for these ecological needs; a monitoring plan, and an adaptive management plan.

Section 318 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law No. 108–136) amended the Endangered Species Act to address the relationship of INRMPs to critical habitat by adding a new section 4(a)(3)(B). This provision prohibits the Service from designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

Camp Pendleton has completed an INRMP that provides a framework for managing natural resources. As part of the process of developing their INRMP, on March 30, 2000, a formal consultation was initiated between the Marine Corps and the Fish and Wildlife Service regarding their activities on upland areas of Camp Pendleton. The consultation that addresses the upland habitat of *Brodiaea filifolia* and other species is not yet complete. We are currently working cooperatively with Camp Pendleton to facilitate the completion of this consultation. Thus, the INRMP currently does not provide a benefit to listed species, including *Brodiaea filifolia*, contained within these habitats on the base. As such, we are unable to use the INRMP for Camp Pendleton as a basis for not including lands essential to the conservation of *Brodiaea filifolia* in proposed critical habitat pursuant to section 4(a)(3)(B) of the Act. If, however the consultation that addresses upland habitat and species is finalized prior to the time we finalize the designation for *Brodiaea filifolia,* we may not include areas essential to the conservation of *Brodiaea filifolia* on Camp Pendleton in the final designation under the authority of 4(a)(3)(B).

Exclusion Under 4(b)(2)

Section 4(b)(2) of the Act requires that the Secretary of the Interior shall designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact, impact to national security and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if it is determined that the benefit of such exclusion outweighs the benefits of specifying such area as part of the critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species concerned.

We have considered the effect of a critical habitat designation on national security and have determined that the benefits of exclusion outweigh the benefits of inclusion. We are, therefore, not proposing critical habitat on ''mission-essential'' training areas on Camp Pendleton. In this proposal we refer to areas designated as training areas on maps created by MCB, Camp Pendleton as ''mission-essential'' training areas. Camp Pendleton has identified its training areas as ''mission-essential'' to the Marine Corps' ability to train Marines and Sailors for combat, and which is discussed in the ''Benefits of Exclusion'' below.

To continue its critical training missions pending completion of the consultation covering upland habitats and species discussed above, the Marine Corps has implemented measures to avoid jeopardy of *Brodiaea filifolia* and other listed species within the uplands area. In particular, the Marine Corps is implementing a set of ''programmatic instructions'' to avoid adverse effects to *B. filifolia.*

(1) Benefits of Inclusion

The primary benefit of proposing critical habitat is to identify lands within occupied areas that contain the PCEs essential to the conservation of the species or within unoccupied area are essential to the conservation of the species. If critical habitat were to be designated in these areas they would require consultation to ensure activities would not adversely modify critical habitat or jeopardize the continued existence of the species. We are in formal consultation with the Marine Corps on upland activities to ensure

current and proposed actions will not jeopardize the species' continued existence, and the Marine Corps routinely consults with the Service for activities on Camp Pendelton that may affect federally listed species to ensure such species are not jeopardized. On March 30, 2000, at the request of the Marine Corps, the Service initiated consultation regarding activities on approximately 125,000 ac (50,500 ha) of land on Camp Pendelton and their effects on numerous federally listed species, including the brodiaea. Although this programmatic consultation has not yet been completed, the Marine Corps has implemented a set of ''programmatic instructions'' to minimize adverse effects to the brodiaea. The benefits associated with designating critical habitat on mission-essential training areas and on lands within Camp Pendelton would be minimal because these areas are already encompassed in the ongoing programmatic consultation. Designation of critical habitat may provide education benefits by informing land managers of areas essential to the conservation of the brodiaea. In the case of Camp Pendelton there is no appreciable educational benefit because the installation has already demonstrated its knowledge and understanding of essential habitat for the species through the ongoing programmatic consultation and implementation of ''programmatic instructions.''

(2) Benefits of Exclusion

The Marine Corps Base, Camp Pendleton (MCB, Camp Pendleton) is an amphibious training base that promotes combat readiness for military forces and is the only Marine Corps facility on the West Coast where amphibious operations can be combined with air, sea, and ground assault training activities year-round. If eligible habitat that occurs within ''mission-essential'' training areas is proposed as critical habitat, the Marine Corps would be required to determine if activities would adversely modify or destroy proposed critical habitat. If such a determination was made, the Marine Corps would be compelled to conference with us pursuant to the requirements of section 7 of the Act. Furthermore, if proposed critical habitat within training areas is included in a final designation, designation of critical habitat in mission-essential training areas would trigger a requirement for the Marine Corps to consult on activities that may affect designated critical habitat and to reinitiate consultation on activities for which a consultation may have already been completed that assessed the effects to a federally listed species on MCB, Camp Pendleton. If ''may affect'' determinations were made, the Marine Corps would be further obligated to initiate or reinitiate consultations with us. In a similar proposed designation for the California coastal gnatcatcher and San Diego fairy shrimp, the Marine Corps warned that the requirement to undertake additional conferencing and/or consultations or revisiting already completed consultations specifically to address the effects of activities on designated critical habitat could delay or impair the Marine Corps' ability to train Marines and Sailors for combat in support of continuous, global deployment to the western Pacific and southwest Asia (Department of the Navy; June 23, 2003 letter). Thus, the Service has determined it is appropriate to exclude approximately 917 ac (371 ha) of land within MCB, Camp Pendleton from this proposed designation of critical habitat.

(3) Benefits of Exclusion Outweigh the Benefits of Inclusion

Based on the impact to national security and the Marine Corps' need to maintain a high level of military readiness and combat capability, the Service determined that the benefits of excluding mission-essential training areas within MCB, Camp Pendleton from critical habitat outweigh the benefits of including them in such proposed designation. The Service, in conducting this analysis pursuant to section 4(b)(2) of the Act, determined that the exclusion of these lands from proposed critical habitat will not result in the extinction of the brodiaea because the Marine Corps has implemented measures to avoid jeopardy of the *Brodiaea filifolia* and other listed species in the uplands area. Although these lands are not included in designated proposed critical habitat, the Marine Corps will still be required to consult with the Service on activities that may affect the brodiaea, to ensure such activities do not jeopardize the continued existence of the species. Additionally, management guidelines for all upland areas are expected to be developed and incorporated into future revisions of MCB, Camp Pendleton's INRMP upon completion of the programmatic consultation on upland areas. Maps delineating habitat for *B. filifolia,* overlaid with ''mission-essential'' training areas on MCB, Camp Pendleton, are available for public review and comment at the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section) or on the Internet at *http://carlsbad.fws.gov.* These maps are provided to allow the public the opportunity to adequately comment on these exclusions.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for *Brodiaea filifolia* is being prepared. We will announce the availability of the draft economic analysis in the **Federal Register** as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://carlsbad.fws.gov,* or by contacting the Field Supervisor, Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section).

Peer Review

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

We will consider all comments and information received during the comment period on this proposed rule during the preparation of a final rulemaking. Accordingly, the final designation may differ from this proposal.

Public Hearings

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

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon

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

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

Required Determinations

Regulatory Planning and Review

This document has been reviewed by the Office of Management and Budget (OMB), in accordance with Executive Order 12866. OMB makes the final determination under Executive Order 12866. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific areas as critical habitat. Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation.

The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments.

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

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

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for *Brodiaea filifolia* is not anticipated to be a significant regulatory action under Executive Order 12866, and it is not expected to significantly affect energy supplies, distribution, or use because there are no distribution facilities, power grid stations, etc. within the boundaries of proposed critical habitat. However, two pipelines cross portions of subunits 4f, Telega/Segunda Deschecha, and 8d, Upham. Since the areas supporting the pipelines are considered developed areas that do not contain the primary constituent elements for this species and are excluded from the designation by text, we do not believe that activities limited to these areas supporting the pipelines would be affected by the designation. Therefore, we do not anticipate that this action is not a significant energy action and no Statement of Energy Effects is required. We will, however, further evaluate this issue as we conduct our economic analysis and, as appropriate, review and revise this assessment as warranted.

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

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

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, 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. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities who receive Federal funding, assistance, permits or

otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; neither 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 will significantly or uniquely affect small governments. The term ''small governmental jurisdiction'' means governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000 (U.S.C. title 5, part I, chapter 6, section 601[5]). The lands being proposed for designation as critical habitat for *Brodiaea filifolia* are owned by Federal, State, and local government entities. None of these government entities fits the definition of ''small governmental jurisdiction.'' As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Federalism

In accordance with Executive Order 13132, this rule does not have significant Federalism effects and, therefore, a Federalism assessment is not required. In keeping with Department of the Interior policies, we requested information from, and coordinated the development of this proposed critical habitat designation with appropriate State resource agencies in California. We anticipate that the proposed designation of critical habitat in the areas currently occupied by *Brodiaea filifoli* a will imposes no additional significant restrictions beyond those currently in place and, therefore, should have has little incremental impact on State and local governments and their activities. However, we will re-evaluate this assessment after conducting our economic analysis for the species and for the final designation.

The proposed designation of critical habitat may have some benefit to the State and local resource agencies in that the areas and features essential to the conservation of this species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of this species are specifically identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Brodiaea filifolia.*

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

This proposed rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. Information collections associated with certain Act permits are covered by an existing OMB approval and are assigned clearance No. 1018–0094. This includes Forms 3–200–55 and 3–200–56, with an expiration date of July 31, 2004. This rule will not impose record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands eligible for the conservation of *Brodiaea filifolia.* Therefore, critical habitat has not been proposed for designation on Tribal lands.

