necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule, proposing to approve the redesignation of Mercer County to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEBs identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 16, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E7–14589 Filed 7–26–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU98

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for *Astragalus magdalenae* var. *peirsonii*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of the draft economic analysis; notice of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to revise currently designated critical habitat for *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 16,108 acres (ac) (6,519 hectares (ha)) in Imperial County, California, fall within the boundaries of the proposed revised critical habitat designation. Lands being proposed as critical habitat are under Federal (15,857 ac (6,418 ha)), private (240 ac (97 ha)), and State (11 ac (4 ha)) ownership.

Section 4 of the Act requires us to consider the economic and other relevant impacts of specifying any area as critical habitat. We have conducted an analysis of the economic impacts of designating the aforementioned areas as critical habitat for *Astragalus magdalenae* var. *peirsonii*, and are announcing the availability of the draft economic analysis for public review. We hereby solicit data and comments from the public on all aspects of this revised proposal, including data on the economic and other impacts of the designation.

We are also announcing that public hearings will be held on both the proposed critical habitat rule and the draft economic analysis.

DATES: We will accept comments from all interested parties until September 25, 2007. The public hearings will take place on August 23, 2007, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. at the Carlsbad Fish and Wildlife Office in Carlsbad, California (see **ADDRESSESS**).

ADDRESSES: *Public Hearings.* The public hearings will be held at the Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California, 92011.

Comments. If you wish to comment on the proposed rule and/or the draft economic analysis, you may submit your comments and materials, identified by RIN 1018–AU98, by any of the following methods:

(1) You may send comments by electronic mail (e-mail) to *fw8cfwocomments@fws.gov.* Include ''RIN 1018–AU98'' in the subject line.

(2) You may fax your comments to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office at 760–431–5901.

(3) You may mail or hand-deliver your written comments and information to Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office at the address above.

(4) You may submit your comments at the Federal eRulemaking Portal, *http://www.regulations.gov.* Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office at the above address (telephone 760–431–9440). Copies of the draft economic analysis are available for downloading from the Internet at *http://www.fws.gov/carlsbad/* or by contacting the Carlsbad Fish and Wildlife Office directly at the above phone number or address.

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the address listed under **ADDRESSES** (telephone 760–431–9440; facsimile 760–431–5901). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed critical habitat rule and its associated draft economic analysis are hereby solicited. On the basis of public comment, during the development of the final rule we may find that areas proposed are not essential or are appropriate for exclusion under section 4(b)(2) in which case they would be removed from the final critical habitat designation.

Comments particularly are sought concerning:

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

(2) Specific information on the amount and distribution of *Astragalus magdalenae* var. *peirsonii* habitat, and what areas that were occupied at the time of listing that contain features essential for the conservation of the taxon should be included in the designation and why, and what areas that were not occupied at the time of listing are essential to the conservation of the taxon and why.

(3) Additional information on the specific physical and biological features (primary constituent elements) that are essential to the conservation of *Astragalus magdalenae* var. *peirsonii (see ''Primary Constituent Elements'' section of this proposed rule for more details).*

(4) Land use designations and current or planned activities in the subject areas

and their possible impacts on proposed critical habitat.

(5) Information on how many of the State and local environmental protection measures referenced in the draft economic analysis were adopted largely as a result of the listing of *Astragalus magdalenae* var. *peirsonii*, and how many were either already in place or enacted for other reasons.

(6) Whether the draft economic analysis identifies all State and local costs attributable to the revised proposed critical habitat designation, and information on any costs that have been inadvertently overlooked.

(7) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat.

(8) Whether the draft economic analysis correctly assesses the effect on regional costs associated with land use controls that derive from the designation of critical habitat.

(9) Whether the economic analysis indicated potentially disproportionate impacts to any areas included in the proposed designation. Based on this information, we may consider excluding portions of these areas from the final designation per our discretion under section 4(b)(2) of the Act.

(10) Whether the economic analysis appropriately identifies all costs that could result from the designation, in particular, any impacts on small entities or families; and whether it is appropriate that the analysis does not include the cost of project modifications that are the result of informal consultation only.

(11) Whether the economic analysis appropriately identifies the benefits that could result from the designation.

(12) Whether there is information about areas that could be used as substitutes for the economic activities planned in critical habitat areas that would offset the costs and allow for the conservation of critical habitat areas.

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

If you wish to comment on the proposed rule and/or the draft economic analysis, you may submit your comments and materials by any one of several methods (see **ADDRESSES** section). Please submit e-mail comments to *fw8cfwocomments@fws.gov*. Please include ''Attn: RIN 1018–AU98'' in your e-mail subject line 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 message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760–431–9440. Please note that comments must be received by the date specified in **DATES** in order to be considered.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Background

This proposed rule addresses revised critical habitat for *Astragalus magdalenae* var. *peirsonii*. For additional information on the taxonomy, biology, and ecology of this taxon, refer to the final rule listing the taxon as threatened, published in the **Federal Register** on October 6, 1998 (63 FR 53596), or the proposed and final rules designating critical habitat for this taxon published in the **Federal Register** on August 5, 2003 (68 FR 46143), and on August 4, 2004 (69 FR 47330), respectively. It is our intention to discuss only those topics directly relevant to the revised designation of critical habitat in this proposed rule.

Astragalus magdalenae var. *peirsonii* is an erect to spreading, herbaceous member of the Fabaceae (legume family) (Barneby 1959, p. 879; 1964, p. 862) that occurs on bowls, swales, and slopes of intact, active windblown sand dunes of the Algodones Dunes of Imperial County, California and the northeastern Estado de Baja California and Gran Desierto of northwestern Sonora, Mexico (Felger 2000, p. 300; Spellenberg 1993, p. 598; Willoughby 2005a, p. 2). Please refer to the ''Primary Constituent Elements'' section below for additional discussion on habitat requirements of this taxon. Plants may reach 8 to 27 inches (in) (20 to 70 centimeters (cm)) in height and develop tap roots (Barneby 1964, pp. 863–864) that penetrate deeply to the moister sand and that anchor plants in the shifting sand dunes. The root crown is often exposed by wind action moving the sand away from the base of the plants. Seeds are enclosed in fruits or pods and are either dispersed locally by falling out of partly opened fruits on the parent plant, ''salt-shaker'' style, or are dispersed further if blown across the sand after falling from the parent plant. Thus seeds can be transported from one favorable site to another, or remain near the parent plant, depending on winds (Phillips *et al.* 2001, p. 11).

Seeds require no pre-treatment to induce germination, but germination success has been shown to improve dramatically when the outer seed coat is scarified (*e.g.*, scratched, chipped) (Porter *et al.* 2005, p. 29). Germination appears to be more successful in the cooler months of the year when temperatures are less than 86 °F (30 °C) (Romspert and Burk 1979, pp. 45–46). Therefore, based on our current understanding of the taxon's life history, sufficient rain in conjunction with cool temperatures and wetter-than-average fall weather appears to trigger germination events.

Depending upon conditions, *Astragalus magdalenae* var. *peirsonii* is capable of flowering before it is one year old (Barneby 1964, p. 862; Romspert and Burk 1979, p. 16; Phillips et. al 2001, p. 10; Phillips and Kennedy 2005, p. 22). Porter *et al.* (2005, pp. 31–32) hypothesized that if rains occur early in the growing season, then flowering can begin in as little as 3 months after germination. If, on the other hand, rains (and germination) do not occur until late February, then flowering is delayed until the next rainy season. In dry years, individuals die and are not replaced by new seedlings.

This variability in annual abundance of above-ground plants has caused this taxon to be considered variously as an annual (completing its life cycle in a year or growing season) or a perennial (living for more than 2 years) (Munz 1932, p. 7; Munz 1974, p. 432; Barneby 1959, p. 879; Barneby 1964, p. 862; Spellenberg 1993, p. 598; Willoughby 2001, p. 21). Recent evidence has confirmed that this species is a short-lived perennial (Phillips *et al.* 2001, p. 10; Porter *et al.* 2005, pp. 31, 34). This taxon likely depends on the production of seeds in wetter years and the persistence of the seed bank from previous years to survive until appropriate conditions for germination occur again. Porter *et al.* (2005, p. 29) identified the primary dormancy mechanism in *Astragalus magdalenae* var. *peirsonii* as the impermeability of the seed coat to water and demonstrated little loss of viability in seeds stored for 5 years. This dormancy mechanism is consistent with species having a seed bank (Given 1994, p. 67). Dispersed seeds in a given year that do not germinate during the subsequent growing season become part of the soil seed bank (Given 1994, p. 67).

Species Distribution and Abundance

In the United States, *Astragalus magdalenae* var. *peirsonii* is restricted to about 53,000 acres (ac) (21,500 hectares (ha)) in a narrow band running 40 miles (mi) (64 kilometers (km)) northwest to southeast along the western portion of the Algodones Dunes of eastern Imperial County, California, which is the largest sand dune field in North America. *Astragalus magdalenae* var. *peirsonii* has also been documented from the Gran Desierto of Sonora, Mexico (Felger 2000, p. 300) from an area south and southeast of the Sierra Pinacate lava field, but the Service has no additional information on the size of the population or extent of area occupied (63 FR 53599). The taxon was noted from the Borrego Valley, California, by Barneby (1959, p. 879) but no verified, reproducing population exists (Porter *et al.* 2005, pp. 9–10). Other observations from Yuma, Arizona, and San Felipe, Baja California, Mexico, were based on misidentified specimens (see Porter *et al.* 2005, pp. 9–10, and Phillips *et al.* 2001, p. 7, for detailed accounts).

The Algodones Dunes are one of the largest sand dune fields in North America, extending about 40 mi (64 km), trending from northwest to southeast (Norris and Norris 1961, p. 608). Please refer to the 2003 proposed critical habitat rule for a more detailed discussion on the geomorphology of the Algodones Dunes (68 FR 46143). These dunes are often referred to as the Imperial Sand Dunes, a designation derived from their inclusion in the Imperial Sand Dunes Recreation Area (ISDRA) established by the Bureau of Land Management (BLM). The majority of the Algodones Dunes is managed by BLM within 8 management areas, of which 7 are occupied by *Astragalus magdalenae* var. *peirsonii* (Mammoth Wash, North Algodones Wilderness, Glamis, Gecko, Adaptive Management Area (AMA), Ogilby, and Buttercup). The State of California and private individuals own some small inholdings in the Mammoth Wash management area.

The ISDRA is the most popular off-highway vehicle (OHV) area in the southwest United States, with a specified major focus to ensure that OHV recreation opportunities are continuously available while responding to increased need for protection of plant and animal species in the dunes (Willoughby 2003, pp. 1–3). As a result of a settlement agreement reached in 2000, the BLM agreed to establish 5 interim closure areas within the Algodones Dunes, temporarily closing these areas to OHV recreation (see Index Map in ''Rule Promulgation'' section). As a result of a June 3, 2005, lawsuit, these temporary closures are still in place (see ''Previous Federal Actions'' section below for more information about the 2005 lawsuit).

The Algodones Dunes are in one of the driest and hottest regions in the United States. The rainfall is often described as scattered or patchy with amounts differing from place to place and from year to year, with areas to the northwest being generally dryer than those to the southeast (Willoughby 2001, p. 20). Romspert and Burk (1979, p. 11) reported average yearly rainfall during the period 1941–1970 was 2.6 in (66 millimeters (mm)). Average yearly rainfall between 1997 and 2002 at seven weather stations in the vicinity of the dunes ranged from a low of 0.1 in (3.3 mm) during the 2001–2002 growing season to a high of 6.1 in (155 mm) in the 1997–1998 growing season (Willoughby 2004, p.13). Average yearly rainfall between 2002 and 2006 at two weather stations on the dunes ranged from a low of 0.2 in (5.3 mm) during the 2005–2006 growing season to a high of 4.8 in (122 mm) during the 2004–2005 growing season (Willoughby 2006, p.18).

The distribution and abundance of *Astragalus magdalenae* var. *peirsonii* has been recorded during several ongoing survey efforts. As discussed in the 2004 final critical habitat rule (69 FR 47330), the 1977 dunes-wide survey for *A. m.* var. *peirsonii* and four other rare psammophytic (sand-loving) scrub species (WESTEC 1977) was considered the most extensive survey of the Algodones Dunes conducted at that time. The BLM conducted rare plant surveys for 5 consecutive years from 1998 through 2002, generally repeating the methodology used by WESTEC in its 1977 survey (Willoughby 2001, p. iii). Raw data from the 2001 and 2002 surveys were provided by the BLM to the Service for use in the development of the 2004 final critical habitat rule. However, a written report of the 2001 and 2002 surveys (Willoughby 2004) was completed in October 2004, after the publication of the August 4, 2004, final critical habitat rule. As also discussed in the 2004 final critical habitat rule, Phillips and Kennedy (2002, 2003) conducted surveys for *A. m.* var. *peirsonii* from 2001 through 2003. Since publication of the 2004 final critical habitat rule, both the BLM (Willoughby 2005a, 2005b, 2006) and Phillips and Kennedy (2004, 2005, 2006) continued to conduct annual surveys for this species through 2006. Table 1 below summarizes all of the various survey efforts, including the number of sampling points or transects and the effective area surveyed by each effort as well as the estimated population by the survey methodology and the actual number of plants counted.

TABLE 1.—COMPARISON OF SURVEY DATA COLLECTED FOR *Astragalus magdalenae* VAR. *peirsonii* IN THE ALGODONES DUNES; DATA TAKEN FROM 13 UNPUBLISHED REPORTS

Year	Surveyor	Number of plants counted	Estimated population	Number samples	Effective area
1977	WESTEC	N/A	N/A	542	53,000 ac
1998	BLM [1]	5,064	N/A	542	53,000 ac
1999	BLM [1]	942	N/A	542	53,000 ac
2000	BLM [1]	86	N/A	542	53,000 ac
2001	BLM [1]	5,930	N/A	542	53,000 ac
2002	BLM [1]	2,297	N/A	542	53,000 ac
2001	Phillips [2]	[3] 71,926	N/A	127	~35,000 ac
2001	Phillips [2]	30,771	N/A	25	138 ac
2003	Phillips [2]	33,202	N/A	25	138 ac
2005	Phillips [2]	77,922	[4] 173,328	25	138 ac
2006	Phillips [2]	1,233	[4] 2,035	25	138 ac
2004	BLM [1]	25,798	286,374	37,169	53,000 ac
2005	BLM [1]	739,805	1,831,076	123,488	53,000 ac

TABLE 1.—COMPARISON OF SURVEY DATA COLLECTED FOR *Astragalus magdalenae* VAR. *peirsonii* IN THE ALGODONES DUNES; DATA TAKEN FROM 13 UNPUBLISHED REPORTS—Continued

Year	Surveyor	Number of plants counted	Estimated population	Number samples	Effective area
2006	BLM [1]	N/A	83,451	775	53,000 ac

(1) BLM reports cited as Willoughby; (2) Phillips reports cited as Phillips et al. or Phillips and Kennedy; (3) reconnaissance of unspecified area; (4) estimated population for 60 specific sample sites.

