

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

RIN 1018-AU51

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Astragalus brauntonii* and *Pentachaeta lyonii***AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for *Astragalus brauntonii* (Braunton's milk-vetch) and *Pentachaeta lyonii* (Lyon's pentachaeta) pursuant to the Endangered Species Act of 1973, as amended (Act). For *A. brauntonii*, approximately 3,638 acres (ac) (1,471 hectares (ha)) fall within the boundaries of the proposed critical habitat designation. The proposed critical habitat for *A. brauntonii* is located in Ventura, Los Angeles, and Orange Counties, California. For *P. lyonii*, approximately 4,212 acres (ac) (1,703 hectares (ha)) fall within the boundaries of the proposed critical habitat designation. The proposed critical habitat for *P. lyonii* is located in Ventura and Los Angeles Counties, California.

DATES: We will accept comments from all interested parties until January 9, 2006. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by December 27, 2005.

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

1. You may submit written comments and information to Diane Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (VFWO), 2493 Portola Road, Suite B, Ventura, CA 93003.
2. You may hand-deliver written comments to our VFWO, at the above address.
3. You may send comments by electronic mail (e-mail) to fw82plantsch@fws.gov. For directions on how to submit electronic filing of comments, please see the "Public Comments Solicited" section.
4. You may fax your comments to 805/644-3958.

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 our VFWO at the above address.

FOR FURTHER INFORMATION CONTACT:

Diane Noda, Field Supervisor, VFWO, at the above address (telephone 805/644-1766; facsimile 805/644-3958).

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 rule are hereby solicited. 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 species due to designation;

(2) Specific information on the amount and distribution of *Astragalus brauntonii* and *Pentachaeta lyonii* habitat, and what areas that were occupied at the time of listing and that contain the features that are essential to the conservation of the species, should be included in the designations and why and what areas that were not occupied at the time of listing are essential to the conservation of the species and why;

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

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

(5) Additional information on areas in Orange County which could be excluded in the final designation;

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

(7) Whether the following should be included as a primary constituent element (PCE) for *Astragalus brauntonii*: Plant communities in areas that are ≥ 600 m in diameter, which is the minimum size needed to support associated insect pollinators (e.g., bees and wasps), and seed dispersers (e.g., insects and small mammals), and

(8) Whether the following should be included as a PCE for *Pentachaeta*

lyonii: Plant communities in areas that are ≥ 600 m in diameter, which is the minimum size needed to support associated insect pollinators, specifically bees, wasps, and flies.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to fw82plantsch@fws.gov in ASCII file format and avoid the use of special characters or any form of encryption. Please also include "Attn: Braunton's milk-vetch and Lyon's pentachaeta" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our VFWO at phone number 805/644-1766. Please note that the Internet address fw82plantsch@fws.gov will be closed out at the termination of the public comment period.

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

Designation of Critical Habitat Provides Little Additional Protection to Species

In 30 years of implementing the Act, the Service has found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. The Service's present system for designating critical habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to

fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs. The Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

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

While attention to and protection of habitat is paramount to successful conservation actions, we have consistently found that, in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation resources. Sidle (1987) stated, "Because the Act can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7." Currently, only 470 species, or 37.5 percent of the 1,253 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat.

We address the habitat needs of all 1,253 listed species through conservation mechanisms such as listing, section 7 consultations, the Section 4 recovery planning process, the Section 9 protective prohibitions of unauthorized take, Section 6 funding to the States, and the Section 10 incidental take permit process. The Service believes that it is these measures that may make the difference for the conservation of many species.

We note, however, that the August 6, 2004 Ninth Circuit judicial opinion, (*Gifford Pinchot Task Force v. United States Fish and Wildlife Service*) found our definition of adverse modification was invalid. In response to the decision, the Director has provided guidance to the Service based on the statutory language. In this rule, our analysis of the consequences and relative costs and benefits of the critical habitat designation is based on application of the statute consistent with the 9th Circuit's ruling and the Director's guidance.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved

settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

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

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

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

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on the taxonomic history and description of *Astragalus brauntonii* and *Pentachaeta lyonii*, refer to the final listing rule published in the **Federal Register** on January 29, 1997 (62 FR 4172). It is our intent in this document to reiterate and discuss only those topics directly relevant to the development and designation of critical

habitat or relevant information obtained since the final listing.