References Cited

A complete list of all references cited herein is available, upon request, from the Field Supervisor, Carlsbad Field Office (see **ADDRESSES** section).

Author

This rule was prepared by staff at the Carlsbad Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes 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 § 17.12(h), revise the entry in the table for ''*Brodiaea filifolia*'' under ''FLOWERING PLANTS,'' to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Brodiaea filifolia	Thread-leaved brodiaea.	U.S.A. (CA)	Liliaceae—-Lily	T	650	17.96(a)	NA
*	*	*	*	*	*		*

3. In § 17.96(a), add critical habitat for *Brodiaea filifolia*, in alphabetical order under Family Liliaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) Flowering plants.

* * * * *

Family Liliaceae: Brodiaea filifolia (Thread-leaved brodiaea)

(1) Critical habitat units are depicted for *Brodiaea filifolia* on the maps below.

(2) The primary constituent elements of critical habitat for *Brodiaea filifolia* consist of the following:

(i) Appropriate soil series and associated vegetation at suitable elevations of either:

(A) Clay soil series of various origins (*e.g.*, Alo, Altamont, Auld, Diablo), clay lenses found as unmapped inclusions in other soil series, or within loamy soils underlain by a clay subsoil (*e.g.*, Fallbrook, Huerhuero, Las Flores) that generally occur on mesas and gentle to moderate slopes, or in association with vernal pools, between the elevations of 100 ft (30 m) and 2,500 ft (765 m) and support open native or non-native grassland communities, open coastal sage scrub or coastal sage scrub-chaparral communities; or

(B) Silty loam soil series underlain by a clay subsoil or caliche that are generally poorly drained, moderately to strongly alkaline, granitic in origin (*e.g.*, Domino, Grangeville, Waukena, Willows), that generally occur in low-lying areas and floodplains, often in association with vernal pool or playa complexes, between the elevations of 600 ft (180 m) and 1,800 ft (550 m) and support native, non-native, or alkali grassland or scrub communities; or

(C) Clay loam soil series (*e.g.*, Murrieta) underlain by heavy clay loams or clays derived from olivine basalt lava flows, that generally occur on mesas and gentle to moderate slopes between the elevations of 1,700 ft (520 m) and 2,500 ft (765 m) and support native or non-native grassland or oak woodland savannah communities associated with basalt vernal pools; or

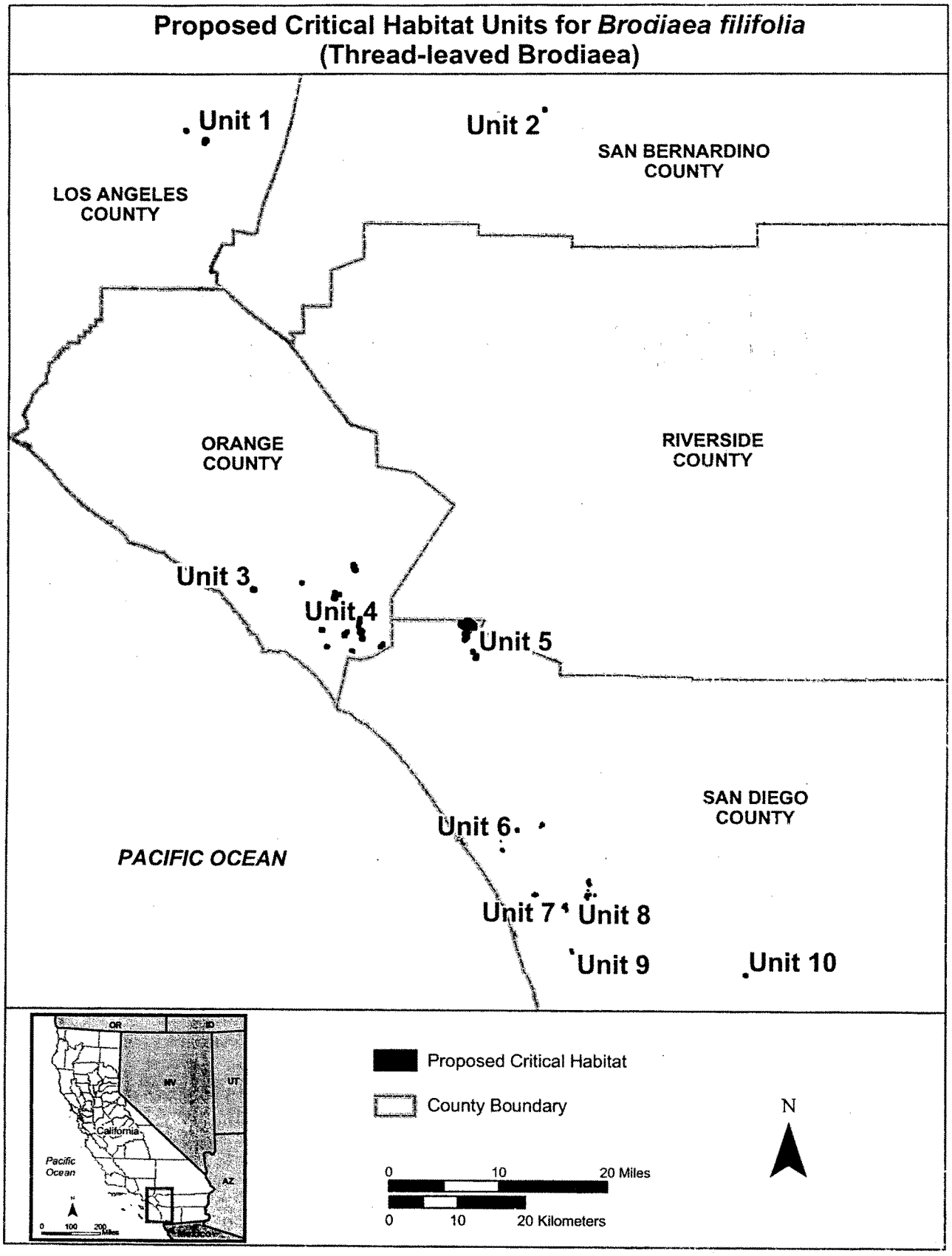
(D) Sandy loam soils derived from basalt and granodiorite parent materials, deposits of gravel, cobble, and boulders, or hydrologically-fractured weathered granite in intermittent streams and seeps that support open riparian and freshwater marsh communities associated with intermittent drainages, floodplains, and seeps generally between 1,800 ft (550 m) and 2,500 ft (765 m).

(ii) Areas with an intact surface and subsurface structure not permanently altered by anthropogenic land use activities (*e.g.*, deep, repetitive disking; grading). These features as well as associated physical processes (*e.g.*, full sunlight exposure) are essential to maintain those substrate and vegetation types where *Brodiaea filifolia* is found and to support pollinator assemblages necessary to facilitate gene flow within and among populations of *B. filifolia*.

(iii) Critical habitat does not include existing features and structures, such as open water, buildings, roads, aqueducts, railroads, airport runways and buildings, other paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

(3) Index map of critical habitat units for Brodiaea filifolia (Thread-leaved brodiaea) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

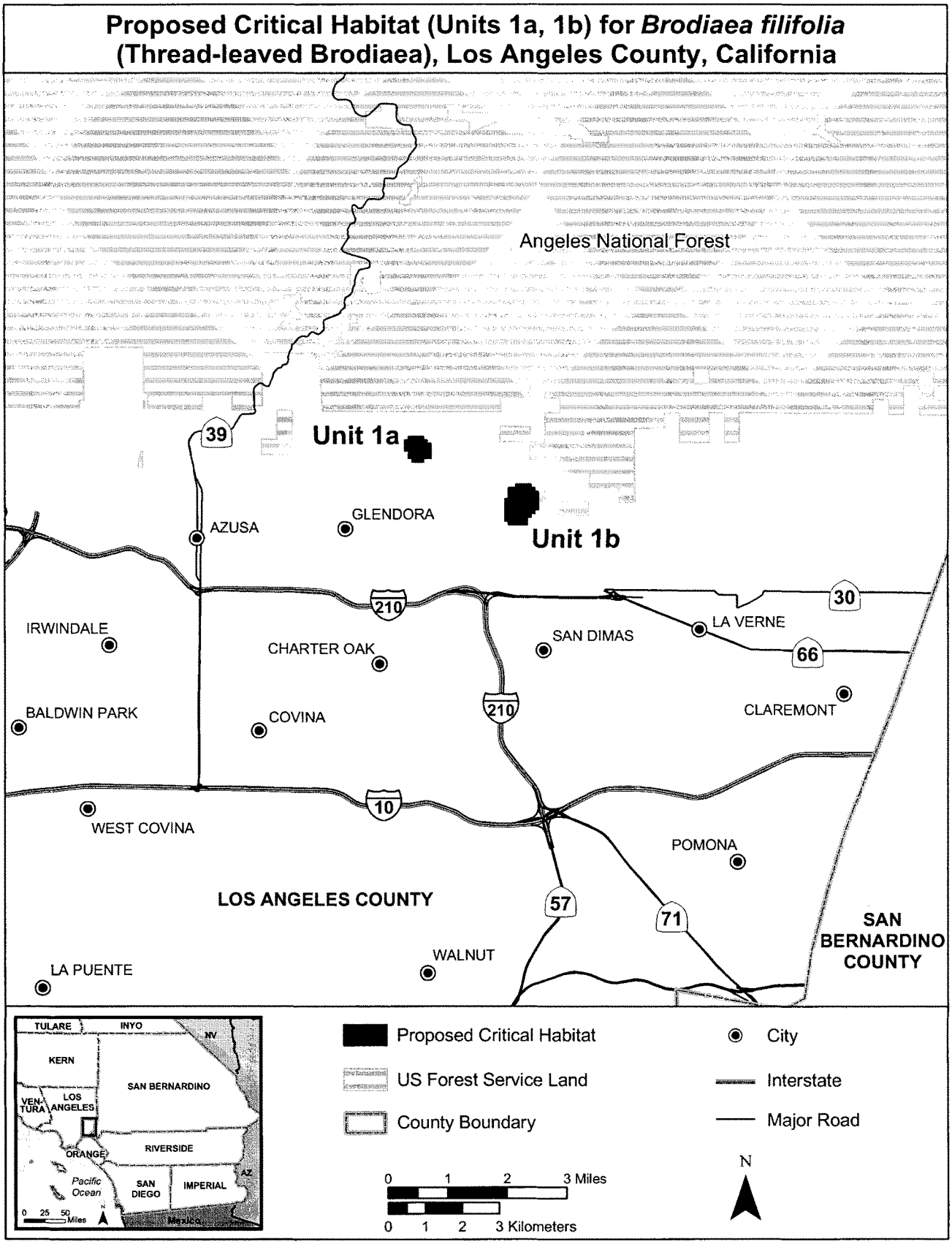
(4) All map units are in the Universal Transverse Mercator (UTM) coordinate system, North American Datum of 1927 (NAD27) projection.