Since different methodologies and survey effort were used by the BLM as compared to Phillips and Kennedy, it is difficult to compare the annual estimates of dunes-wide species abundance reported from the two different survey efforts. Early surveys conducted by WESTEC in 1977 (WESTEC 1977) and by BLM from 1998 through 2002 (Willoughby 2001, 2004) incorporated a methodology [whereby plants encountered along driving transects were qualitatively indexed to an abundance value] and represented in quadrants measuring 0.45 mi on each side. Analysis of these coarse, dune-wide surveys could only provide relative comparisons of mean abundance values between years. In 2004, the BLM embarked on a new sampling methodology that sampled a larger portion of the dunes in greater detail (Willoughby 2005a, pp. 1–5). Unlike previous surveys, the recent BLM surveys were scientifically and statistically designed to estimate the standing *Astragalus magdalenae* var. *peirsonii* population (Willoughby 2005a, 2005b, 2006). Data were compiled in adjacent 25 x 25-meter (m) cells along 4–5 km transects covering the full length of the dunes, and all micro-habitats were sampled along each transect (Willoughby 2005b, pp. 1–3). Within these 25 x 25-m cells, surveyors noted: The total number of plants; age class of plants; number of seedlings; number of flowering versus non-flowering plants; number of plants exhibiting damage from OHVs; and the number of plants showing damage from other sources (Willoughby 2005b, p. 3). The recent BLM surveys also increased the number of sample transects to 135 in 2004, and to 510 for the spring 2005 surveys; the increased transect numbers and more detailed survey methodology increased their overall sample count to 37,169 and 123,488, respectively (Willoughby 2005b). In 2006, the BLM used a randomized sample of 2005 known occupied cells during the very dry winter and spring of 2006 to yield a population estimate for the 2005–2006 survey year (Willoughby 2006, p. 6). Both the WESTEC and BLM surveys covered an effective area of about 53,000 ac (21,200 ha) and encompassed all management areas containing *Astragalus magdalenae* var. *peirsonii* (Willoughby 2005a, p. 2).

By comparison, Phillips *et al.* (2001, p. 6) counted individual *Astragalus magdalenae* var. *peirsonii* from 127 specific locations covering an unspecified area of about 35,000 ac (14,165 ha) (Phillips and Kennedy 2002, Appendix A). Phillips and Kennedy (2002, 2003, 2004, 2005, 2006) then established 25 monitoring sites from these 127 locations for their multi-year survey effort, which had an effective area of about 138 ac (56 ha).

The disparity between these three survey methods and the data collected makes it difficult to assess status and trends of the *Astragalus magdalenae* var. *peirsonii* population. However, we consider the surveys conducted by BLM to be the most extensive and precise effort to determine overall population abundance and distribution for this species, because this effort covered an effective area of about 53,000 ac (21,200 ha) and encompassed all management areas containing *Astragalus magdalenae* var. *peirsonii.* Also, the amount of data gathered in 2005 was the result of an exceptionally good rainfall year and extraordinary monitoring effort. We agree with the BLM that the 2005 survey effort represents the best estimate to date of distribution and abundance of the species on the Algodones Dunes (Willoughby 2006, p. v). The 2005–2006 survey year was an exceptionally dry year, with no *A. m.* var. *peirsonii* germination reported (Willoughby 2006, p. vi).

While direct comparison of annual estimates of *Astragalus magdalenae* var. *peirsonii* abundance reported by BLM and Phillips and Kennedy is difficult due to differences in survey methodologies and effort used by the surveyors, some comparisons can be made which illustrate the wide variation in numbers of standing individuals found in any given year and in any given area of the dunes depending on abundance and distribution of rainfall. If we compare BLM data from 1998 with BLM 2000 data and compare Phillips and Kennedy's 2001 data with their 2003 data, we see the annual variation in species abundance at occupied sites. Along the same series of west to east transects, BLM counted a total of 5,064 plants in 1998, a heavy rainfall year, and 86 plants in 2000, a low rainfall year (Willoughby 2004, p. 36). The record of steep decline of the cohort counted by Phillips *et al.* in 2001 was tracked by Phillips and Kennedy (2002, p. 18), who reported that only 26 percent of the plants seen in spring of 2001 were present in late 2001. Phillips and Kennedy (2003, p. 12) also reported that only 0.26 percent of the plants counted in spring 2001 survived to spring 2003.

This wide variation in numbers of standing individuals is also evident when comparing results of the BLM's dunes-wide surveys conducted in 2004, 2005, and 2006. In 2004, estimated dunes-wide abundance was 286,374 plants (5.5 plants/ac (13.5/ha)) (Willoughby 2005a, p. 37). In 2005, estimated dunes-wide abundance was 1,831,076 plants (39.8 plants/ac (86/ha)) (Willoughby 2005b, pp. 9–11). In 2006, estimated dunes-wide abundance was 83,451 plants (1.6 plants/ac (3.9/ha)) (Willoughby 2006, p. vi). Differences in densities (plants per acre) are likely due to differences in rainfall between years. An above average amount of rainfall was recorded during the 2004–2005 growing season, resulting in the greatest abundance of plants to date, while the 2005–2006 growing season was considered an exceptionally dry year, resulting in zero reported germination. Density in 2004 may have also been decreased due to higher average monthly maximum temperatures recorded during the survey period, potentially impacting germination (Willoughby 2005a, p. 12).

In any given year, *Astragalus magdalenae* var. *peirsonii* may be present as standing plants, as a ''soil seed bank'' in the sand dunes, or as plants persisting as perennial root crowns in the sand dunes. During any given year, the suitable habitat for *A. m.* var. *peirsonii* may be occupied by various combinations of these three life history phases. The dynamics of dune morphology, local rainfall patterns and amounts, and the spatial distribution of the soil seed bank contribute to the

patchy or mosaic nature of the distribution of standing plants of *A. m.* var. *peirsonii*. As discussed above, local rainfall patterns and amounts are likely to cause shifts in the proportions of these three life history phases.

This species was federally listed as threatened due to threats of increasing habitat loss from OHV use and associated recreational development, destruction of plants, and lack of protection afforded the plant under State law (63 FR 53596). Impacts to individual plants and their habitat associated with OHV activities and recreation development continue to be the primary threat to this species in the United States. Please refer to the final listing rule (63 FR 53596) for a detailed discussion of the threats to the species and to the ''Special Management Considerations or Protection'' section of this proposed rule for a more detailed discussion on threats to this species' habitat.

Previous Federal Actions

For more information on previous Federal actions related to the designation of critical habitat for *Astragalus magdalenae* var. *peirsonii*, refer to the final listing rule published in the **Federal Register** on October 6, 1998 (63 FR 53596), and the proposed designation of critical habitat for this species published in the **Federal Register** on August 5, 2003 (68 FR 46143). On August 4, 2004 (69 FR 47330), we designated approximately 21,836 acres (ac) (8,848 hectares (ha)) of land in Imperial County, California, as critical habitat for this species.

On June 3, 2005, the Center for Biological Diversity, Sierra Club, Public Employees for Environmental Responsibility, and Desert Survivors filed suit against the BLM and the Service alleging, among other violations related to the protection of *Astragalus magdalenae* var. *peirsonii* and desert tortoise (*Gopherus agassizii*), that the Service did not properly consider and weigh the benefits and costs associated with designating critical habitat for *A. m.* var. *peirsonii*. In a September 25, 2006, order and injunction regarding final relief, the court ordered the Service to submit a new final critical habitat rule to the **Federal Register** for publication no later than February 1, 2008. In addition, the Court ordered that the August 4, 2004 final critical habitat designation remain in full force and effect pending completion of the new final rule, and that the August 5, 2003 proposed designation of critical habitat be reinstated and remain effective pending completion of the new final rule or the issuance of a new proposed critical habitat rule for *A. m. peirsonii*. Therefore, under the Court's order, this proposed rule replaces the August 5, 2003 proposed critical habitat designation, and the August 5, 2003 proposed rule is no longer in effect. All areas currently designated under the August 4, 2004 final rule remain designated pending completion of the new final critical habitat rule.

On November 30, 2005, we published a notice of 90-day finding on a petition to delist this species and an initiation of a status review in the **Federal Register** (70 FR 71795). Please see the notice of 90-day finding for a discussion of the previous Federal actions related to the delisting petition history of this species. We are currently completing a status review of *Astragalus magdalenae* var. *peirsonii* and will publish our 12-month finding on the delisting petition in the **Federal Register** later this year.

Critical Habitat

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

Critical habitat receives protection under section 7(a)(2) 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(a)(2) of the Act requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7(a)(2) of the Act is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species at the time of listing must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Occupied habitat that contains the features essential to the conservation of the species meets the definition of critical habitat only if the essential features thereon may require special management considerations or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat under section 4(b)(2) of the Act.)

Unoccupied areas can be designated as critical habitat. However, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, the Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271); Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658); and the associated Information Quality Guidelines issued by the Service provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists, to the extent consistent with the Act and with the use of the best scientific 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 is generally the listing package for the species. Additional information sources may include the recovery plan for the species, 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. All information is used in accordance with the provisions of Section 515 of the

Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted 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)(2) of the Act and regulations at 50 CFR 424.12, we used the best scientific and commercial information available in determining areas that contain the features essential to the conservation of *Astragalus magdalenae* var. *peirsonii*, areas that are essential to the conservation of *A. m.* var. *peirsonii*, or both. This included data from unpublished research and survey reports, such as WESTEC (1977); Porter *et al.* (2005); BLM surveys conducted from 1998 to 2006 (Willoughby 2001, 2004, 2005a, 2005b, 2006); peer-reviewed journal articles; site visits; and discussions with species experts. We are not including in this proposed critical habitat rule any areas outside the geographical area presently occupied by the species.

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 within the geographical area occupied by the species at the time of listing to propose as critical habitat, we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species, and that may require special management considerations or protection. These include, but are not limited to: (1) Space for individual and population growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, and rearing (or development) of offspring; and (5) habitats that are protected from disturbance or are representative of the historic, geographical, and ecological distributions of a species.

The specific primary constituent elements (PCEs) required for *Astragalus magdalenae* var. *peirsonii* are derived from the biological needs of A. m. var. peirsonii as described in the ''Background'' section of this proposed rule, and also in the final listing rule (63 FR 53596) and in the ''Background'' section of the 2003 proposed critical habitat rule (68 FR 46143).

Space for Individual and Population Growth, Including Sites for Germination, Reproduction, Seed Dispersal, Seed Bank, and Pollination

Astragalus magdalenae var. *peirsonii* is found on active sand dunes between active faces (so-called slip faces) of the dunes, in bowls, or on semi-stabilized shallow slopes, facing the slip-faces of active dunes (Porter *et al.* 2005, p. 14). Active sand dunes provide the space needed for individual and population growth, including sites for germination, reproduction, seed dispersal, seed bank, and pollination of *A. m.* var. *peirsonii*. Active sand dunes are characterized by bowls (hollows among the dunes), swales (low area), and slip faces (areas so steep that the loose sand naturally cascades downward) that run transverse to the primary ridge line. *A. m.* var. *peirsonii* generally occurs on west-facing slopes where there is relative substrate stability from the floor of the dune basin to beyond the ridge; the greatest concentrations are generally above the middle of the slope (WESTEC 1977, p. 75; Porter *et al.* 2001, pp. 12–13).

Sand movement, dune-building, and dune migration are likely determined by the wind regime (Norris and Norris 1961, p. 609). Winds from the northwest are prevalent in the winter, while in the summer the winds are from the southeast (Romspert and Burk 1979, p. 11). Muhs *et al.* (1995, pp. 43–44) found, during a study of the sand source for the Algodones Dunes, that dominant sand-moving winds are as follows: Prevailing from the northwest all year at Indio, California; from the west or southwest all year at El Centro, California; and from the northwest in winter and from the southeast in summer at Yuma, Arizona. These winds are responsible for the local dispersal of seeds that either fall out of partly opened fruits or pods on the parent plant or that are released from fruits blown across the sand after falling from the parent plant (Phillips *et al.* 2001, p. 11).

Seed germination patterns likely reflect the horizontal and vertical distribution of the seed bank in the shifting sand dunes (seeds will not effectively germinate if buried more than 3 in (8 cm) below the surface of the dune (Bowers 1996, p. 69)). As an adaptation to shifting sands and low soil moisture, this species has developed extremely long tap roots (Barneby 1964, p. 862) that penetrate deeply to the moister sand and that anchor the plants in the shifting dunes. According to Porter *et al.* (2005, p. 28), seedlings may have roots descending only 4 in (10 cm), whereas older plants (e.g., 4 years or older) are likely to have roots ''many meters deep.'' Seeds buried in the sand function as the seed bank and allow for growth when suitable conditions, such as adequate rainfall, scarification, and suitable sand depths, are met.

Wind-driven sand appears to provide the primary mechanism for seed scarification (e.g., scratching or chipping of outer cover). While seeds require no pre-germination treatment to induce germination, scarification appears to significantly increase germination success. Porter *et al.* (2005, p. 29) conducted germination trials of *Astragalus magdalenae* var. *peirsonii* seeds collected from Algodones Dunes and found that, averaging over all germination trials, scarified seeds had 99.1 percent germination whereas unscarified seeds displayed 5.3 percent germination. In germination trials conducted by Romspert and Burk (1979, pp. 45–46), 92 percent or more seeds germinated within 29 days at temperatures of 77 °F (25 °C) or less, and no seeds germinated at temperatures of 86 °F (30 °C) or higher. This observation indicates that seeds on the dunes likely germinate in the cooler months of the year. Porter *et al.* (2005, p. 29) identified the primary dormancy mechanism in *A. m.* var. *peirsonii* as the impermeability of the seed coat to water and demonstrated little loss of viability in seeds stored for 5 years.

Seedlings may be generally present in suitable habitat throughout the dunes,

especially during above-normal precipitation years. In intervening dry years, plant numbers decrease as individuals die and are not replaced by new seedlings. Porter (*et al.* 2005, p. 35) estimated that a total- or near-total failure of seedling recruitment occurs 20 percent of the time (1 of every 5 years). This species likely depends on the production of seeds in the wetter years and the persistence of the seed bank from previous years to survive until appropriate conditions for germination occur again.

Astragalus magdalenae var. *peirsonii* occurs only in a vegetation community referred to as psammophytic (sand-loving) scrub, characterized by *Croton wigginsii* (Dunes croton), *Eriogonum deserticola* (Desert buckwheat), *Helianthus niveus* ssp. *Tephrodes* (Algodones Dunes sunflower), *Palafoxia arida* var. *gigantean* (Giant Spanish-needle), *Pholisma sonorae, Tiquilia plicata* (Plicate coldenia), *Petalonyx thurberi* (Thurber's sandpaper plant), and *Panicum urvilleanum* (Dunes panic grass) (WESTEC 1977, p. 58; Porter *et al.* 2005, p. 14). However, none of these species truly dominates the landscape (Porter *et al.* 2005, p. 14).