Map Unit 1: Los Angeles County, California, from USGS 1:24,000 quadrangle map Glendora, California.

(i) Subunit 1a: Glendora; land bounded by the following UTM coordinates (E, N): 422400, 3779900; 422400, 3779800; 422500, 3779800; 422500, 3779700; 422600, 3779700; 422600, 3779300; 422400, 3779300; 422400, 3779200; 422100, 3779200; 422100, 3779300; 422000, 3779300; 422000, 3779500; 421900, 3779500; 421900, 3779800; 422000, 3779800; 422000, 3779900; returning to 422400, 3779900.

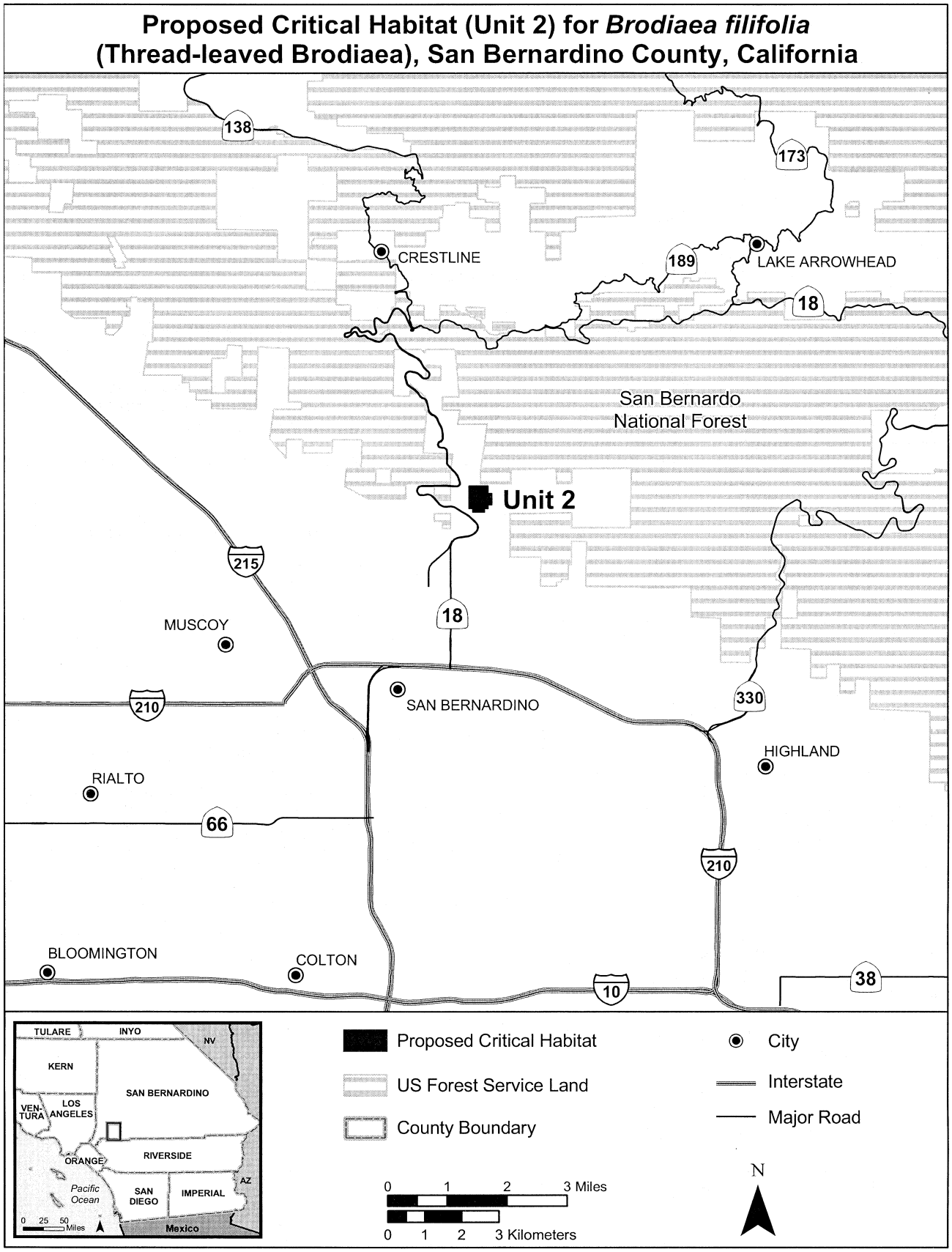
(ii) Subunit 1b: San Dimas; land bounded by the following UTM coordinates (E, N): 425300, 3778600; 425300, 3778500; 425400, 3778500; 425400, 3778400; 425500, 3778400; 425500, 3777900; 425400, 3777900; 425400, 3777800; 425300, 3777800; 425300, 3777700; 425200, 3777700; 425200, 3777500; 424700, 3777500; 424700, 3777600; 424600, 3777600; 424600, 3778200; 424700, 3778200; 424700, 3778500; 424900, 3778500; 424900, 3778600; returning to 425300, 3778600.

(iii) Map of proposed critical habitat unit 1a, 1b for *Brodiaea filifolia* (Thread-leaved brodiaea) follows:


Proposed Critical Habitat (Units 1a, 1b) for *Brodiaea filifolia* (Thread-leaved Brodiaea), Los Angeles County, California
Angeles National Forest
Unit 1a
Unit 1b
39
AZUSA
GLENDORA
210
IRWINDALE
CHARTER OAK
SAN DIMAS
30
LA VERNE
66
BALDWIN PARK
COVINA
210
CLAREMONT
10
WEST COVINA
POMONA
LOS ANGELES COUNTY
57
71
SAN BERNARDINO COUNTY
WALNUT
LA PUENTE
TULARE
INYO
NV
KERN
SAN BERNARDINO
VEN-TURA
LOS ANGELES
ORANGE
RIVERSIDE
Pacific Ocean
SAN DIEGO
IMPERIAL
AZ
Mexico
0 25 50 Miles
Proposed Critical Habitat
US Forest Service Land
County Boundary
City
Interstate
Major Road
0 1 2 3 Miles
0 1 2 3 Kilometers
N

(5)(i) Map Unit 2: Arrowhead Hot Springs, San Bernardino County, California. From USGS 1:24,000 quadrangle map San Bernardino North, California, land bounded by the following UTM coordinates (E, N): 475400, 3783000; 475400, 3782800; 475500, 3782800; 475500, 3782500; 475400, 3782500; 475400, 3782400; 475300, 3782400; 475300, 3782300; 475000, 3782300; 475000, 3782400; 474900, 3782400; 474900, 3783000; returning to 475400, 3783000.

(ii) Map of proposed critical habitat unit 2 for *Brodiaea filifolia* (Thread-leaved brodiaea) follows:



BILLING CODE 4310–55–C

(6) Map Unit 3: Aliso Canyon, Orange County, California. From USGS 1:24,000 quadrangle map San Juan Capistrano, California, land bounded by the following UTM coordinates (E, N): 432200, 3712100; 432200, 3712000; 432500, 3712000; 432500, 3711900; 432600, 3711900; 432600, 3711800; 432700, 3711800; 432700, 3711400; 432600, 3711400; 432600, 3711300; 432400, 3711300; 432400, 3711200; 432200, 3711200; 432200, 3711300; 431900, 3711300; 431900, 3711400; 431800, 3711400; 431800, 3711900; 431900, 3711900; 431900, 3712000; 432000, 3712000; 432000, 3712100; returning to 432200, 3712100.

(7) Map Unit 4: Orange County, California, from USGS 1:24,000 quadrangle maps San Juan Capistrano, Canada Gobernadora, and San Clemente, California.

(i) Subunit 4a: Arroyo Trabuco; land bounded by the following UTM coordinates (E, N): 439600, 3712900; 439600, 3712800; 439700, 3712800; 439700, 3712500; 439600, 3712500; 439600, 3712400; 439500, 3712400; 439500, 3712300; 439300, 3712300; 439300, 3712400; 439100, 3712400; 439100, 3712900; returning to 439600, 3712900.

(ii) Subunit 4b: Casper's Regional Park; land bounded by the following UTM coordinates (E, N): 447200, 3715700; 447200, 3715600; 447300, 3715600; 447300, 3715500; 447400, 3715500; 447400, 3715400; 447500, 3715400; 447500, 3714900; 447600, 3714900; 447600, 3714800; 447700, 3714800; 447700, 3714400; 447600, 3714400; 447600, 3714300; 447500, 3714300; 447500, 3714200; 447200, 3714200; 447200, 3714300; 447000, 3714300; 447000, 3714500; 446900, 3714500; 446900, 3714700; 446800, 3714700; 446800, 3714900; 446700, 3714900; 446700, 3715600; 446900, 3715600; 446900, 3715700; returning to 447200, 3715700.

(iii) Subunit 4c: Canada Gobernadora/Chiquita Ridgeline; land bounded by the following UTM coordinates (E, N): 444600, 3711000; 444500, 3711000; 444500, 3710600; 444600, 3710600; 444600, 3710400; 444700, 3710400; 444700, 3710200; 444600, 3710200; 444600, 3710100; 444500, 3710100; 444500, 3710000; 444200, 3710000; 444200, 3710100; 443900, 3710100; 443900, 3710200; 443800, 3710200; 443800, 3710600; 443900, 3710600; 443900, 3710900; 444000, 3710900; 444000, 3711400; 444100, 3711400; 444100, 3711500; 444500, 3711500; 444500, 3711400; 444600, 3711400; returning to 444600, 3711000; and land bounded by 444600, 3711000; 444700, 3711000; 444700, 3711100; 444800, 3711100; 444800, 3711200; 445100, 3711200; 445100, 3711100; 445200, 3711100; 445200, 3710600; 444700, 3710600; 444700, 3710700; 444600, 3710700; returning to 444600, 3711000.

(iv) Subunit 4d: Prima Deshecha; land bounded by the following UTM coordinates (E, N): 442600, 3706000; 442600, 3705900; 442700, 3705900; 442700, 3705700; 442800, 3705700; 442800, 3705500; 442700, 3705500; 442700, 3705300; 442100, 3705300; 442100, 3705400; 442000, 3705400; 442000, 3705900; 442100, 3705900; 442100, 3706000; returning to 442600, 3706000.

(v) Subunit 4e: Forster Ranch; land bounded by the following UTM coordinates (E, N): 443300, 3703500; 443300, 3703400; 443400, 3703400; 443400, 3703300; 443500, 3703300; 443500, 3703100; 443400, 3703100; 443400, 3702900; 443300, 3702900; 443300, 3702800; 443000, 3702800; 443000, 3702900; 442800, 3702900; 442800, 3703400; 442900, 3703400; 442900, 3703500; returning to 443300, 3703500.

(vi) Subunit 4f: Talega/Segunda Deshecha; land bounded by the following UTM coordinates (E, N): 446400, 3705600; 446400, 3705100; 446300, 3705100; 446300, 3705000; 446100, 3705000; 446100, 3704600; 446000, 3704600; 446000, 3704500; 445500, 3704500; 445500, 3704600; 445400, 3704600; 445400, 3705200; 445600, 3705200; 445600, 3705300; 445800, 3705300; 445800, 3705500; 445900, 3705500; 445900, 3705600; returning to 446400, 3705600.

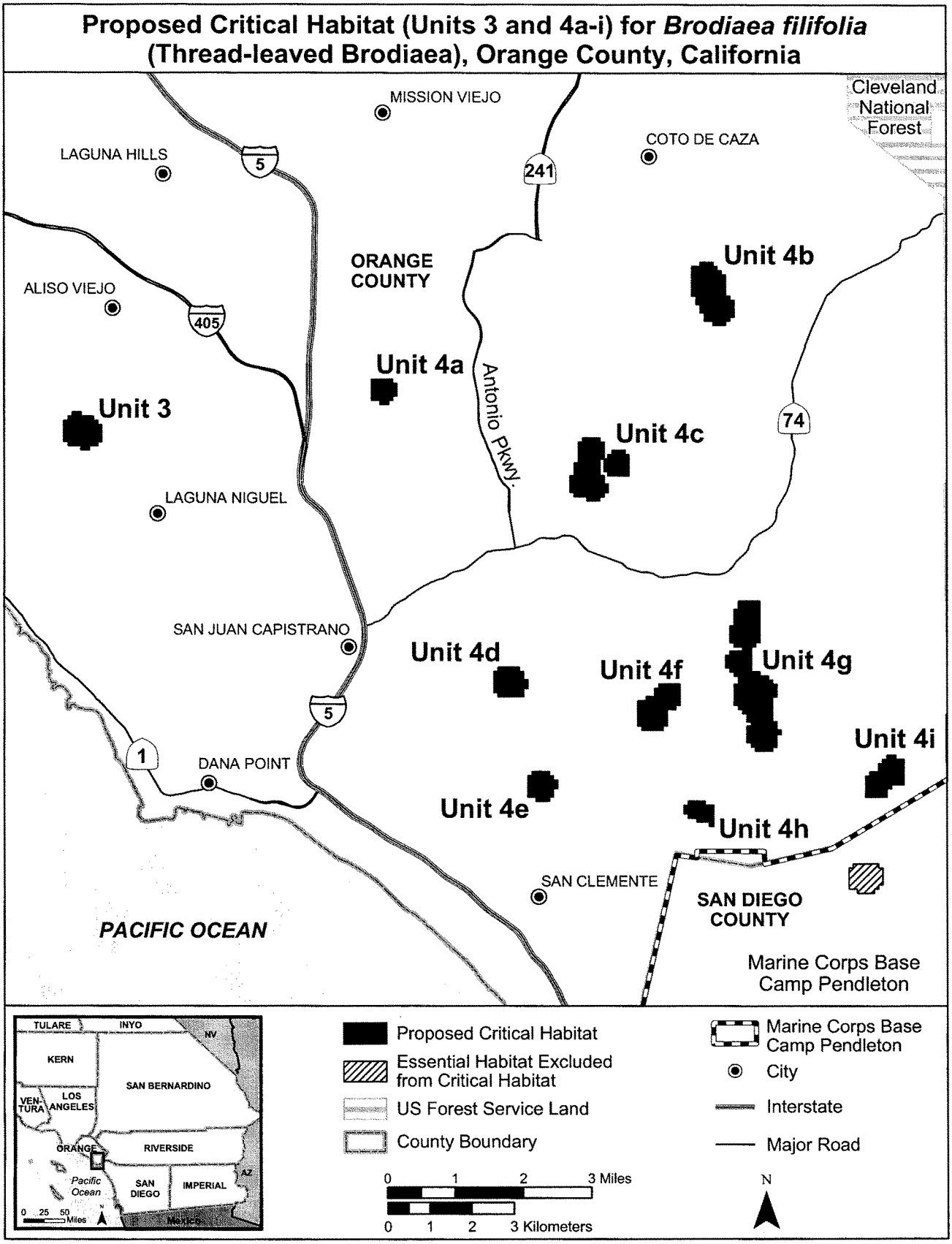
(vii) Subunit 4g: Cristianitos Canyon; land bounded by the following UTM coordinates (E, N): 448300, 3707600; 448300, 3706600; 448200, 3706600; 448200, 3706500; 448100, 3706500; 448100, 3705900; 448300, 3705900; 448300, 3705800; 448500, 3705800; 448500, 3705700; 448600, 3705700; 448600, 3705600; 448700, 3705600; 448700, 3705300; 448600, 3705300; 448600, 3704700; 448700, 3704700; 448700, 3704500; 448800, 3704500; 448800, 3704400; 448700, 3704400; 448700, 3704100; 448600, 3704100; 448600, 3704000; 448200, 3704000; 448200, 3704100; 448100, 3704100; 448100, 3704200; 448000, 3704200; 448000, 3704600; 448100, 3704600; 448100, 3704700; 448000, 3704700; 448000, 3704900; 447900, 3704900; 447900, 3705000; 447800, 3705000; 447800, 3705100; 447700, 3705100; 447700, 3705600; 447800, 3705600; 447800, 3705800; 447700, 3705800; 447700, 3705900; 447600, 3705900; 447600, 3706000; 447500, 3706000; 447500, 3706300; 447600, 3706300; 447600, 3706400; 447900, 3706400; 447900, 3706500; 447700, 3706500; 447700, 3706600; 447600, 3706600; 447600, 3707000; 447700, 3707000; 447700, 3707400; 447800, 3707400; 447800, 3707600; returning to 448300, 3707600.