In areas where the sand dunes are more stabilized (less sand dune building and movement), such as along the margins of the dune fields, the open canopy psammophytic scrub community is replaced by the sandier phases of the creosote bush scrub community. *Astragalus magdalenae* var. *peirsonii* is apparently excluded from the relatively more closed canopy, creosote bush scrub community. The presence of this associated co-adapted psammophytic scrub plant community is important for population growth of *A. m.* var. *peirsonii*, because it provides habitat for insect pollinators required by *A. m.* var. *peirsonii* for fruit production (Porter *et al.* 2005, p. 35). The white-faced digger bee (*Habropoda pallida*) has been found to be the most frequent visitor on and may be the primary pollinator for this taxon (Porter *et al.* 2005, p. 32).

Intervening Areas for Gene Flow and Connectivity Within the Population

The active sand dunes are continuous along the northwest-to-southeast axis. The continuity of the sand dunes provides connectivity and facilitates gene flow within the population by allowing the movement of pollinators and the wind dispersal of fruit and seeds. Therefore, areas of the sand dunes between bowls occupied by *Astragalus magdalenae* var. *peirsonii* are important for maintaining gene flow within the population.

Areas That Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals)

A soil survey for the Imperial Valley area of Imperial County did not include the areas east of the Coachella Canal, but did depict a few adjacent portions of the Algodones Dunes as Rositas fine sand with 9 to 30 percent slopes (Zimmerman 1981, p. 32). Rositas fine sand is described as deep, somewhat excessively drained, sloping soils formed in wind-blown sands of diverse origin. Dean (1978, p. 65) describes the sand as quartz with a mean grain size of 0.006 in (0.17 mm). The dunes contain 60 to 70 percent quartz and 30 to 40 percent feldspar sand (Norris and Norris 1961, p. 610). Porter *et al.* 2005 (pp. 26–27) describes the sand as containing very little organic material (less than 1 percent). They also found that following rainfall, the dune surface held considerable moisture. Within two to three weeks of a rainfall event, moist sand was found 1 in (3 cm) below the dune surface and later in the season (e.g., April) moist sand was found 7 in (19 cm) below the surface (Porter *et al.* 2005, pp. 26–27). Therefore, Rositas fine sands are required by this species to provide the basic requirements for growth.

Based on the best available information at this time, the primary constituent elements required by *Astragalus magdalenae* var. *peirsonii* are:

(1) West and/or northwest-facing sides of bowls, swales, and slopes consisting of Rositas fine sands within intact, active sand dune systems (defined as sand areas that are subject to sand-moving winds) in the existing range of the species that provide space needed for individual and population growth, including sites for germination, reproduction, seed dispersal, seed bank, and pollination;

(2) The associated co-adapted psammophytic scrub plant community characterized by *Croton wigginsii, Eriogonum deserticola, Helianthus niveus* ssp. *tephrodes, Palafoxia arida* var. *gigantean, Pholisma sonorae, Tiquilia plicata, Petalonyx thurberi,* and *Panicum urvilleanum* that provides habitat for insect pollinators, particularly the white-faced digger bee (*Habropoda pallida*), required for reproduction; and

(3) Areas within intact, active sand dune systems between occupied bowls, swales, and slopes that allow for pollinator movement and wind dispersal of fruit and seeds.

This proposed revision to the critical habitat designation is designed for the conservation of those areas containing PCEs necessary to support the life history functions that were the basis for the proposal and the areas containing those PCEs. Because not all life history functions require all the PCEs, not all proposed critical habitat units will contain all the PCEs.

Units are designated based on sufficient PCEs being present to support at least one of the species' life history functions. Some units contain all PCEs and support multiple life processes, while some units contain only a portion of the PCEs necessary to support the species' particular use of that habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing contain primary constituent elements that may require special management considerations or protection. We have also considered how revising the current designation highlights habitat that needs special management consideration or protection.

Astragalus magdalenae var. *peirsonii* was listed due to destruction of plants and modification of habitat associated with OHV activity and associated recreational development (63 FR 53596). OHVs can impact habitat for *A. m.* var. *peirsonii* by:

(1) Disrupting the natural processes that support dune formation, movement, and structure which could disrupt the available habitat needed for individual and population growth (PCE 1 and 3);

(2) Causing the collapse of dune faces and ridges, which could result in burial of the seed bank (PCE 1);

(3) Disturbing surface sand, thereby decreasing soil moisture needed for individual and population growth (PCE 1); and

(4) Degrading the psammophytic scrub plant community that provides habitat for pollinators required for reproduction (PCE 2).

In the 2004 final critical habitat rule, we stated that OHVs may also increase sand compaction (69 FR 47330). However, Porter *et al.* (2005, p. 27) measured soil compaction associated with undisturbed dunes, OHV-traversed sand dunes, and dunes disturbed by foot traffic, and found that soil compaction on the undisturbed dunes was significantly higher. They state that winds and rains cause the sand grains on the surface of the dune to sort and pack in undisturbed areas, thereby potentially reducing evaporative water loss from the dunes. They theorize that OHV activity or walking disturbs the surface and may result in increased

evaporative water loss in the dunes (Porter *et al.* 2005, p. 27).

Special management considerations or protection may be required to minimize impacts to *Astragalus magdalenae* var. *peirsonii* habitat resulting from OHV recreation. The BLM (2003, Appendix 1 p. 13) listed the following possible management options to protect *A. m.* var. *peirsonii* and its habitat: (1) Use restrictions based on a permit system that would allow a specified level of use (high, medium, low, no use); (2) temporally based closures or limitations (open during some months or years, closed in others); (3) recognition and management of certain areas within a management area; and/or (4) increased education and outreach to OHV users to avoid certain areas. Special management considerations needed may also include additional enforcement to ensure visitor compliance with these management options.

Criteria Used To Identify Critical Habitat

All proposed revised critical habitat units are within areas that we have determined were occupied at the time of listing, and that contain sufficient primary constituent elements (PCEs) to support life history functions essential for the conservation of the species. Lands were proposed for designation based on sufficient PCEs being present to support the life processes. Some lands contain only a portion of the PCEs necessary to support the particular use of that habitat.

We consider BLM's 2005 (Willoughby 2005b) survey data to be the best available information on the distribution and range of *Astragalus magdalenae* var. *peirsonii* on the Algodones Dunes. As discussed in the ''Background'' section of this proposed rule, an exceptional amount of rainfall was recorded during the 2004–2005 growing season, resulting in the highest recorded abundance of the species to date with an estimated 1,831,076 plants (39.8 plants/ac (86 plants/ha)) in the dunes (Willoughby 2005b, pp. 9–11). This rainfall event coincided with the start of BLM's revised survey methodology, which consisted of a more detailed survey approach, as previously described in the ''Background'' section, and covered a larger portion of the dunes (Willoughby 2005a, pp. 1–5). The 2005 survey contained 123,488 sample points covering an effective area of 53,000 acres. Because these surveys occurred under the best possible growth and germination conditions for the plant and covered the largest area and greatest number of sample point locations, we relied on BLM's raw 2005 survey data as the basis for our criteria and GIS model to delineate proposed critical habitat for *A. m.* var. *peirsonii*.

As discussed in further detail below, we used the following criteria to delineate proposed critical habitat: (1) Areas occupied by the species at the time of listing; (2) areas occupied at a density greater than 100 plants per ha according to BLM's 2005 survey data (Willoughby 2005b); and (3) areas containing the features essential to the conservation of the species. As stated in the final listing rule (63 FR 53596), the Algodones Dunes was, and continues to be, the only area in the United States known to be occupied by *Astragalus magdalenae* var. *peirsonii*.

We delineated the revised proposed critical habitat boundaries using the following GIS model:

(1) We selected occupied cells (defined in Willoughby (2005b) as 25-m^2 survey areas) with a plant density greater than 100 plants per ha (6 plants per cell) as core areas. About half of the plants observed in 2005 were in cells with a density more than or equal to 100 plants per ha. We used a density of 100 plants per ha since this captured the majority of the large clusters of standing plants. We believe these higher density core areas contain a larger extent of high quality habitat (e.g., suitable dune morphology and soil moisture) and therefore the PCEs required by this species. Also, since these core areas contain higher numbers of standing plants in proximity to each other, we believe that these areas likely support relatively large seed banks (a greater number of seeds being contributed by a greater number of standing plants). Therefore, based on our assumptions that these core areas contain a larger extent of high quality habitat and larger seed banks, we considered these areas most likely to contribute to the recovery of the species.

(2) We expanded each core area to 1 ha then merged 1-ha core areas within 100-m distances of each other to form aggregated core areas. We expanded core areas to one ha to capture the entire population and seed bank in a dune bowl, based on our field observations that most occupied dune bowls are approximately one ha in size. We aggregated the 1-ha core areas within 100 m of each other to maintain space for wind dispersal of seeds between occupied dune bowls. This 100-m distance is a dunes-wide approximation of the average distance between aggregated core areas.

(3) We then eliminated outlying or remote core areas greater than 400 meters (4 bowls) from adjacent core areas and core areas less than 400 m away but with a plant density less than approximately 370 plants (= 0.0005 of the total observed population of 739,805) within the aggregated core area. This step allowed us to remove core areas with low numbers of plants considered not essential to the conservation of the species. Since these areas are a greater distance from aggregated core areas and/or contain relatively fewer standing plants, we believe these areas either contain a smaller extent of high quality habitat (e.g., suitable dune morphology and soil moisture) and/or support relatively small seed banks. Since we were not able to determine the importance of these outlying or remote areas to the long-term conservation of the species, we did not include them in the proposed designation.

(4) We then overlaid a 100-m^2 grid onto the final core areas to define the legal boundaries of the proposed critical habitat. We removed remaining small polygons less than 400 m from the core habitat in which the plant density was low. Since these polygons contained a low number of standing plants, we believe these areas contain a smaller extent of high quality habitat (e.g., suitable dune morphology and soil moisture) and/or support relatively small seed banks. Since we are not able to determine the importance of these lower density areas to the long-term conservation of the species at this time, we did not include them in the proposed designation.

This methodology captured approximately 92 percent of the 2005 observed population and includes areas we believe contain high density core populations, a large extent of high quality habitat, and a large seed bank and therefore important for the recovery of the species.

Areas meeting the proposed critical habitat boundaries were then analyzed to determine if any existing conservation or management plans exist that benefit the taxon and its PCEs. As discussed in the 2004 final critical habitat rule (69 FR 47330), BLM released a proposed Recreation Area Management Plan (RAMP) for the ISDRA in 2003 (BLM 2003). The RAMP includes an intensive monitoring/study plan that the BLM has implemented (BLM 2003). As a result of the September 25, 2006, order and injunction regarding final relief, referenced in the ''Background'' section of this proposed rule, the Environmental Impact Statement associated with the 2003 RAMP was remanded back to the BLM for further consideration.

When determining proposed critical habitat boundaries within this proposed rule, we made every effort to avoid including developed areas such as buildings, paved areas, and other structures that lack PCEs for *Astragalus magdalenae* var. *peirsonii*. The scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they affect the species or primary constituent elements in adjacent critical habitat.

Summary of Changes From Previously Designated Critical Habitat

The areas identified in this proposed rule constitute a proposed revision of the areas we proposed to designate as critical habitat for *Astragalus magdalenae* var. *peirsonii* on August 5, 2003 (68 FR 46143), and designated on August 4, 2004 (69 FR 47330). The main differences include the following:

1. This proposed revision includes 16,108 ac (6,519 ha) of land in Imperial County, California, a reduction of 36,672 acre (14,840 ha) from the 2003 proposed rule (68 FR 46143) and 5,728 ac (2,329 ha) from the 2004 final critical habitat rule (69 FR 47330). The differences in data and selection criteria between the currently designated critical habitat and this proposed revision are described further below.

2. The reduction in total acreage from the 2003 proposed critical habitat designation is primarily the result of a revised methodology to delineate critical habitat. The model used to delineate critical habitat boundaries in the 2003 proposed rule was based primarily on species survey data collected by the BLM from 1998 through 2002 along transects throughout the areas of the Algodones Dunes occupied by *Astragalus magdalenae* var. *peirsonii*. Each transect was composed of a series of grid squares measuring approximately 0.45 mi^2. In order to create the model, we used the coarse scale BLM survey data to extrapolate the values for four variables: (1) The presence or absence of standing plants of *A. m.* var. *peirsonii*; (2) the abundance of *A. m.* var. *peirsonii*; (3) the frequency of occurrence of *A. m.* var. *peirsonii* over the survey years; and (4) the number of associated rare psammophytic plant taxa present. These variables were scored, then standardized, and finally compiled. Because of the dynamic nature of the distribution of this plant, the cyclic nature of suitable climatic regimes, and the presence of a seed bank for *A. m.* var. *peirsonii*, grid squares where this plant was not found were included in critical habitat if they were contiguous with occupied grid squares (68 FR 46143). The data used to create the 2003 model was considered the best available at that time and allowed us to identify areas known to be occupied by *A. m.* var. *peirsonii* as well as areas likely to be occupied based on the presence of suitable habitat (*e.g.* presence of associated psammophytic plant taxa).

As discussed in the ''Background'' and ''Criteria Used to Identify Critical Habitat'' sections of this proposed rule, the model used to delineate revised critical habitat boundaries in this revised proposed rule is based on survey data collected by BLM in 2005 (Willoughby 2005b). A higher than average rainfall occurred during the 2004–2005 growing season, resulting in the highest *Astragalus magdalenae* var. *peirsonii* densities to date. Based on these survey data, our revised model uses occupancy and density to outline areas known to be occupied by the species. The model used to delineate the revised proposed critical habitat is based on data collected along a larger number of transects (510 versus 34) during a year of the highest recorded *A. m.* var. *peirsonii* abundance. Therefore, the data are more robust, relying primarily on occupancy documented over a larger area of the dunes and at a finer spatial resolution (25 m^2 grid cells) during optimal environmental conditions instead of on the presence of suitable habitat (e.g., the presence of associated rare psammophytic plant taxa) as did the 2003 model.

In summary, we consider the model used to delineate revised critical habitat boundaries in this proposed rule to more accurately depict the areas known to be occupied by the species than the model used to delineate the 2003 proposed critical habitat boundaries. We believe that the 2003 designation was more inclusive due to limited data and the rough spatial scale of the data, and the 2005 data now provide more specific and reliable information regarding abundance and distribution, allowing us to more precisely identify habitat essential to the conservation of the species associated with core population areas. Based on the new model, we determined that 36,535 ac (14,785 ha) previously proposed as critical habitat in 2003 are not essential to the conservation of the taxon, and therefore did not include these areas in the revised proposed critical habitat designation.