(viii) Subunit 4h: Cristianitos Canyon South; land bounded by the following UTM coordinates (E, N): 447000, 3702800; 447000, 3702700; 447200, 3702700; 447200, 3702200; 447100, 3702200; 447100, 3702300; 446800, 3702300; 446800, 3702400; 446600, 3702400; 446600, 3702500; 446500, 3702500; 446500, 3702700; 446600, 3702700; 446600, 3702800; returning to 447000, 3702800.

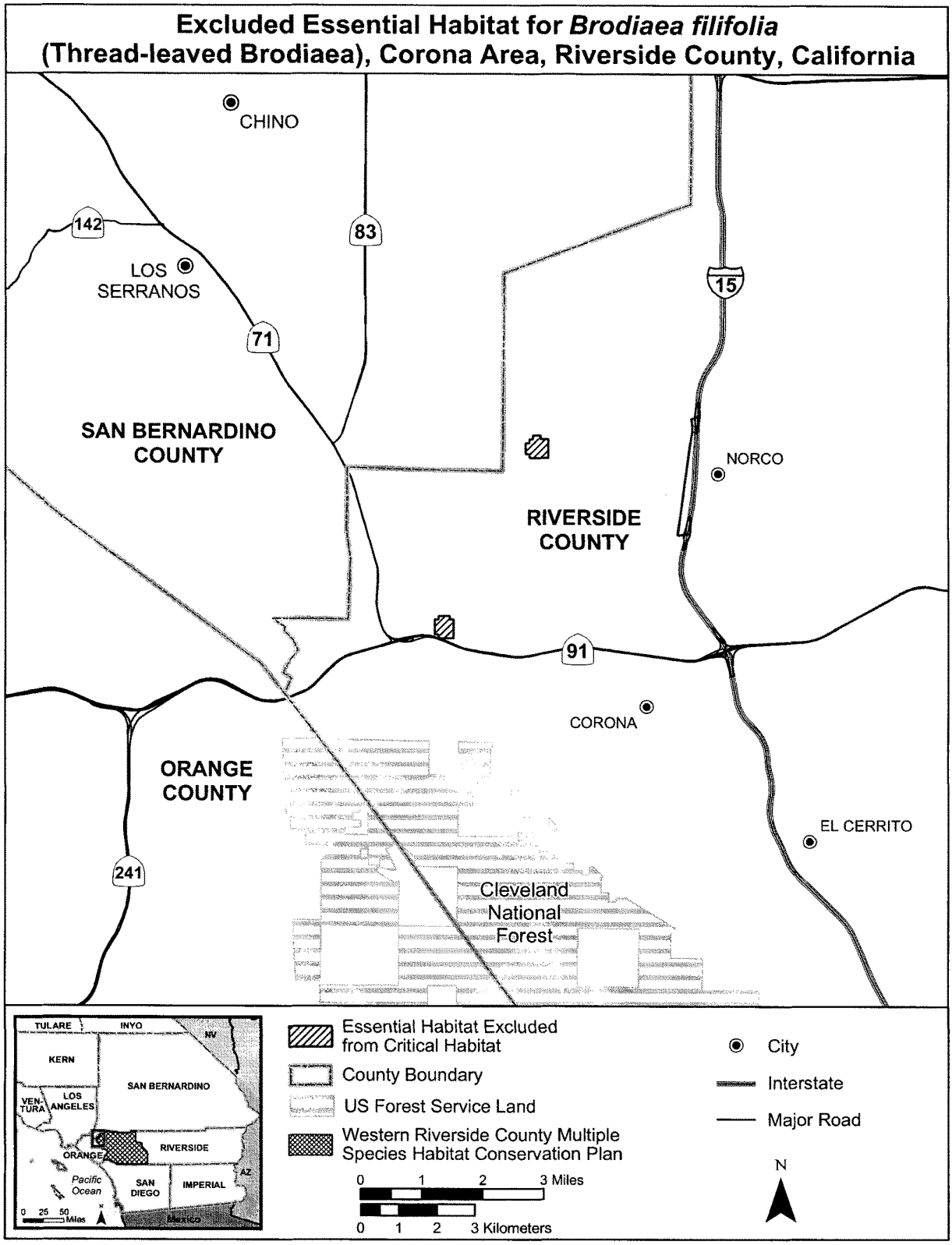
(ix) Subunit 4i: Blind Canyon; land bounded by the following UTM coordinates (E, N): 451500, 3703900; 451500, 3703800; 451700, 3703800; 451700, 3703200; 451400, 3703200; 451400, 3703100; 451300, 3703100; 451300, 3702900; 450800, 3702900; 450800, 3703400; 450900, 3703400; 450900, 3703500; 451100, 3703500; 451100, 3703700; 451200, 3703700; 451200, 3703800; 451300, 3703800; 451300, 3703900; returning to 451500, 3703900.

(x) Map of critical habitat units 3 and 4a–i for *Brodiaea filifolia* (Thread-leaved brodiaea) follows:

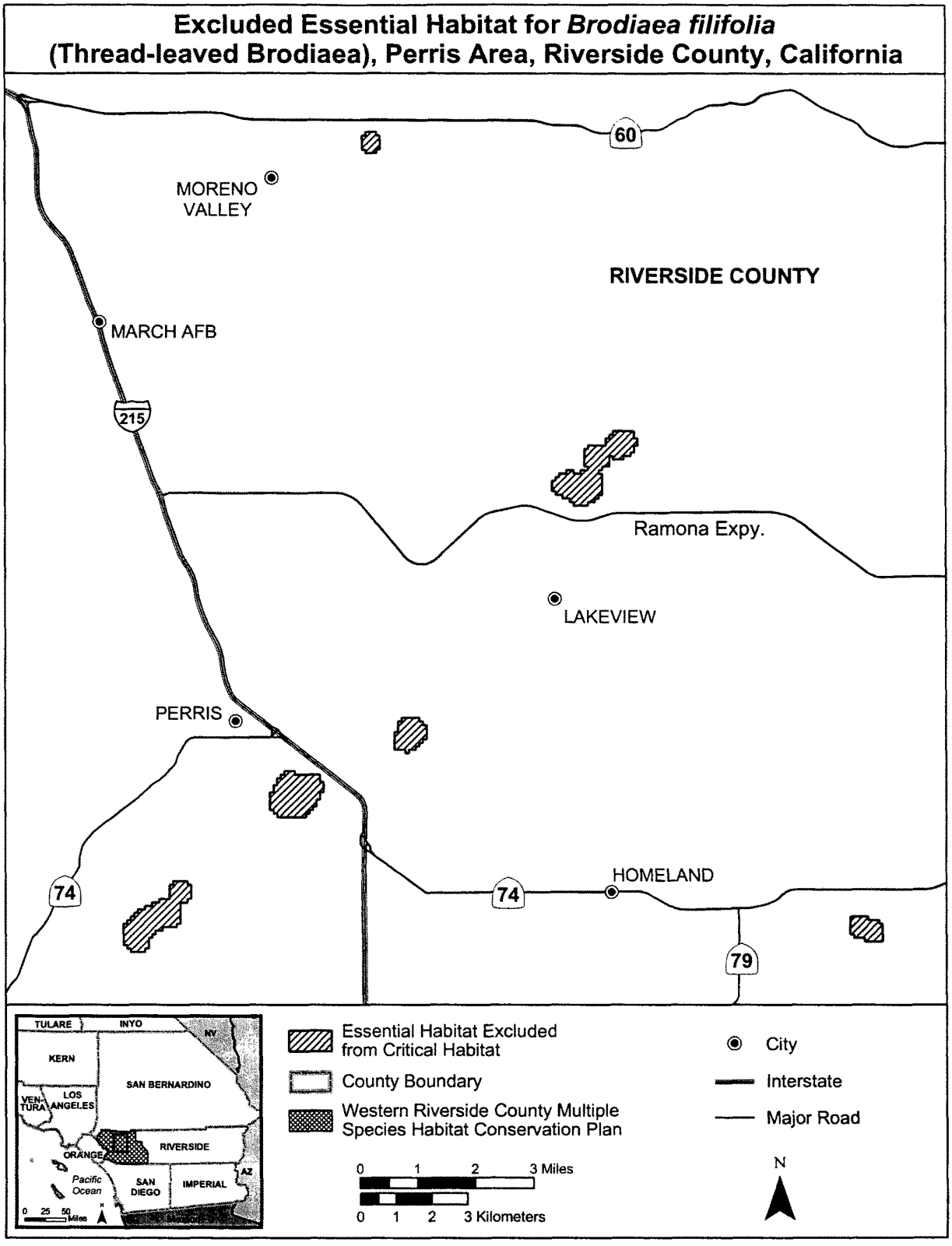
BILLING CODE 4310–55–P


Proposed Critical Habitat (Units 3 and 4a-i) for *Brodiaea filifolia* (Thread-leaved Brodiaea), Orange County, California
MISSION VIEJO
Cleveland National Forest
COTO DE CAZA
LAGUNA HILLS
5
241
ORANGE COUNTY
Unit 4b
ALISO VIEJO
405
Unit 4a
Antonio Pkwy.
Unit 3
74
Unit 4c
LAGUNA NIGUEL
SAN JUAN CAPISTRANO
Unit 4d
Unit 4f
Unit 4g
5
Unit 4i
1
DANA POINT
Unit 4e
Unit 4h
SAN CLEMENTE
SAN DIEGO COUNTY
PACIFIC OCEAN
Marine Corps Base Camp Pendleton
TULARE
INYO
NV
KERN
SAN BERNARDINO
VEN-TURA
LOS ANGELES
ORANGE
RIVERSIDE
Pacific Ocean
SAN DIEGO
IMPERIAL
AZ
MEXICO
0 25 50 Miles
N
Proposed Critical Habitat
Essential Habitat Excluded from Critical Habitat
US Forest Service Land
County Boundary
Marine Corps Base Camp Pendleton
City
Interstate
Major Road
0 1 2 3 Miles
0 1 2 3 Kilometers
N