3. Of the 16,108 ac (6,519 ha) included in this proposed revision to critical habitat, 14 ac (6 ha) in Subunit 3B, 331 ac (134 ha) in Subunit 3C, and 75 ac (30 ha) in Unit 4 were not included in the 2003 proposed critical habitat rule. Also, 9,573 ac (3,874 ha) in Subunits 2A, 2B, 3A, 3B, 3C and all of Unit 4 (218 ac (88 ha)) were not included in the 2004 final rule (see Table 2 below). These 9,573 ac (3,874 ha) were excluded in the 2004 final rule under section 4(b)(2) of the Act as the Secretary determined that the economic benefits of excluding these lands outweighed the conservation benefits of including these lands in the designation due to the large potential economic and human costs of the designation (69 FR 47330). These lands are again under consideration for critical habitat in this proposed revision to critical habitat.

All lands proposed for critical habitat have been re-evaluated in a revised economic analysis, consistent with the lawsuit discussed in the ''Previous Federal Actions'' section of this proposed rule. The new draft economic analysis is available for public review and comment concurrently with this rule (see ''Economic Analysis'' section below). Based on public comment and information in the economic analysis, habitat being proposed as critical habitat herein may be excluded from final critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act and in our implementing regulations at 50 CFR 424.19. Table 2 below outlines the changes in Unit/Subunit number and area between the 2003 proposed critical habitat rule, the 2004 final critical habitat rule, and the 2007 revised proposed critical habitat rule for *Astragalus magdalenae* var. *peirsonii*.

TABLE 2.—CHANGES IN UNIT/SUBUNIT NUMBERING AND AREA (IN ACRES (AC) AND HECTARES (HA)) BETWEEN THE 2003 PROPOSED CRITICAL HABITAT RULE, THE 2004 FINAL CRITICAL HABITAT RULE, AND THE 2007 REVISED PROPOSED CRITICAL HABITAT RULE FOR *Astragalus magdalenae* VAR. *peirsonii*

2003 proposed rule (68 FR 46143)		2004 Final rule (69 FR 47330)		2007 revised proposed rule	
Unit/ Subunit	Area (ac (ha))	Unit/ Subunit	Area (ac (ha))	Unit/ Subunit	Area (ac (ha))
1A	16,510 (6,681)	1A	16,509 (6,681)	1A, 1B, 1C, 1D	4,675 (1,892)
1B	34,333 (13,894)	1B	[1] 5,355 (2,167)	2A, 2B, 3A, 3B, 3C	[4] 11,215 (4,539)
1C	1,490 (603)	1C	[2] 0 (0)	4	[5] 218 (88)
1D	447 (181)	1D	[3] 0 (0)	(none)	(none)
Totals	52,780 (21,359)		21,863 (8,848)		16,108 (6,519)

[1] 28,978 ac (11,727 ha) excluded from final designation under section 4(b)(2) of the Act.
[2] Excluded from the final designation under section 4(b)(2) of the Act.
[3] Removed from the final designation; not essential to the conservation of the species.
[4] Includes 331 ac (134 ha) not included in the 2004 final designation.
[5] Includes 75 ac (30 ha) not designated in the 2004 final designation.

Proposed Revisions to the Critical Habitat Designation

We are proposing approximately 16,245 ac (6,574 ha) as critical habitat for *Astragalus magdalenae* var. *peirsonii* within 4 units further divided into 9 subunits. These lands are under Federal (15,995 ac (6,473 ha)), private (239 ac (97 ha)), and State (11 ac (4 ha)) ownership. The approximate area (ac (ha)) encompassed within each proposed critical habitat unit/subunit and landownership is shown in Table 3 below. We are not proposing to exclude under section 4(b)(2) any areas from the final designation (see ''Exclusions Under Section 4(b)(2) of the Act'' for a detailed discussion). These units generally correspond to those units in the 2004 designation (see Table 2), and if finalized would entirely replace the current critical habitat designation for *A. m.* var. *peirsonii* in 50 CFR 17.95(a). The critical habitat areas described below constitute our best current assessment of areas determined to be occupied at the time of listing on which are found the primary constituent elements that may require special management considerations or protection.

TABLE 3.—PROPOSED CRITICAL HABITAT (ACRES (AC), HECTARES (HA)) FOR *Astragalu magdalenae* VAR. *peirsonii*

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

Critical habitat unit	Critical habitat subunit	Land ownership[1]	Total area (ac (ha))
Unit 1—Mammoth Wash/North Algodones Dunes Wilderness.			4,675 (1,892)
	Subunit 1A	BLM	203 (82)
		Private	218 (88)
	Subunit 1B	BLM	1,389 (562)
		Private	22 (9)
	Subunit 1C	BLM	730 (296)
		State	11 (4)
	Subunit 1D	BLM	2,103 (851)
Unit 2—Gecko/Glamis			4,003 (1,620)
	Subunit 2A	BLM	2,716 (1,099)
	Subunit 2B	BLM	1,287 (521)
Unit 3—Adaptive Management Area/Ogilby			7,212 (2,919)
	Subunit 3A	BLM	4,487 (1,816)
	Subunit 3B	BLM	1,176 (476)
	Subunit 3C	BLM	1,549 (627)
Unit 4—Buttercup		BLM	218 (88)
Total			16,108 (6,519)

[1] BLM = Bureau of Land Management; State = California State Lands Commission.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Astragalus magdalenae* var. *peirsonii*, below.

Unit 1—Mammoth Wash/North Algodones Dunes Wilderness (4,675 ac (1,892 ha))

Unit 1 consists of 4,675 ac (1,892 ha) of land, further divided into 4 subunits (1A, 1B, 1C, 1D), primarily under BLM ownership (Table 2). This unit includes land in the BLM's Mammoth Wash and North Algodones Dunes Wilderness Management Areas.

Subunits 1A (421 ac (170 ha)) and 1B (1,411 ac (571 ha))

Subunits 1A and 1B are in the Mammoth Wash area. About half of the land in Subunit 1A is under BLM ownership, and the other half is under

private ownership (Table 2). The majority of the land in Subunit 1B is owned by the BLM (Table 2). Both subunits were occupied at the time of listing, are currently occupied, and contain all of the features (PCEs 1, 2, and 3) essential to the conservation of the species. Additionally, habitat in Subunits 1A and 1B supports the largest numbers of *Astragalus magdalenae* var. *peirsonii* in the Mammoth Wash Management Area, with approximately 8,002 plants observed in Subunit 1A and 24,623 plants observed in Subunit 1B (based on our calculations using BLM's 2005 raw survey data). Habitat within these subunits contains a higher density of standing plants and is likely to support a large seed bank based on our analysis of BLM's 2004 survey data in addition to containing the PCEs required by the species.

The Mammoth Wash Management Area is used for camping, hunting, rights of way, motion picture/television filming, and OHV recreation (BLM 2003, p. 67). The majority of Subunit 1B is within an interim closure area, temporarily closed to OHV activity. Because the area outside of the interim closure area is remote and difficult to access, OHV recreationists give it relatively light visitation on holiday weekends and minimal visitation during the week (BLM 2003, p. 67). This management area had the lowest average annual visitation (approximately 80 vehicles) of all management areas open for OHV use during the 2003–2004, 2004–2005, and 2005–2006 seasons (BLM 2006).

The PCEs found in Subunit 1A may require special management considerations or protection such as use restrictions and/or additional enforcement to minimize impacts associated with OHV use and associated recreational activity. The majority of the habitat in Subunit 1B is currently being managed by the BLM to minimize impacts associated with OHV use through an interim closure of the area. However, regardless of the future status of this interim closure area, the PCEs found in this subunit may require special management considerations or protection, such as OHV-use restrictions and/or additional enforcement in the future to minimize impacts associated with OHV recreation (see ''Special Management Considerations or Protection'' section).

Subunits 1C (741 ac (300 ha)) and 1D (2,103 ac (851 ha))

The majority of land in Subunit 1C and all of the land in Subunit 1D is owned by the BLM (Table 2). Both subunits were occupied at the time of listing, are currently occupied, and contain all of the features (PCEs 1, 2, and 3) essential to the conservation of the species. Additionally, habitat in Subunits 1C and 1D retains the most natural and pristine features of the Algodones Dunes ecosystem, and includes the best remaining example of a dune system undisturbed by intensive OHV recreation in the ISDRA. These areas also support the largest numbers of *Astragalus magdalenae* var. *peirsonii* in the North Algodones Dunes Wilderness Management Area with approximately 15,519 plants observed in Subunit 1C and 42,673 plants observed in Subunit 1D (based on our calculations using BLM's 2005 raw survey data. Habitat within these subunits contains a higher density of standing plants and is likely to support a large seed bank based on our analysis of BLM's 2004 survey data in addition to containing the PCEs required by the species.

The North Algodones Dunes Wilderness Management Area is a 32,000-ac (12,955 ha) area that was designated as a wilderness area in 1994 to protect a number of rare and endemic plant and animal species, including *Astragalus magdalenae* var. *peirsonii*. Activities in this area include photographic activities, sightseeing, walking, hiking, backpacking, camping, nature study, horseback riding, hunting, rights-of-way, and wildlife viewing (BLM 2003, p. 71). No recreational use of mechanized vehicles of any kind (OHVs, motorcycles, bicycles, hang gliders, motorized equipment, or motorboats) is allowed in the wilderness area; management takes the form of ''minimal and subtle on-site controls and restrictions'' (Willoughby 2003). However, people occasionally trespass with motorized vehicles, and the BLM acknowledges that the amount of motorized trespasses in this area should be reduced (BLM 2003, p. 71).

The PCEs found in both subunits may require special management considerations or protection, such as additional enforcement to minimize impacts associated with unauthorized trespass by motorized vehicles (see ''Special Management Considerations or Protection'' section).

Unit 2—Gecko/Glamis (4,003 ac (1,620 ha))

Unit 2 consists of 4,003 ac (1,620 ha) of land further divided into 2 subunits (2A and 2B) entirely under BLM ownership (Table 2). This unit includes lands in the BLM's Gecko and Glamis Management Areas, with the majority being in the Gecko Management Area.

Subunits 2A (2,716 ac (1,099 ha)) and 2B (1,287 ac (521 ha))

Both subunits were occupied at the time of listing, are currently occupied, and contain all of the features (PCEs 1, 2, and 3) essential to the conservation of the species. Additionally, habitat in Subunits 2A and 2B supports the largest numbers of *Astragalus magdalenae* var. *peirsonii* in the Gecko/Glamis Management Areas with approximately 37,234 plants observed in Subunit 2A and 20,865 plants observed in Subunit 2B (based on our calculations using BLM's 2005 raw survey data). Habitat within these subunits contains a higher density of standing plants and is likely to support a large seed bank based on our analysis of BLM's 2004 survey data in addition to containing the PCEs required by the species.

Subunits 2A and 2B are almost entirely within BLM's Gecko Management Area, the most developed of the eight management areas within the ISDRA. It contains campgrounds, toilets, trash stations, camping pads, overlooks, commercial vending, and a ranger station (BLM 2003, pp. 75–76). The Gecko Management Area had the highest average annual visitation (approximately 144,421 vehicles) of the management areas open for OHV use during the 2003–2004, 2004–2005, and 2005–2006 seasons (BLM 2006). However, the majority of Subunit 2B is within an interim closure area, temporarily closed to OHV activity.

The PCEs found in Subunit 2A may require special management considerations or protection, such as use restrictions and/or additional enforcement to minimize impacts associated with intensive OHV activity. The majority of the habitat in Subunit 2B is currently being managed by the BLM to minimize impacts associated with OHV-use through an interim closure of the area. However, regardless of the future status of this interim closure area, the PCEs found in this subunit may require special management considerations or protection such as OHV-use restrictions and/or additional enforcement in the future to minimize impacts associated with OHV recreation (see ''Special Management Considerations or Protection'' section).

Unit 3—Adaptive Management Area (AMA)/Ogilby (7,212 ac (2,919 ha))

Unit 3 consists of (7,212 ac (2,919 ha)) of land further divided into 3 subunits (3A, 3B, 3C) entirely under BLM ownership (Table 2). This unit includes lands in the BLM's AMA and Ogilby Management Area.

Subunits 3A (4,487 ac (1,816 ha)), 3B (1,176 ac (476 ha)), and 3C (1,549 ac (627 ha))

All three subunits were occupied at the time of listing, are currently occupied, and contain all of the features (PCEs 1, 2, and 3) essential to the conservation of the species. Additionally, habitat in Subunits 3A, 3B, and 3C represents the largest, widest, and highest sand dune fields within the Algodones Dunes and supports the largest numbers of *Astragalus magdalenae* var. *peirsonii* dunes-wide, with approximately 200,021 plants observed in Subunit 3A; 178,837 plants observed in Subunit 3B; and 125,526 plants observed in Subunit 3C (based on our calculations using BLM's 2005 raw survey data). Habitat within these subunits contains a higher density of standing plants and is likely to support a large seed bank based on our analysis of BLM's 2004 survey data in addition to containing the PCEs required by the species.

All of Subunit 3A and about half of Subunit 3B are in the BLM's AMA. The other half of Subunit 3B and all of Subunit 3C are in the Ogilby Management Area. The AMA is intended primarily for OHV recreation, although there is also rights-of-way use (BLM 2003, p. 84). However, the entire AMA, including all of Subunit 3A and most of Subunit 3B, is within an interim closure area, temporarily closed to OHV activity. The Ogilby Management Area is used for camping, OHV recreation, and rights-of-way (BLM 2003, p. 90). A portion of the Ogilby Management Area, including a small portion of Subunit 3C, is within an interim closure area, temporarily closed to OHV activity. Areas of the Ogilby Management Area open to OHV use had average annual visitation of approximately 12,951 vehicles during the 2003–2004, 2004–2005, and 2005–2006 seasons (BLM 2006).

The PCEs found in Subunit 3C not within the interim closure area may require special management considerations or protection such as use restrictions and/or additional enforcement to minimize impacts associated with OHV recreation. Habitat in Subunits 3A and 3B, and a small portion of Subunit 3C, are currently being managed by the BLM to minimize impacts associated with OHV use through an interim closure of the area. However, regardless of the future status of this interim closure area, the PCEs found in these subunits may require special management considerations or protection such as OHV-use restrictions and/or additional enforcement in the future to minimize impacts associated with OHV recreation (see ''Special Management Considerations or Protection'' section).

Unit 4—Buttercup (218 ac (88 ha))

Unit 4 consists of 218 ac (88 ha) of land entirely under BLM ownership (Table 2). This unit includes lands in the BLM's Buttercup Management Area. This unit was occupied at the time of listing, is currently occupied, and contains all of the features (PCEs 1, 2, and 3) essential to the conservation of the species. Additionally, habitat in Unit 4 supports the largest number of *Astragalus magdalenae* var. *peirsonii* in the Buttercup Management Area with approximately 30,011 plants observed (based on our calculations using BLM's 2005 raw survey data). Habitat within these subunits contains a higher density of standing plants and is likely to support a large seed bank based on our analysis of BLM's 2004 survey data in addition to containing the PCEs required by the species.