(8) Map of excluded eligible habitat for *Brodiaea filifolia* (Thread-leaved brodiaea), Corona area, Riverside County, California follows:



(9) Map of excluded eligible habitat for *Brodiaea filifolia* (Thread-leaved brodiaea), Perris area, Riverside County, California follows:



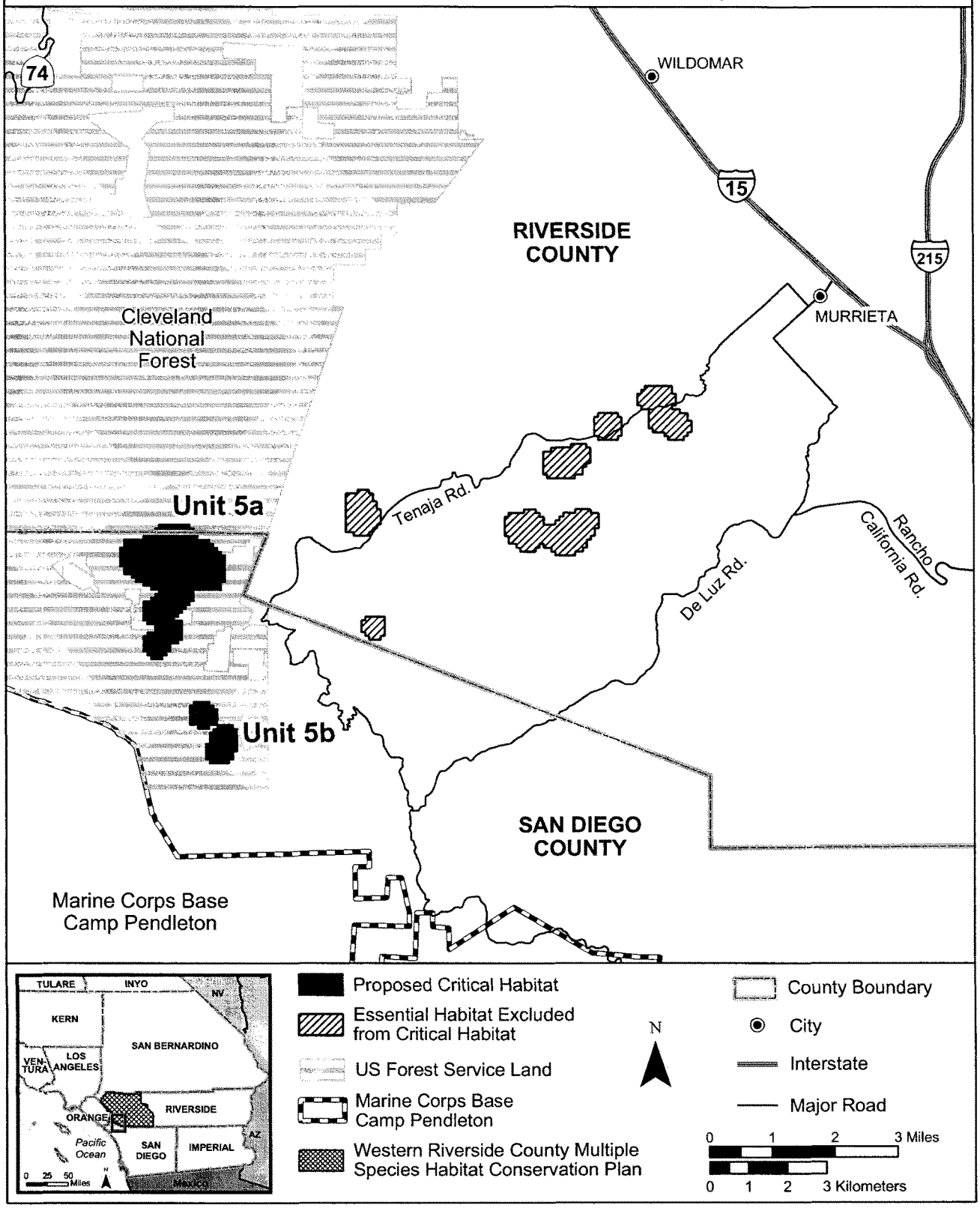
(10) Map Unit 5: Northern San Diego County, California, from USGS 1:24,000 quadrangle maps Sitton Peak, Margarita Peak, and Fallbrook, California.

(i) Subunit 5a: Miller Mountain; land bounded by the following UTM coordinates (E, N): 464300, 3707400; 464300, 3707300; 464400, 3707300; 464400, 3707200; 464500, 3707200; 464500, 3707000; 464800, 3707000; 464800, 3706900; 464900, 3706900; 464900, 3706800; 465000, 3706800; 465000, 3706700; 465100, 3706700; 465100, 3706600; 465200, 3706600; 465200, 3705900; 465100, 3705900; 465100, 3705700; 464400, 3705700; 464400, 3705400; 464300, 3705400; 464300, 3705300; 464200, 3705300; 464200, 3705200; 464100, 3705200; 464100, 3705100; 464000, 3705100; 464000, 3705000; 463900, 3705000; 463900, 3704900; 464100, 3704900; 464100, 3704400; 464000, 3704400; 464000, 3704300; 463800, 3704300; 463800, 3704100; 463700, 3704100; 463700, 3704000; 463600, 3704000; 463600, 3703900; 463300, 3703900; 463300, 3704000; 463200, 3704000; 463200, 3704100; 463100, 3704100; 463100, 3704500; 463200, 3704500; 463200, 3704600; 463400, 3704600; 463400, 3704800; 463200, 3704800; 463200, 3704900; 463100, 3704900; 463100, 3705400; 463300, 3705400; 463300, 3705500; 463400, 3705500; 463400, 3705600; 463500, 3705600; 463500, 3705700; 463300, 3705700; 463300, 3705800; 463100, 3705800; 463100, 3705900; 462900, 3705900; 462900, 3706000; 462800, 3706000; 462800, 3706100; 462600, 3706100; 462600, 3706300; 462500, 3706300; 462500, 3706800; 462600, 3706800; 462600, 3707000; 463100, 3707000; 463100, 3707100; 463300, 3707100; 463300, 3707200; 463400, 3707200; 463400, 3707300; 463500, 3707300; 463500, 3707400; returning to 464300, 3707400.