This area is used for camping, OHV recreation, sightseeing, commercial vending, education, filming and rights of way (BLM 2003, p. 97). The Buttercup Management Area had the second highest average annual visitation (approximately 78,629 vehicles) of the management areas open for OHV use during the 2003–2004, 2004–2005, and 2005–2006 seasons (BLM 2006). Due to its proximity to Mexico, there are also many United States—Mexico international border issues (e.g. illegal border crossings and smuggling of goods and contraband) in this management area requiring frequent patrol by the U.S. Border Patrol (BLM 2003, p. 97). The PCEs found in Unit 4 may require special management considerations or protection such as use restrictions and/or additional enforcement to minimize impacts associated with intensive OHV activity (see ''Special Management Considerations or Protection'' section).

Effects of Critical Habitat Designation

Section 7 Consultation

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)(2) 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. Decisions by the 5th and 9th Circuit Court of Appeals have invalidated our definition of adversely modify (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve its intended conservation role for the species.

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 species proposed for listing or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action because of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report, while the results of a formal conference are typically transmitted in a conference opinion. Conference

opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion 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)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act 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. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that are likely to adversely affect listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or 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 jeopardy to the listed species or 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 certain instances, including where a new species is listed or critical habitat is subsequently designated that may be affected by the Federal action and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the *Astragalus magdalenae* var. *peirsonii* or its designated critical habitat require section 7(a)(2) consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the Corps under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are also subject to the section 7(a)(2) consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local or private lands that are not federally funded, authorized, or permitted, do not require section 7(a)(2) consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Astragalus magdalenae var. peirsonii and Its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for *Astragalus magdalenae* var. *peirsonii* jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of *A. m.* var. *peirsonii*. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the *Astragalus magdalenae* var. *peirsonii* in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is warranted because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

For the reasons described in the Director's December 9, 2004, memorandum, the key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve its intended conservation role for the species. Generally, the conservation role of *Astragalus magdalenae* var. *peirsonii* critical habitat units is to support viable core populations.

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 would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of *Astragalus magdalenae* var. *peirsonii* is appreciably reduced. Such activities may also jeopardize the continued existence of the species.

Nearly the entire designated critical habitat is on BLM lands. Activities on BLM lands or by Federal agencies that may affect *Astragalus magdalenae* var. *peirsonii* or its critical habitat require section 7(a)(2) consultation. Activities on private or State lands requiring a permit from BLM or any other activity requiring Federal action (i.e., funding or authorization) that may affect this species or its critical habitat will also continue to be subject to the section 7(a)(2) consultation requirement. Federal actions not affecting *A. m.* var. *peirsonii* or its critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted, will not require section 7(a)(2) consultations for this species.

The areas proposed to be designated as critical habitat are occupied by either above-ground plants or a soil seed bank of *Astragalus magdalenae* var. *peirsonii*. BLM and other Federal agencies already consult with us on activities where the species may be present to ensure that their actions do not jeopardize the continued existence of the species or destroy or adversely modify its currently designated critical habitat. Actions on which Federal agencies consult with us on effects to *A. m.* var. *peirsonii* or its critical habitat include, but are not limited to:

(1) Development of the Recreational Area Management Plan for the Imperial

Sand Dunes Recreation Area by the Bureau of Land Management;

(2) Issuance of permits for private actions (e.g. filming) on Federal lands within the Algodones Dunes by the Bureau of Land Management;

(3) Modifications to the All American Canal by the Bureau of Reclamation; and

(4) Construction and maintenance of facilities by the U.S. Border Patrol.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and require that a section 7(a)(2) consultation be conducted include, but are not limited to:

(1) Activities that disrupt the natural processes that support dune formation, movement, and structure; or otherwise change the morphology of the dunes (e.g., ridges, slip faces, bowls, swales); and

(2) Activities that degrade or diminish psammophytic scrub, including activities that (a) disturb the sand such that soil moisture is lost resulting in decreased seed germination or desiccation of plants resulting in premature death, or (b) bury or expose seeds resulting in decreased seed germination; or (c) physically impact or dislodge plants resulting in premature death.

We consider all of the units proposed as critical habitat to contain features essential to the conservation of *Astragalus magdalenae* var. *peirsonii.* All units are within the geographic range of this taxon, all were occupied by the species at the time of listing, and are currently occupied by the *A. m.* var. *peirsonii.* Federal agencies already consult with us on activities in areas currently occupied by *A. m.* var. *peirsonii,* or if the species or its currently designated critical habitat may be affected by the action, to ensure that their actions do not jeopardize the continued existence of *A. m.* var. *peirsonii* or destroy or adversely modify its designated critical habitat.

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. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Congressional Record is clear that the Secretary is afforded broad discretion regarding which factor(s) to use and how much weight to give to any factor. However, we are not proposing to exclude any lands under provisions of section 4(b)(2) in this proposed rule.

Economic Analysis

An analysis of the economic impacts of the revised proposal of critical habitat for *Astragalus magdalenae* var. *peirsonii* is available for review and comment. The comment period for the draft economic analysis runs concurrently with the comment period for this proposed rule. Copies of the draft economic analysis are available for downloading from the Internet at *http://www.fws.gov/carlsbad/* or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section).

The draft economic analysis considers the potential economic effects of actions relating to the conservation of *Astragalus magdalenae* var. *peirsonii,* including costs associated with sections 4, 7, and 10 of the Act, and specifying the incremental effects attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for *A. m.* var. *peirsonii* in habitat areas with features essential to the conservation of this taxon. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this analysis looks retrospectively at costs that have been incurred since the date the species was listed as an endangered species and considers those costs that may occur in the 20 years following the designation of critical habitat (i.e., 2008–2027).

This analysis quantifies potential economic impacts that may result from the designation of critical habitat. Specifically, the analysis quantifies the impact of a loss of OHV trips that could result from the potential closures of portions of the critical habitat as a result of the designation, as well as expected administrative and project modification costs attributable to critical habitat designation. Additionally, the analysis provides information on the full value of OHV use of the ISDRA in the absence of closures resulting from critical habitat. The analysis also quantifies administrative costs attributable to critical habitat designation, potential project modification costs attributable to critical habitat, and potential public cost savings. At the lower bound, in the absence of closures to OHV use resulting from critical habitat, only impacts related to administrative efforts are expected. At the upper bound, the forecast impacts assume this designation will result in restrictions in OHV use, and that as a result of these restrictions, some OHV recreationists may no longer visit the ISDRA, potentially resulting in a consumer surplus loss. Specifically, upper bound impacts reflect a potential loss of visitation in portions of the area proposed for critical habitat. Within the upper bound scenario, a range of impacts is estimated, representing differing assumptions underlying the forecast visitation growth rate for the ISDRA.

The total potential post-designation efficiency impacts for 2008–2027 range from a lower bound of zero to an upper bound range of $91.8 million in undiscounted dollars. In annualized terms, the impacts range from zero to $4.59 million. At a three percent discount rate, the impacts range from zero to $67.7 million over 20 years. At a seven percent discount rate, the impacts range from zero to $47.6 million over 20 years.

We solicit data and comments from the public on these draft documents, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Peer Review

In accordance with our joint policy published in the **Federal Register** on

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

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

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Upon publication of this proposed rule, we are announcing that public hearings will be held on both the proposed critical habitat rule and the draft economic analysis on August 23, 2007, from 1 p.m. to 3 p.m. and 6 p.m. to 8 p.m. at the Carlsbad Fish and Wildlife Office in Carlsbad, California (see **ADDRESSES**). The location, date, and times of these public hearings will also be announced in local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 (Regulatory Planning and Review) requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) 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

In accordance with Executive Order 12866, this revised proposed designation of critical habitat is a significant rule in that it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed revised critical habitat designation, the total potential post-designation efficiency impacts for 2008–2027 range from a lower bound of zero impact to an upper bound of $91.8 million in undiscounted dollars. In annualized terms, the impacts would range from zero to $4.59 million. At a three percent discount rate, the impacts would be zero to 67.7 million over 20 years. At a seven percent discount rate, the impacts would be zero to $47.6 million over 20 years. Therefore, based on our draft economic analysis, we have determined that the proposed revised critical habitat designation for *Astragalus magdalenae* var. *peirsonii* will not result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule.

Further, E.O. 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has determined that the Federal regulatory action is appropriate, the agency will then need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

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. Based upon our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments received, this determination is subject to revision as part of the final rulemaking.

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

To determine if this proposed designation of critical habitat for *Astragalus magdalenae* var. *peirsonii* would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (e.g., OHV recreation). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation. Typically, when proposed critical habitat designations are made final, Federal agencies must consult with us if their activities may affect that designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our economic analysis of this proposed designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to proposed designation of critical habitat for *Astragalus magdalenae* var. *peirsonii*. In our analysis of impacts to small entities (appendix A of draft economic analysis, we estimated that a total of up to 827 small entities in OHV-related sectors could be impacted by critical habitat designation, with 398 of those businesses in Imperial County and 429 in Yuma County. Exhibit A–4 of our Draft Economic Analysis (on page A–8) presents an estimated ''per business impact to small entities.'' In Imperial County, the average impact per small entity is estimated to be $44,300, which is 3.22% of the estimated average per business annual sales of $1,370,000. In Yuma County the average impact per small entity is estimated to be $7,400, which is 0.51% of the estimated average per business annual sales of $1,440,000. The composite average for both Counties is estimated to be $25,400 per small entity, which is 1.78% of the estimated average per business annual sales of $1,410,000. Although a number of small entities will be affected by the designation, we do not believe the economic impact will be significant. Therefore, we certify that this proposed regulation will not result in a significant economic impact on a substantial number of small business entities. Please refer to our draft economic analysis of this designation for a more detailed discussion of potential economic impacts.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) 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. Energy-related impacts associated with the proposed *A. m.* var. *peirsonii* critical habitat are not expected. As noted by BLM, the likelihood of any energy-related activity occurring within the proposed critical habitat is minimal for a number of reasons. First, utility corridors exist outside of the proposed critical habitat area. Second, areas of the ISDRA likely to experience development are not included in the proposed designation. Third, the construction and maintenance of projects (such as utility lines) away from current roads, canals, and railways and through the central, more remote portions of the dunes is likely to be economically infeasible. Thus, this proposed designation is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

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

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, or Tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. 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 that receive Federal funding, assistance, or permits, or that 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, nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments, because the majority of the lands (98 percent) involved in the proposed designation are federally owned. As such, Small Government Agency Plan is not required. However, we will, further evaluate this issue as we conduct our economic analysis and review and revise this assessment as warranted.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we

have analyzed the potential takings implications of designating critical habitat for the *Astragalus magdalenae* var. *peirsonii* in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for *A. m.* var. *peirsonii* does not pose significant takings implications. However, we will, further evaluate this issue as we conduct our economic analysis and review and revise this assessment as warranted.

Federalism

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in California. The majority of the lands (98 percent) involved in the proposed designation are federally owned and, therefore, the proposed designation has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Endangered Species Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Astragalus magdalenae* var. *peirsonii*.

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

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

National Environmental Policy Act

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 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 occupied at the time of listing that contain the features essential for the conservation and no Tribal lands that are unoccupied areas that are essential for the conservation of *Astragalus magdalenae* var. *peirsonii*. Therefore, designation of critical habitat for *A. m.* var. *peirsonii* has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available for downloading from the Internet at *http://www.fws.gov/carlsbad/* or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section).

Author(s)

The primary authors of this package are Tannika Engelhard and Lloyd B. McKinney of the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. In § 17.96 (h), revise the entry for ''Fabaceae: *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch)'' under ''FLOWERING PLANTS'' to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Fabaceae: *Astragalus magdalenae* var. *peirsonii* (Peirson's milk-vetch)

(1) Critical habitat units are depicted for this species are found in Imperial County, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Astragalus magdalenae* var. *peirsonii* are the habitat components that provide:

(i) West and/or northwest-facing sides of bowls, swales, and slopes consisting of Rositas fine sands within intact, active sand dune systems (defined as sand areas that are subject to sand-moving winds) in the existing range of the species that provide space needed for individual and population growth, including sites for germination, reproduction, seed dispersal, seed bank, and pollination;

(ii) The associated co-adapted psammophytic scrub plant community characterized by *Croton wigginsii, Eriogonum deserticola, Helianthus niveus* ssp. *tephrodes, Palafoxia arida* var. *gigantean, Pholisma sonorae, Tiquilia plicata, Petalonyx thurberi,* and *Panicum urvilleanum* that provides habitat for insect pollinators, particularly the white-faced digger bee (*Habropoda pallida*), required for reproduction; and

(iii) Areas within intact, active sand dune systems between occupied bowls, swales, and slopes that allow for pollinator movement and wind dispersal of fruit and seeds.

(3) Critical habitat does not include manmade structures, such as buildings, aqueducts, airports, roads, and the land on which such structures are located existing on the effective date of this rule

and not containing one or more of the primary constituent elements.

(4) Critical habitat map units. Data layers defining map units were created using USGS 1:24,000 quadrangles.

(5) Note: Index map (Map 1) follows:

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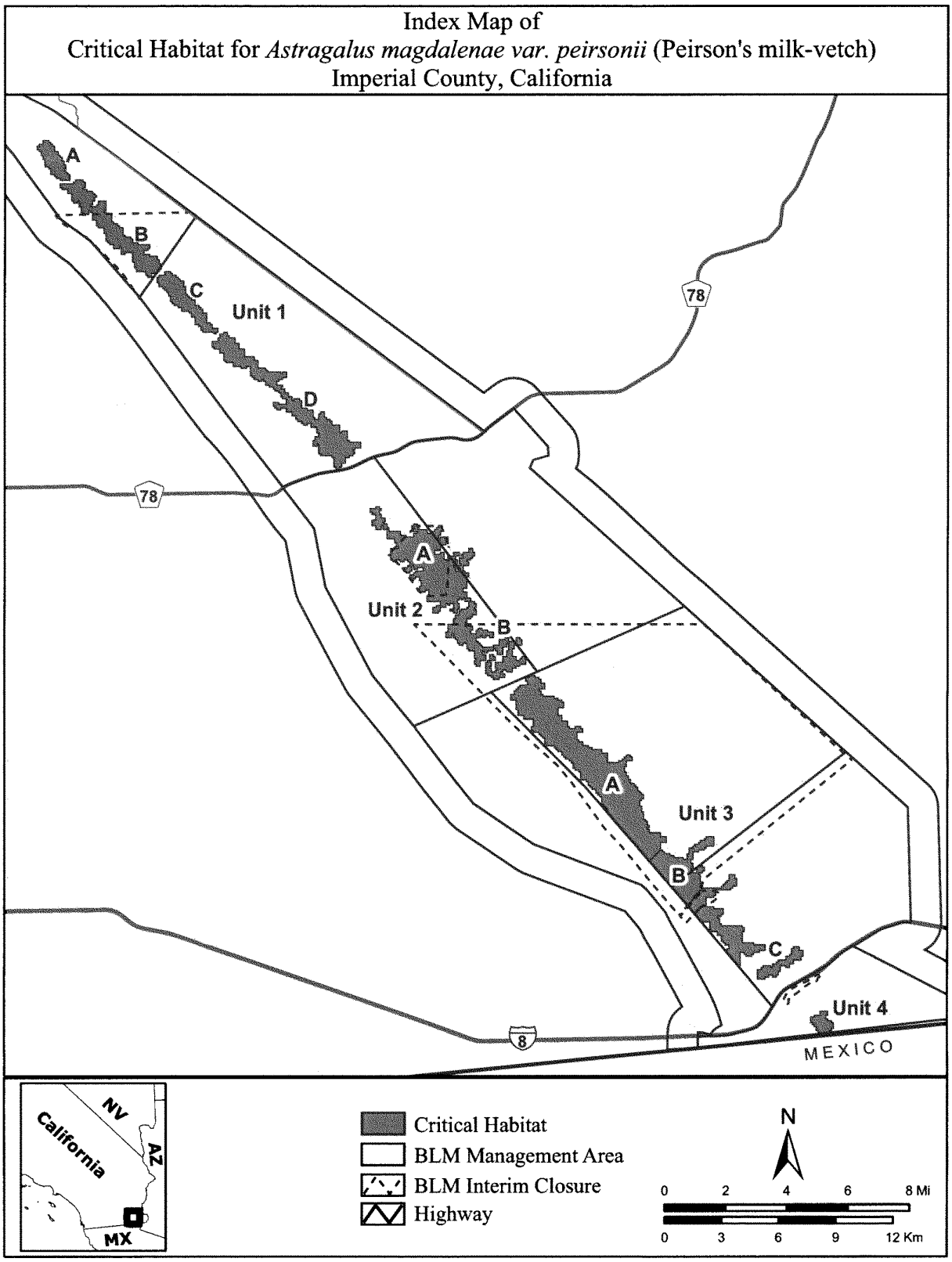

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(6) Unit 1: Imperial County, California.

(i) Subunit 1A, Mammoth Wash, Imperial County, California. From USGS 1:24,000 quadrangles Amos and Tortuga, lands bounded by the following UTM NAD83 coordinates (E, N): 657000, 3668000; 657300, 3668000; 657300, 3667900; 657400, 3667900; 657400, 3667800; 657500, 3667800; 657500, 3667700; 657600, 3667700; 657600, 3667400; 657800, 3667400; 657800, 3667200; 657900, 3667200; 657900, 3667100; 658000, 3667100; 658000, 3666900; 658100, 3666900; 658100, 3666700; 658200, 3666700; 658200, 3666500; 658100, 3666500; 658100, 3666400; 658200, 3666400; 658200, 3666300; 658300, 3666300; 658300, 3666200; 658400, 3666200; 658400, 3665900; 657900, 3665900; 657900, 3666000; 657700, 3666000; 657700, 3666100; 657600, 3666100; 657600, 3666200; 657400, 3666200; 657400, 3666500; 657300, 3666500; 657300, 3666600; 657100, 3666600; 657100, 3667000; 657000, 3667000; 657000, 3667200; 656900, 3667200; 656900, 3667400; 656800, 3667400; 656800, 3667500; 656700, 3667500; 656700, 3667700; 656800, 3667700; 656800, 3667800; 657000, 3667800; thence returning to 657000, 3668000.

(ii) Subunit 1B, Mammoth Wash, Imperial County, California. From USGS 1:24,000 quadrangle Amos, lands bounded by the following UTM NAD83 coordinates (E, N): 658700, 3665900; 659100, 3665900; 659100, 3665800; 659200, 3665800; 659200, 3665500; 659100, 3665500; 659100, 3665400; 659300, 3665400; 659300, 3665300; 659600, 3665300; 659600, 3665200; 659700, 3665200; 659700, 3665100; 659800, 3665100; 659800, 3665000; 659700, 3665000; 659700, 3664800; 659600, 3664800; 659600, 3664600; 659500, 3664600; 659500, 3664500; 659800, 3664500; 659800, 3664600; 659900, 3664600; 659900, 3664800; 660300, 3664800; 660300, 3664300; 660200, 3664300; 660200, 3664200; 660300, 3664200; 660300, 3664100; 660600, 3664100; 660600, 3663700; 660700, 3663700; 660700, 3663600; 660900, 3663600; 660900, 3663500; 661000, 3663500; 661000, 3663400; 661200, 3663400; 661200, 3663000; 661300, 3663000; 661300, 3662900; 661600, 3662900; 661600, 3662800; 661700, 3662800; 661700, 3662600; 662000, 3662600; 662000, 3662500; 662600, 3662500; 662600, 3662300; 662500, 3662300; 662500, 3662200; 662300, 3662200; 662300, 3662000; 662600, 3662000; 662600, 3661900; 663000, 3661900; 663000, 3661700; 663100, 3661700; 663100, 3661500; 663200, 3661500; 663200, 3661200; 663100, 3661200; 663100, 3661100; 663000, 3661100; 663000, 3661000; 662700, 3661000; 662700, 3660800; 662500, 3660800; 662500, 3660900; 662400, 3660900; 662400, 3661100; 661900, 3661100; 661900, 3661300; 661800, 3661300; 661800, 3661600; 661700, 3661600; 661700, 3662100; 661300, 3662100; 661300, 3662000; 661100, 3662000; 661100, 3662400; 661000, 3662400; 661000, 3662300; 660700, 3662300; 660700, 3662500; 660500, 3662500; 660500, 3662600; 660400, 3662600; 660400, 3662700; 660300, 3662700; 660300, 3663100; 660200, 3663100; 660200, 3663400; 659900, 3663400; 659900, 3663500; 659800, 3663500; 659800, 3663800; 659600, 3663800; 659600, 3664200; 659500, 3664200; 659500, 3664300; 659400, 3664300; 659400, 3664100; 659100, 3664100; 659100, 3664200; 659000, 3664200; 659000, 3664500; 658900, 3664500; 658900, 3664800; 658800, 3664800; 658800, 3664700; 658600, 3664700; 658600, 3664800; 658500, 3664800; 658500, 3665200; 658300, 3665200; 658300, 3665400; 658000, 3665400; 658000, 3665500; 657900, 3665500; 657900, 3665700; 658600, 3665700; 658600, 3665800; 658700, 3665800; thence returning to 658700, 3665900.

(iii) Subunit 1C, North Algodones Wilderness Area, Imperial County, California. From USGS 1:24,000 quadrangles Acolita and Amos, lands bounded by the following UTM NAD83 coordinates (E, N): 663400, 3661100; 663700, 3661100; 663700, 3661000; 663800, 3661000; 663800, 3660900; 664000, 3660900; 664000, 3660800; 664100, 3660800; 664100, 3660700; 664200, 3660700; 664200, 3660600; 664400, 3660600; 664400, 3660300; 664500, 3660300; 664500, 3659900; 664600, 3659900; 664600, 3659800; 664700, 3659800; 664700, 3659700; 664800, 3659700; 664800, 3659600; 665000, 3659600; 665000, 3659300; 665200, 3659300; 665200, 3659200; 665300, 3659200; 665300, 3659100; 665400, 3659100; 665400, 3658900; 665600, 3658900; 665600, 3658400; 665800, 3658400; 665800, 3658300; 665900, 3658300; 665900, 3658100; 666200, 3658100; 666200, 3657900; 666100, 3657900; 666100, 3657800; 666000, 3657800; 666000, 3657900; 665400, 3657900; 665400, 3658000; 665300, 3658000; 665300, 3658200; 665200, 3658200; 665200, 3658300; 665000, 3658300; 665000, 3658700; 664800, 3658700; 664800, 3658900; 664700, 3658900; 664700, 3659000; 664300, 3659000; 664300, 3659200; 664100, 3659200; 664100, 3659300; 663900, 3659300; 663900, 3659400; 663800, 3659400; 663800, 3659500; 663700, 3659500; 663700, 3659800; 663600, 3659800; 663600, 3660000; 663500, 3660000; 663500, 3660100; 663400, 3660100; 663400, 3660200; 663300, 3660200; 663300, 3660300; 663100, 3660300; 663100, 3660500; 663000, 3660500; 663000, 3660800; 663100, 3660800; 663100, 3660900; 663400, 3660900; thence returning to 663400, 3661100.

(iv) Subunit 1D, North Algodones Wilderness Area, Imperial County, California. From USGS 1:24,000 quadrangles Acolita and Glamis NW, lands bounded by the following UTM NAD83 coordinates (E, N): 666500, 3657900; 666700, 3657900; 666700, 3657700; 666800, 3657700; 666800, 3657600; 667100, 3657600; 667100, 3657300; 667300, 3657300; 667300, 3657000; 667600, 3657000; 667600, 3656600; 668100, 3656600; 668100, 3656400; 668300, 3656400; 668300, 3656000; 668700, 3656000; 668700, 3655900; 668800, 3655900; 668800, 3655800; 669500, 3655800; 669500, 3655700; 669600, 3655700; 669600, 3655800; 669800, 3655800; 669800, 3655500; 669600, 3655500; 669600, 3655400; 669400, 3655400; 669400, 3655300; 669300, 3655300; 669300, 3655100; 669600, 3655100; 669600, 3655000; 669500, 3655000; 669500, 3654900; 669700, 3654900; 669700, 3654700; 669900, 3654700; 669900, 3654500; 670100, 3654500; 670100, 3654300; 670200, 3654300; 670200, 3654400; 670500, 3654400; 670500, 3654300; 670600, 3654300; 670600, 3653900; 670900, 3653900; 670900, 3653800; 671200, 3653800; 671200, 3653400; 671300, 3653400; 671300, 3653300; 671500, 3653300; 671500, 3653600; 671600, 3653600; 671600, 3653700; 671800, 3653700; 671800, 3653400; 671900, 3653400; 671900, 3653300; 672100, 3653300; 672100, 3653200; 672200, 3653200; 672200, 3653000; 672600, 3653000; 672600, 3652600; 672700, 3652600; 672700, 3652700; 673000, 3652700; 673000, 3652200; 673100, 3652200; 673100, 3652100; 673700, 3652100; 673700, 3651800; 673400, 3651800; 673400, 3651700; 673300, 3651700; 673300, 3651600; 673400, 3651600; 673400, 3651500; 673300, 3651500; 673300, 3651400; 673100, 3651400; 673100, 3651300; 672900, 3651300; 672900, 3651000; 672700, 3651000; 672700, 3650800; 672600, 3650800; 672600, 3650700; 672400, 3650700; 672400, 3650800; 672300, 3650800; 672300, 3651300; 672200, 3651300; 672200, 3651400; 671600, 3651400; 671600, 3651500; 671500, 3651500; 671500, 3652000; 671400, 3652000; 671400,

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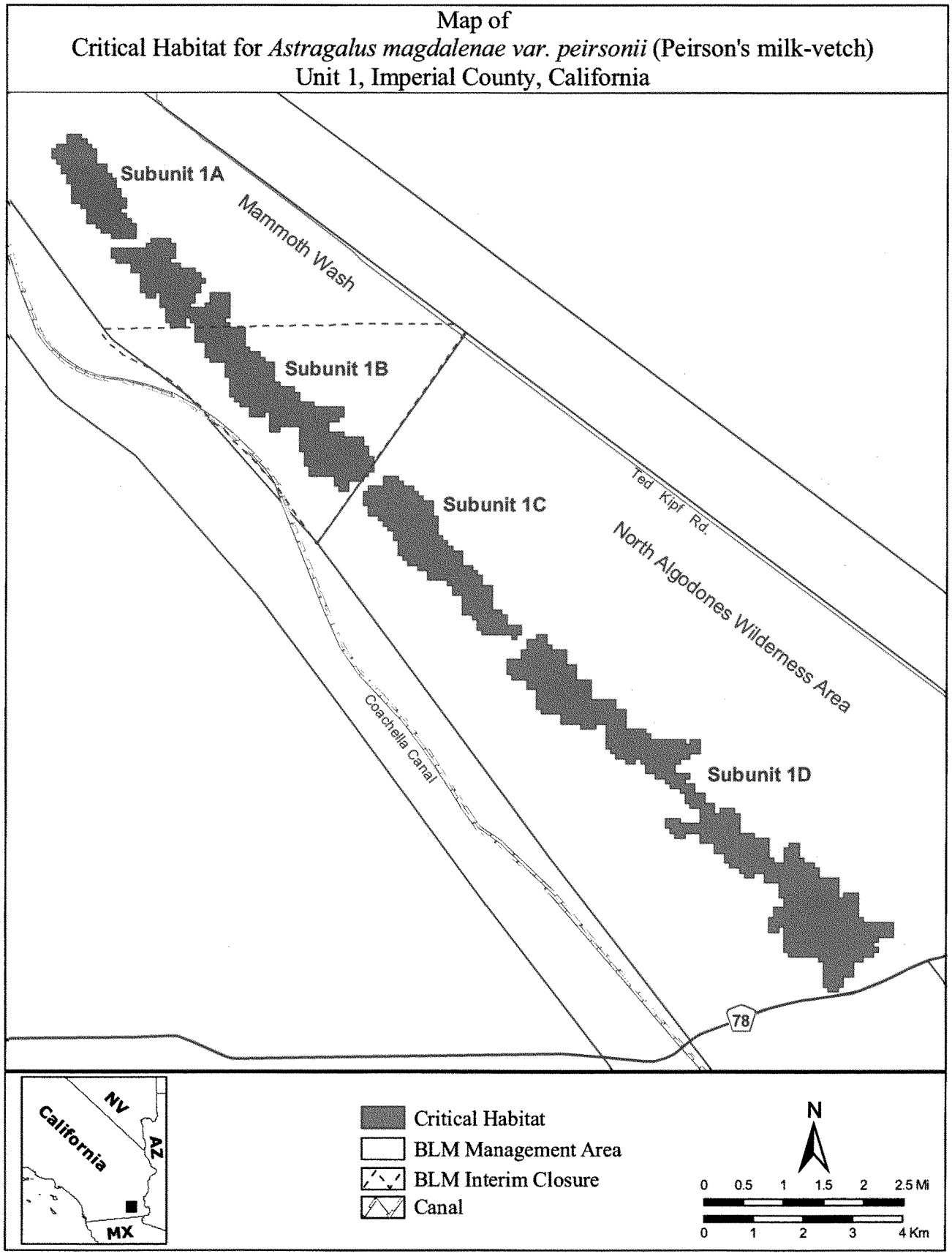
(v) Note: Map of Unit 1 (Map 2) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit 2: Imperial County, California.