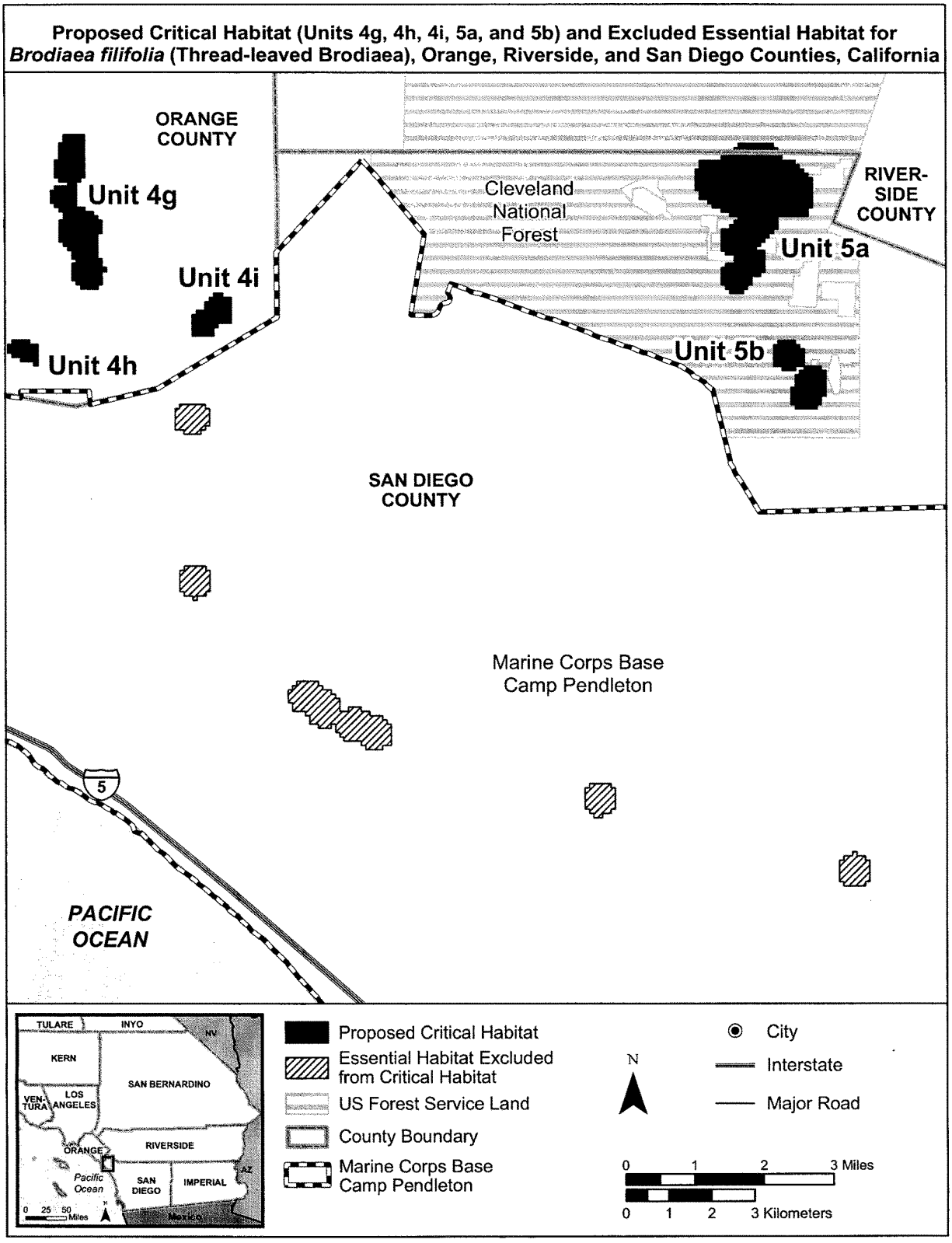
(ii) Subunit 5b: Devil's Canyon; land bounded by the following UTM coordinates (E, N): 465000, 3702200; 464800, 3702200; 464800, 3702100; 464500, 3702100; 464500, 3702200; 464300, 3702200; 464300, 3702700; 464400, 3702700; 464400, 3702800; 464800, 3702800; 464800, 3702700; 464900, 3702700; 464900, 3702600; 465000, 3702600; returning to 465000, 3702200; and land bounded by 465000, 3702200; 465400, 3702200; 465400, 3702100; 465500, 3702100; 465500, 3701500; 465400, 3701500; 465400, 3701300; 465300, 3701300; 465300, 3701200; 464800, 3701200; 464800, 3701300; 464700, 3701300; 464700, 3701700; 464800, 3701700; 464800, 3702000; 464900, 3702000; 464900, 3702100; 465000, 3702100; returning to 465000, 3702200.

(iii) Map of proposed critical habitat units 5a and 5b for *Brodiaea filifolia* (Thread-leaved brodiaea) follows:

Proposed Critical Habitat (Units 5a and 5b) and Excluded Essential Habitat for *Brodiaea filifolia* (Thread-leaved Brodiaea), Riverside and San Diego Counties, California



(11) Map of proposed critical habitat units 4g–i, 5a and 5b and excluded eligible habitat for *Brodiaea filifolia* (Thread-leaved brodiaea), Orange, Riverside and San Diego Counties follows:



BILLING CODE 4310–55–C

(12) Map Unit 6: Oceanside, San Diego County, California, from USGS 1:24,000 quadrangle map San Luis Rey, California.

(i) Subunit 6a: Alta Creek; land bounded by the following UTM coordinates (E, N): 469300, 3673300; 469300, 3673100; 469400, 3673099; 469400, 3672800; 469100, 3672900; 469000, 3672900; 469000, 3673000; 468900, 3673000; 468900, 3673300; returning to 469300, 3673300.

(ii) Subunit 6b: Mesa Drive; land bounded by the following UTM coordinates (E, N): 469000, 3674300; 468900, 3674300; 468900, 3674500; 469000, 3674500 returning to 469000, 3674300.

(iii) Subunit 6c: Oceanside East/ Mission Avenud; land bounded by the following UTM coordinates (E, N): 471400, 3676300; 471500, 3676300; 471500, 3676200; 471600, 3676200; 471600, 3676100; 471600, 3676000; 471600, 3675900; 471600, 3675800; 471500, 3675800; 471500, 3675700; 471400, 3675700; 471300, 3675700; 471200, 3675700; 471200, 3675800; 471100, 3675800; 471100, 3675900; 471100, 3676000; 471100, 3676100; 471100, 3676200; 471200, 3676200; 471200, 3676300; 471300, 3676300; returning to 471400, 3676300.

(iv) Subunit 6d: Taylor/Darwin; land bounded by the following UTM coordinates (E, N): 475100, 3677200; 475100, 3677000; 475400, 3676900; 475300, 3676700; 475300, 3676600; 475100, 3676500; 474900, 3676500; 474800, 3676300; 474700, 3676300; 474700, 3676600; 474800, 3676700; 474800, 3677000; 474900, 3677100; returning to 475100, 3677200.

(13) Map Unit 7: San Diego County, California, from USGS 1:24,000 quadrangle maps San Luis Rey, Rancho Santa Fe, and San Marcos, California.

(i) Subunit 7a: Fox-Miller; land bounded by the following UTM coordinates (E, N): 473900, 3666900; 474200, 3666800; 474400, 3666700; 474400, 3666600; 474500, 3666400; 474400, 3666400; 474200, 3666300; 474100, 3666200; 474000, 3666200; 474000, 3666300; 473600, 3666300; 473600, 3666600; 473800, 3666600; 473800, 3666700; 473900, 3666800; returning to 473900, 3666900.

(ii) Subunit 7b: Rancho Carrillo; land bounded by the following UTM coordinates (E,N): 478300, 3665200; 478400, 3665200; 478400, 3664500; 478300, 3664500; 478300, 3664600; 478100, 3664600; 478100, 3664800; 478200, 3664800; 478200, 3665000; 478300, 3665000; returning to 478300, 3665200.

(14) Map Unit 8: San Marcos, San Diego County, California, from USGS 1:24,000 quadrangle maps San Marcos and Rancho Santa Fe, California.

(i) Subunit 8a: Rancho Santa Fe Road North; land bounded by the following UTM coordinates (E, N): 478700, 3665300; 478700, 3665200; 478800, 3665200; 478800, 3665000; 478700, 3665000; 478700, 3664700; 478800, 3664700; 478800, 3664500; 478900, 3664500; 478900, 3664100; 478700, 3664100; 478700, 3664000; 478600, 3664000; 478600, 3664300; 478500, 3664300; 478500, 3665300; returning to 478700, 3665300.

(ii) Subunit 8b: Rancho Santalina/ Loma Alta; land bounded by the following UTM coordinates (E, N): 482000, 3668900; 482200, 3668900; 482200, 3668300; 482400, 3668100; 482400, 3668000; 482100, 3668300; 482100, 3668700; 482000, 3668500; 482000, 3668300; 481900, 3668200; 482000, 3668100; 482200, 3667900; 482200, 3667800; 482100, 3667800; 481900, 3668000; 481700, 3668400; 481700, 3668600; returning to 482000, 3668900.

(iii) Subunit 8c: Grand Avenue; land bounded by the following UTM coordinates (E, N): 482000, 3667300; 482000, 3667100; 481800, 3667100; 481800, 3667300; returning to 482000, 3667300.