(i) Subunit 2A, Gecko, Imperial County, California. From USGS 1:24,000 quadrangles Glamis and Glamis NW, lands bounded by the following UTM NAD83 coordinates (E, N): 674500, 3648700; 674700, 3648700; 674700, 3648600; 674800, 3648600; 674800, 3648500; 674700, 3648500; 674700, 3648300; 674800, 3648300; 674800, 3648100; 675000, 3648100; 675000, 3647900; 674900, 3647900; 674900, 3647800; 675100, 3647800; 675100, 3647600; 675200, 3647600; 675200, 3647400; 675800, 3647400; 675800, 3647200; 676100, 3647200; 676100, 3647100; 676500, 3647100; 676500, 3647300; 676700, 3647300; 676700, 3647400; 676400, 3647400; 676400, 3647700; 676500, 3647700; 676500, 3647800; 676700, 3647800; 676700, 3647700; 676800, 3647700; 676800, 3647600; 676700, 3647600; 676700, 3647500; 677200, 3647500; 677200, 3647300; 677400, 3647300; 677400, 3647400; 677600, 3647400; 677600, 3647500; 677700, 3647500; 677700, 3647600; 677800, 3647600; 677800, 3647700; 678000, 3647700; 678000, 3647400; 677900, 3647400; 677900, 3647200; 677800, 3647200; 677800, 3647000; 677900, 3647000; 677900, 3647100; 678300, 3647100; 678300, 3646800; 678200, 3646800; 678200, 3646700; 677900, 3646700; 677900, 3646400; 677600, 3646400; 677600, 3646200; 677900, 3646200; 677900, 3646300; 678100, 3646300; 678100, 3645900; 678400, 3645900; 678400, 3646100; 678600, 3646100; 678600, 3646300; 678900, 3646300; 678900, 3646100; 678700, 3646100; 678700, 3645900; 678800, 3645900; 678800, 3645700; 678700, 3645700; 678700, 3645600; 678600, 3645600; 678600, 3645500; 678700, 3645500; 678700, 3645300; 678900, 3645300; 678900, 3645400; 678800, 3645400; 678800, 3645600; 679000, 3645600; 679000, 3645700; 678900, 3645700; 678900, 3646000; 679100, 3646000; 679100, 3646100; 679000, 3646100; 679000, 3646200; 679100, 3646200; 679100, 3646300; 679400, 3646300; 679400, 3646500; 679600, 3646500; 679600, 3646300; 679700, 3646300; 679700, 3646100; 679600, 3646100; 679600, 3646000; 679500, 3646000; 679500, 3645900; 679300, 3645900; 679300, 3645800; 679400, 3645800; 679400, 3645600; 679100, 3645600; 679100, 3645300; 679200, 3645300; 679200, 3645200; 679400, 3645200; 679400, 3645000; 679300, 3645000; 679300, 3644400; 679100, 3644400; 679100, 3644200; 679300, 3644200; 679300, 3643900; 679500, 3643900; 679500, 3643700; 679400, 3643700; 679200, 3643700; 679200, 3643900; 679100, 3643900; 679100, 3643800; 679000, 3643800; 679000, 3643900; 678900, 3643900; 678900, 3643800; 678800, 3643800; 678800, 3643600; 678900, 3643600; 678900, 3643300; 678800, 3643300; 678800, 3643100; 678600, 3643100; 678600, 3643200; 678400, 3643200; 678400, 3643300; 678600, 3643300; 678600, 3643600; 678400, 3643600; 678400, 3643500; 678300, 3643500; 678300, 3643600; 678200, 3643600; 678200, 3643400; 677900, 3643400; 677900, 3643200; 677800, 3643200; 677800, 3643100; 677500, 3643100; 677500, 3643400; 677700, 3643400; 677700, 3643500; 677900, 3643500; 677900, 3643700; 677200, 3643700; 677200, 3644000; 677300, 3644000; 677300, 3644300; 677100, 3644300; 677100, 3644200; 676800, 3644200; 676800, 3644500; 676900, 3644500; 676900, 3644800; 676800, 3644800; 676800, 3645000; 676600, 3645000; 676600, 3644900; 676500, 3644900; 676500, 3644800; 676400, 3644800; 676400, 3644900; 676300, 3644900; 676300, 3645100; 676500, 3645100; 676500, 3645200; 676600, 3645200; 676600, 3645300; 677000, 3645300; 677000, 3645500; 676700, 3645500; 676700, 3645400; 676500, 3645400; 676500, 3645600; 676400, 3645600; 676400, 3645300; 676300, 3645300; 676300, 3645200; 676100, 3645200; 676100, 3645300; 676000, 3645300; 676000, 3645500; 676200, 3645500; 676200, 3645600; 676300, 3645600; 676300, 3645800; 676200, 3645800; 676200, 3645900; 676000, 3645900; 676000, 3645800; 675800, 3645800; 675800, 3645900; 675600, 3645900; 675600, 3645800; 675400, 3645800; 675400, 3645900; 675300, 3645900; 675300, 3646500; 675700, 3646500; 675700, 3646600; 675600, 3646600; 675600, 3646800; 675500, 3646800; 675500, 3647000; 675100, 3647000; 675100, 3647500; 674900, 3647500; 674900, 3647700; 674800, 3647700; 674800, 3647500; 674500, 3647500; 674500, 3647700; 674300, 3647700; 674300, 3648000; 674500, 3648000; 674500, 3648300; 674300, 3648300; 674300, 3648400; 674200, 3648400; 674200, 3648600; 674500, 3648600; thence returning to 674500, 3648700.

(ii) Subunit 2B, Gecko, Imperial County, California. From USGS 1:24,000 quadrangle Glamis, lands bounded by the following UTM NAD83 coordinates (E, N): 679400, 3643700; 679500, 3643700; 679700, 3643700; 679700, 3643600; 679800, 3643600; 679800, 3643400; 679700, 3643400; 679700, 3643300; 679800, 3643300; 679800, 3643000; 679600, 3643000; 679600, 3642900; 679500, 3642900; 679500, 3642800; 679300, 3642800; 679300, 3642600; 679200, 3642600; 679200, 3642400; 679600, 3642400; 679600, 3642200; 679500, 3642200; 679500, 3642000; 679800, 3642000; 679800, 3642200; 679900, 3642200; 679900, 3642300; 680100, 3642300; 680100, 3642200; 680400, 3642200; 680400, 3642100; 680700, 3642100; 680700, 3641800; 680500, 3641800; 680500, 3641900; 680300, 3641900; 680300, 3641800; 680100, 3641800; 680100, 3641900; 680000, 3641900; 680000, 3641800; 679800, 3641800; 679800, 3641600; 679900, 3641600; 679900, 3641500; 680000, 3641500; 680000, 3641400; 680100, 3641400; 680100, 3641300; 680700, 3641300; 680700, 3641400; 681000, 3641400; 681000, 3641700; 681300, 3641700; 681300, 3641800; 681500, 3641800; 681500, 3641600; 681900, 3641600; 681900, 3641800; 682100, 3641800; 682100, 3641700; 682200, 3641700; 682200, 3641400; 681800, 3641400; 681800, 3641200; 681700, 3641200; 681700, 3640800; 681900, 3640800; 681900, 3640600; 682100, 3640600; 682100, 3640700; 682200, 3640700; 682200, 3640800; 682400, 3640800; 682400, 3640400; 682100, 3640400; 682100, 3640300; 681900, 3640300; 681900, 3640200; 681700, 3640200; 681700, 3640000; 681400, 3640000; 681400, 3640100; 681200, 3640100; 681200, 3640000; 681100, 3640000; 681100, 3639900; 681300, 3639900; 681300, 3639700; 681000, 3639700; 681000, 3639600; 680700, 3639600; 680700, 3639700; 680600, 3639700; 680600, 3639800; 680400, 3639800; 680400, 3639900; 680300, 3639900; 680300, 3640500; 680400, 3640500; 680400, 3640600; 680500, 3640600; 680500, 3640500; 680600, 3640500; 680600, 3640300; 680500, 3640300; 680500, 3640200; 680600, 3640200; 680600, 3640000; 680800, 3640000; 680800, 3640100; 680900, 3640100; 680900, 3640200; 680800, 3640200; 680800, 3640500; 681200, 3640500; 681200, 3640800; 681400, 3640800; 681400, 3641100; 681500, 3641100; 681500, 3641500; 681400, 3641500; 681400, 3641300; 681200, 3641300; 681200, 3640900; 680900, 3640900; 680900, 3641100; 680800, 3641100; 680800, 3641200; 680700, 3641200; 680700, 3641100; 680400, 3641100; 680400, 3641000; 680200, 3641000; 680200, 3641100; 680100, 3641100; 680100, 3640900; 680300, 3640900; 680300, 3640600; 680000, 3640600; 680000, 3640300; 679800, 3640300; 679800, 3640400; 679700, 3640400; 679700, 3640600; 679800, 3640600; 679800,

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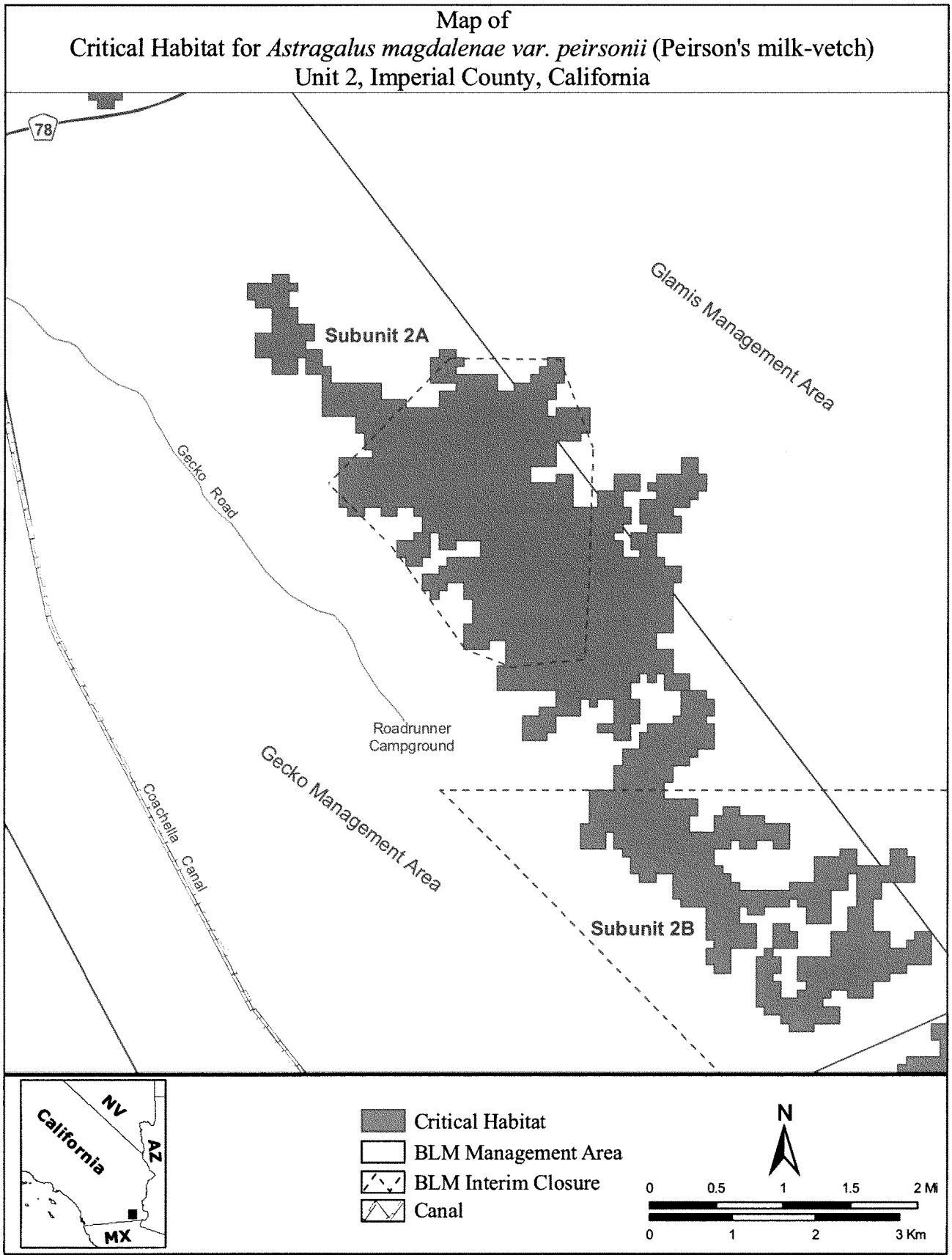
(iii) Note: Map of Unit 2 (Map 3) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(8) Unit 3: Imperial County, California.

(i) Subunit 3A, AMA, Imperial County, California. From USGS 1:24,000 quadrangles Cactus, Glamis and Glamis SE, lands bounded by the following UTM NAD83 coordinates (E, N): 682600, 3639800; 682900, 3639800; 682900, 3639700; 683100, 3639700; 683100, 3639600; 683200, 3639600; 683200, 3639400; 683400, 3639400; 683400, 3639100; 683100, 3639100; 683100, 3639000; 683200, 3639000; 683200, 3638800; 683300, 3638800; 683300, 3638700; 683900, 3638700; 683900, 3638600; 684100, 3638600; 684100, 3638500; 684300, 3638500; 684300, 3638400; 684400, 3638400; 684400, 3638100; 684100, 3638100; 684100, 3637700; 684300, 3637700; 684300, 3637400; 684600, 3637400; 684600, 3637100; 684700, 3637100; 684700, 3637000; 685000, 3637000; 685000, 3637100; 685300, 3637100; 685300, 3637000; 685400, 3637000; 685400, 3636800; 685100, 3636800; 685100, 3636400; 685200, 3636400; 685200, 3636300; 685400, 3636300; 685400, 3636100; 685700, 3636100; 685700, 3636000; 685900, 3636000; 685900, 3635900; 686400, 3635900; 686400, 3635700; 686700, 3635700; 686700, 3635200; 687300, 3635200; 687300, 3635300; 687500, 3635300; 687500, 3635400; 687600, 3635400; 687600, 3635500; 687700, 3635500; 687700, 3635600; 687900, 3635600; 687900, 3635500; 688000, 3635500; 688000, 3635300; 687700, 3635300; 687700, 3635000; 687600, 3635000; 687600, 3634700; 687700, 3634700; 687700, 3634500; 687800, 3634500; 687800, 3634300; 687900, 3634300; 687900, 3634100; 688100, 3634100; 688100, 3634000; 688200, 3634000; 688200, 3633900; 688300, 3633900; 688300, 3633700; 688400, 3633700; 688400, 3633600; 688500, 3633600; 688500, 3633500; 688600, 3633500; 688600, 3633300; 688500, 3633300; 688500, 3633200; 688400, 3633200; 688400, 3632900; 688500, 3632900; 688500, 3632600; 688600, 3632600; 688600, 3632200; 688700, 3632200; 688700, 3632100; 688800, 3632100; 688800, 3631900; 688900, 3631900; 688900, 3631800; 688800, 3631800; 688800, 3631700; 688900, 3631700; 688900, 3631500; 689500, 3631500; 689500, 3631300; 689800, 3631300; 689800, 3631000; 689500, 3631000; 689500, 3630600; thence southwestward to y-coordinate 3630000 at the Management Area boundary; thence northwestward along the Management Area boundary to x-coordinate 686700; thence to 686700, 3632800; 686600, 3632800; 686600, 3632900; 686500, 3632900; 686500, 3633000; 686400, 3633000; 686400, 3633400; 686300, 3633400; 686300, 3633500; 686200, 3633500; 686200, 3633600; 686100, 3633600; 686100, 3633800; 685900, 3633800; 685900, 3633900; 685800, 3633900; 685800, 3634000; 685700, 3634000; 685700, 3634200; 685600, 3634200; 685600, 3634300; 685300, 3634300; 685300, 3634700; 685200, 3634700; 685200, 3634800; 685000, 3634800; 685000, 3634900; 684900, 3634900; 684900, 3635200; 684800, 3635200; 684800, 3635300; 684700, 3635300; 684700, 3635400; 684500, 3635400; 684500, 3635500; 684400, 3635500; 684400, 3635600; 684300, 3635600; 684300, 3635800; 684100, 3635800; 684100, 3635900; 684000, 3635900; 684000, 3636000; 683900, 3636000; 683900, 3636100; 683500, 3636100; 683500, 3636200; 683400, 3636200; 683400, 3636500; 683300, 3636500; 683300, 3636600; 683200, 3636600; 683200, 3636700; 683100, 3636700; 683100, 3636800; 682800, 3636800; 682800, 3636900; 682700, 3636900; 682700, 3637100; 682800, 3637100; 682800, 3637500; 682300, 3637500; 682300, 3637700; 682000, 3637700; 682000, 3638000; 681900, 3638000; 681900, 3638500; 681600, 3638500; 681600, 3638800; 681800, 3638800; 681800, 3639000; 681900, 3639000; 681900, 3639100; 682000, 3639100; 682000, 3639200; 682100, 3639200; 682100, 3639300; 682500, 3639300; 682500, 3639500; 682400, 3639500; 682400, 3639700; 682600, 3639700; thence returning to 682600, 3639800.