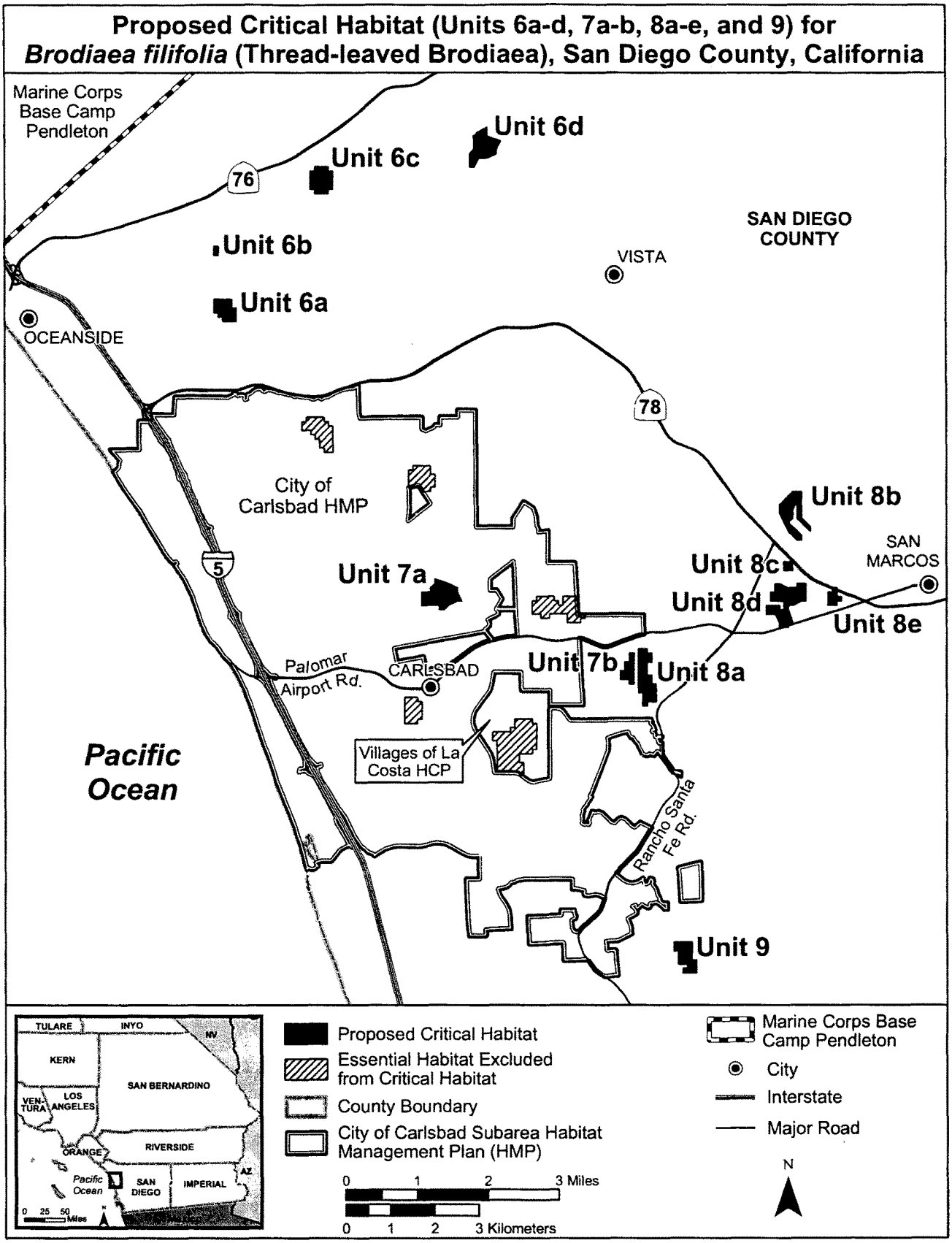
(iv) Subunit 8d: Upham; land bounded by the following UTM coordinates (E, N): 481600, 3666800; 481700, 3666800; 481900, 3666700; 482100, 3666700; 482100, 3666800; 482300, 3666800; 482300, 3666400; 482200, 3666400; 482000, 3666300; 481900, 3666300; 481900, 3666200; 482000, 3665900; 481900, 3665900; 481900, 3665800; 481700, 3665800; 481700, 3665900; 481600, 3666100; 481400, 3666100; 481400, 3666300; 481700, 3666300; 481700, 3666200; 481800, 3666200; 481800, 3666400; 481500, 3666400; 481500, 3666600; 481600, 3666600; returning to 481600, 3666800.

(v) Subunit 8e: Linda Vista; land bounded by the following UTM coordinates (E, N): 483000, 3666500; 483100, 3666500; 483100, 3666400; 483000, 3666400; 483000, 3666300; 482800, 3666300; 482800, 3666600; 482900, 3666600; 482900, 3666700; 483000, 3666700; returning to 483000, 3666500.

(15) (i) Map Unit 9: Double LL Ranch; San Diego County, California. From USGS 1:24,000 quadrangle map Rancho Santa Fe, California, land bounded by the following UTM coordinates (E, N): 479700, 3658600; 479700, 3658200; 479800, 3658200; 479800, 3657900; 479500, 3657900; 479500, 3658000; 479600, 3658000; 479600, 3658100; 479400, 3658100; 479400, 3658400; 479300, 3658400; 479300, 3658600; returning to 479700, 3658600.

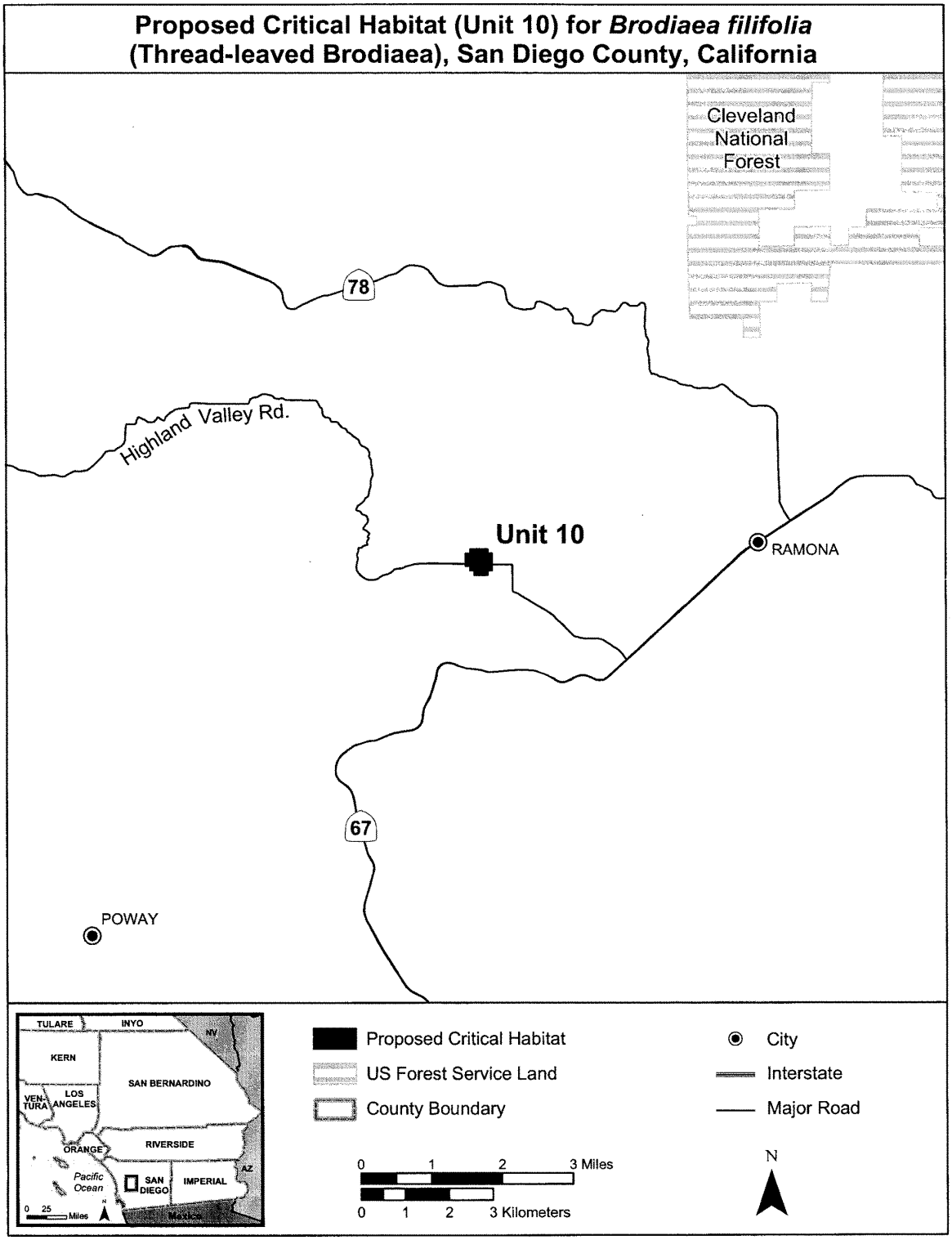
(ii) Map of proposed critical habitat units 6a-d, 7a-b, 8a-e and 9 for *Brodiaea filifolia* (Thread-leaved brodiaea), San Diego County, follows:

BILLING CODE 4310–55–P


Proposed Critical Habitat (Units 6a-d, 7a-b, 8a-e, and 9) for
Brodiaea filifolia (Thread-leaved Brodiaea), San Diego County, California
Marine Corps Base Camp Pendleton
Unit 6d
Unit 6c
76
SAN DIEGO COUNTY
Unit 6b
VISTA
Unit 6a
OCEANSIDE
78
City of Carlsbad HMP
Unit 8b
SAN MARCOS
5
Unit 7a
Unit 8c
Unit 8d
Unit 8e
Palomar Airport Rd.
CARLSBAD
Unit 7b
Unit 8a
Villages of La Costa HCP
Pacific Ocean
Rancho Santa Fe Rd.
Unit 9
TULARE
INYO
NV
KERN
SAN BERNARDINO
VEN-TURA
LOS ANGELES
ORANGE
RIVERSIDE
Pacific Ocean
SAN DIEGO
IMPERIAL
AZ
0 25 50 Miles
Proposed Critical Habitat
Essential Habitat Excluded from Critical Habitat
County Boundary
City of Carlsbad Subarea Habitat Management Plan (HMP)
0 1 2 3 Miles
0 1 2 3 Kilometers
Marine Corps Base Camp Pendleton
City
Interstate
Major Road
N

(16) (i) Map Unit 10: Highland Valley, San Diego County, California. From USGS 1:24,000 quadrangle map San Pasqual, California, land bounded by the following UTM coordinates (E, N): 505500, 3655100; 505500, 3655000; 505600, 3655000; 505600, 3654600; 505500, 3654600; 505500, 3654500; 505200, 3654500; 505200, 3654600; 505100, 3654600; 505100, 3654700; 505000, 3654700; 505000, 3655000; 505100, 3655000; 505100, 3655100; returning to 505500, 3655100.

(ii) Map of proposed critical habitat unit 10 for *Brodiaea filifolia* (Thread-leaved brodiaea), San Diego County, follows:



BILLING CODE 4310–55–C

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Dated: November 30, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–26687 Filed 12–7–04; 8:45 am]

BILLING CODE 4310–55–P