(ii) Subunit 3B, AMA/Ogilby, Imperial County, California. From USGS 1:24,000 quadrangle Cactus, lands bounded by the following UTM NAD83 coordinates (E, N): 691900, 3631300; 692300, 3631300; 692300, 3630800; 691900, 3630800; 691900, 3630700; 691800, 3630700; 691800, 3630600; 691500, 3630600; 691500, 3630500; 691200, 3630500; 691200, 3630100; 691100, 3630100; 691100, 3629900; 691200, 3629900; 691200, 3629600; 691100, 3629600; 691100, 3629400; 691400, 3629400; 691400, 3629700; 691600, 3629700; 691600, 3629800; 691700, 3629800; 691700, 3629700; 691800, 3629700; 691800, 3629500; 691700, 3629500; 691700, 3629400; 691500, 3629400; 691500, 3629300; 691600, 3629300; 691600, 3628700; 691700, 3628700; 691700, 3628600; thence southwestward to the Management Area boundary at y-coordinate 3627650; thence northwestward along the Management Area boundary to y-coordinate 3630000; thence northeastward to 689500, 3630600; thence to 689600, 3630600; 689600, 3630500; 689700, 3630500; 689700, 3630400; 690000, 3630400; 690000, 3630300; 690200, 3630300; 690200, 3630200; 690700, 3630200; 690700, 3630100; 690900, 3630100; 690900, 3630400; 691000, 3630400; 691000, 3630700; 691200, 3630700; 691200, 3630800; 691300, 3630800; 691300, 3630900; 691500, 3630900; 691500, 3631000; 691600, 3631000; 691600, 3631100; 691800, 3631100; 691800, 3631200; 691900, 3631200; thence returning to 691900, 3631300.

(iii) Subunit 3C, Ogilby, Imperial County, California. From USGS 1:24,000 quadrangle Cactus and Grays Well, lands bounded by the following UTM NAD83 coordinates (E, N): 693100, 3629300; 693400, 3629300; 693400, 3629100; 693500, 3629100; 693500, 3628700; 693300, 3628700; 693300, 3628600; 693200, 3628600; 693200, 3628500; 692400, 3628500; 692400, 3628200; 692300, 3628200; 692300, 3628100; 691900, 3628100; 691900, 3627600; 692300, 3627600; 692300, 3627500; 692800, 3627500; 692800, 3627200; 692700, 3627200; 692700, 3627100; 692500, 3627100; 692500, 3627000; 692600, 3627000; 692600, 3626700; 692700, 3626700; 692700, 3626600; 693800, 3626600; 693800, 3626500; 693900, 3626500; 693900, 3626300; 693800, 3626300; 693800, 3625700; 694400, 3625700; 694400, 3625600; 695000, 3625600; 695000, 3625300; 694700, 3625300; 694700, 3625200; 694400, 3625200; 694400, 3625100; 694300, 3625100; 694300, 3625000; 694000, 3625000; 694000, 3625100; 693900, 3625100; 693900, 3625200; 693700, 3625200; 693700, 3624500; thence westward to the Management Area boundary at y-coordinate 3624500; thence northwestward along the Management Area boundary at x-coordinate 693000; thence to 693000, 3625400; 693100, 3625400; 693100, 3625600; 692900, 3625600; 692900, 3625700; 692800, 3625700; 692800, 3625800; 692700, 3625800; 692700, 3626100; 692500, 3626100; 692500, 3626300; 692100, 3626300; 692100, 3626800; thence westward to the Management Area boundary at y-coordinate 3626800; thence northwestward to y-coordinate 3627650; thence to 691700, 3628600; 692700, 3628600; 692700, 3628700; 692800, 3628700; 692800, 3628800; 692900, 3628800; 692900, 3628900; 693000, 3628900; 693000, 3629000; 693100, 3629000; thence returning to 693100, 3629300; and lands bounded by 696500, 3625500; 696800, 3625500; 696800, 3625300; 697000, 3625300; 697000, 3625000; 696900, 3625000;

696900, 3624800; 696500, 3624800; 696500, 3624600; 696300, 3624600; 696300, 3624400; 696100, 3624400; 696100, 3624500; 695800, 3624500; 695800, 3624200; 695700, 3624200; 695700, 3624000; 695600, 3624000; 695600, 3623900; 695400, 3623900; 695400, 3624000; 695200, 3624000; 695200, 3623900; 695000, 3623900; 695000, 3623800; 694600, 3623800; 694600, 3624300; 694800, 3624300; 694800, 3624400; 694900, 3624400; 694900, 3624500; 695300, 3624500; 695300, 3624400; 695400, 3624400; 695400, 3624600; 695600, 3624600; 695600, 3624700; 695700, 3624700; 695700, 3624800; 696100, 3624800; 696100, 3625000; 696300, 3625000; 696300, 3625100; 696400, 3625100; 696400, 3625400; 696500, 3625400; thence returning to 696500, 3625500.

Subunit 3C, Ogilby, Imperial County, California. From USGS 1:24,000 quadrangle Cactus and Grays Well, lands bounded by the following UTM NAD83 coordinates (E, N): 693100, 3629300; 693400, 3629300; 693400, 3629100; 693500, 3629100; 693500, 3628700; 693300, 3628700; 693300, 3628600; 693200, 3628600; 693200, 3628500; 692400, 3628500; 692400, 3628200; 692300, 3628200; 692300, 3628100; 691900, 3628100; 691900, 3627600; 692300, 3627600; 692300, 3627500; 692800, 3627500; 692800, 3627200; 692700, 3627200; 692700, 3627100; 692500, 3627100; 692500, 3627000; 692600, 3627000; 692600, 3626700; 692700, 3626700; 692700, 3626600; 693800, 3626600; 693800, 3626500; 693900, 3626500; 693900, 3626300; 693800, 3626300; 693800, 3625700; 694400, 3625700; 694400, 3625600; 695000, 3625600; 695000, 3625300; 694700, 3625300; 694700, 3625200; 694400, 3625200; 694400, 3625100; 694300, 3625100; 694300, 3625000; 694000, 3625000; 694000, 3625100; 693900, 3625100; 693900, 3625200; 693700, 3625200; 693700, 3624500; 693400, 3624500; 693400, 3624700; 693300, 3624700; 693300, 3624800; 693200, 3624800; 693200, 3624900; 693100, 3624900; 693100, 3625000; 693000, 3625000; 693000, 3625400; 693100, 3625400; 693100, 3625600; 692900, 3625600; 692900, 3625700; 692800, 3625700; 692800, 3625800; 692700, 3625800; 692700, 3626100; 692500, 3626100; 692500, 3626300; 692100, 3626300; 692100, 3626800; 691400, 3626800; 691400, 3627000; 691300, 3627000; 691300, 3627100; 691200, 3627100; 691200, 3627400; 690900, 3627400; 690900, 3627500; 690800, 3627501; 691700, 3628600; 692700, 3628600; 692700, 3628700; 692800, 3628700; 692800, 3628800; 692900, 3628800; 692900, 3628900; 693000, 3628900; 693000, 3629000; 693100, 3629000; thence returning to 693100, 3629300; and lands bounded by 696500, 3625500; 696800, 3625500; 696800, 3625300; 697000, 3625300; 697000, 3625000; 696900, 3625000; 696900, 3624800; 696500, 3624800; 696500, 3624600; 696300, 3624600; 696300, 3624400; 696100, 3624400; 696100, 3624500; 695800, 3624500; 695800, 3624200; 695700, 3624200; 695700, 3624000; 695600, 3624000; 695600, 3623900; 695400, 3623900; 695400, 3624000; 695200, 3624000; 695200, 3623900; 695000, 3623900; 695000, 3623800; 694600, 3623800; 694600, 3624300; 694800, 3624300; 694800, 3624400; 694900, 3624400; 694900, 3624500; 695300, 3624500; 695300, 3624400; 695400, 3624400; 695400, 3624600; 695600, 3624600; 695600, 3624700; 695700, 3624700; 695700, 3624800; 696100, 3624800; 696100, 3625000; 696300, 3625000; 696300, 3625100; 696400, 3625100; 696400, 3625400; 696500, 3625400; thence returning to 696500, 3625500.

(iv) Note: The map depicting Unit 3 is found at paragraph (9)(ii) of this entry.

(9) Unit 4: Buttercup, Imperial County, California.

(i) From USGS 1:24,000 quadrangle Grays Well, lands bounded by the following UTM NAD83 coordinates (E, N): 697900, 3622100; 698300, 3622100; 698300, 3621900; 698200, 3621900; 698200, 3621700; 698300, 3621700; 698300, 3621600; 698500, 3621600; 698500, 3621500; 698600, 3621500; 698600, 3621200; 698500, 3621200; 698500, 3621100; 698400, 3621100; 698400, 3621000; 698300, 3621000; 698300, 3620970; 697900, 3620925; 697900, 3621000; 697800, 3621000; 697800, 3621100; 697700, 3621100; 697700, 3621300; 697600, 3621300; 697600, 3621400; 697500, 3621400; 697500, 3621500; 697400, 3621500; 697400, 3621800; 697600, 3621800; 697600, 3621900; 697900, 3621900; thence returning to 697900, 3622100.

(ii) Note: Map of Units 3 and 4 (Map 4) follows:

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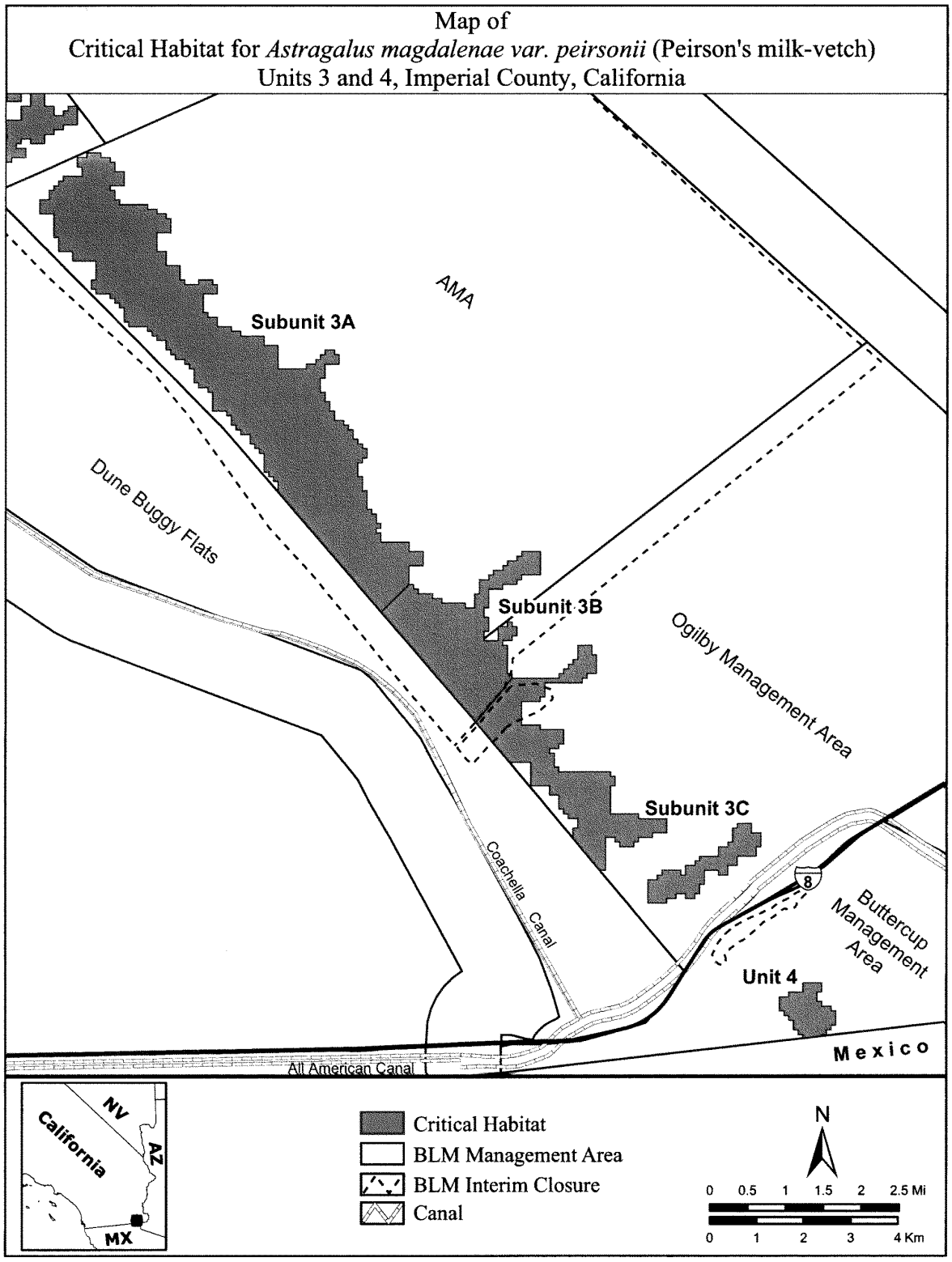

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Dated: July 19, 2007.

Todd Willens,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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