Astragalus brauntonii is a short-lived perennial herb in the Fabaceae (Pea family); a thick taproot gives rise to stems that reach a height of 5 feet (ft) (1.5 meters (m)), making it one of the tallest species in the genus. It is associated with chaparral and coastal sage scrub plant communities and generally occurs along the tops of knolls ranging from 800 to 2,100 ft (244 to 640 m) in elevation (Fotheringham and Keeley 1998; CNDDDB 2003; B. Landis, in litt. 2005). Common species associated with chaparral communities in this region of California are *Adenostoma fasciculatum* (chamise), *Ceanothus* spp. (California lilac), *Arctostaphylos* spp. (manzanita), *Salvia* spp. (sage), *Eriogonum fasciculatum* (California buckwheat), *Malosma laurina* (laurel sumac), *Rhus ovata* (sugar bush), and *Yucca whipplei* (yucca) (Hanes 1988). Common species associated with coastal sage scrub are *Artemisia californica* (California sagebrush), sages, California buckwheat, *Rhus integrifolia* (lemonade berry), *Encelia californica* (encelia), and *Isocoma menziesii* (goldenbush) (Mooney 1988). Chaparral and coastal sage scrub communities interdigitate with each other, with coastal sage scrub occurring on sites with less seasonal moisture availability, such as on lower slopes of the mountains facing the ocean interrupted by chaparral on higher, more mesic slopes, and then a reoccurrence of coastal sage scrub on the rain shadow lower slopes of the mountain interior (Mooney 1988). Both of these communities occur within a Mediterranean-type climate that is characterized by mild, wet winters and hot, dry summers. The chaparral shrubs in particular have developed low tissue water content and are thus prone to wildfires, particularly during the extreme conditions of the hot, dry "Santa Ana" winds (Beyers and Wakeman 2000). Under such conditions, fires may rapidly burn thousands of hectares of chaparral and coastal sage scrub. Patterns of fire occurrence for a period of 60 years in the Santa Monica Mountains reveal that, on average, most of the Santa Monica Mountains have burned three to 5 times in that period, with an average fire return interval ranging from 12.4 to 20.7 years (Radtke et al. 1982). Many of the species that comprise the chaparral and coastal sage scrub communities are well adapted to regenerate after fire, either through the release of a dormant seed bank whose germination is stimulated by fire, or in other species, through

basal burl sprouting (Hanes 1971, Keeley and Zedler 1978).

Like many other *Astragalus* species, *A. brauntonii* is self-fertile, and also produces seed through cross-pollination (Fotheringham and Keeley 1998). Insect visitors to *A. brauntonii* (i.e., likely pollinators) include megachilid bees (Family Megachilidae), and bumblebees (Family Apidae; Fotheringham and Keeley 1998). The resulting seeds of *A. brauntonii* are enclosed in dense hairy pods, that may attach to the fur of mammals or automobile and bicycle tires, which may serve as a dispersal mechanism (B. Landis, pers. comm. 2005). Insects, rodents, and other small mammals are known to eat seeds and other parts of the plant (B. Landis, in litt. 2005), and this may also disperse seeds. The seeds require heat or physical scarification (breaking, scratching, or mechanically altering the seed coat) to germinate, and disturbances such as fire, and rainfall or flooding, which "wash" the seeds downhill are known to stimulate germination (Fotheringham and Keeley 1998). Human activities that disturb the soil such as mechanical scraping of soil (e.g., during road or trail maintenance) are also known to stimulate germination. The plants may produce a large number of seeds before dying back, depositing a seed "bank" in the soil that may remain dormant for many years until the next disturbance event. This aspect of their life history makes it difficult to determine the distribution and threats to the species. A portion of the habitat that is being proposed for designation in this rule was burned by wildfires during the month of October 2005; the spring season of 2006 will offer an opportunity to survey some of these areas for post-fire germination of *A. brauntonii*.

A. brauntonii occurs in very small populations in five disjunct geographic areas in Ventura, Los Angeles, and Orange Counties, California. These areas include: (1) Simi Hills in eastern Ventura and western Los Angeles Counties; (2) eastern Santa Monica Mountains in Los Angeles County; (3) western Santa Monica Mountains near Pacific Palisades, Los Angeles County; (4) San Gabriel Mountains in Monrovia, Los Angeles County; and (5) Santa Ana Mountains in Orange County. At the time of listing in 1997, there were approximately 13 known occurrences of *A. brauntonii* in four geographic areas (areas 1, 3, 4, and 5). Currently, there are 20 known occurrences of *A. brauntonii*. Seven new occurrences were reported since the time of listing; six of these are in the Simi Hills (area 1), and one is in the eastern Santa Monica Mountains

(area 2). The eastern Santa Monica Mountains occurrence, which represents a small range expansion for the species, was discovered along a ridgetop after a prescribed fire stimulated germination of dormant seeds, resulting in hundreds of plants. This population is approximately 8 miles (mi) (13 kilometers (km)) from the nearest known occurrence, which only consisted of one plant last seen in 1984 and is presumed to be extinct.

The number of reported individual plants within each occurrence varies widely by year, with the largest number of individuals often reported soon after a disturbance and then declining until the next disturbance event. Land use activities that result in frequent disturbances, such as yearly road maintenance where plants occur, may contribute to the decline of populations by removing plants before they replenish the seed bank. Fire suppression may contribute to the decline of populations because they become crowded out by shrubs and nonnative plants. Other known threats to the species include cattle grazing and equestrian and foot traffic, which may result in trampling of plants.

The most significant threat to the species, however, is direct loss of plants from urban development. Urban development also results in indirect effects to the species, including habitat fragmentation, which reduces gene flow between sites, reduction in insect pollinators, and increases in nonnative plants (Conservation Biology Institute 2000). All known occurrences are in the direct vicinity of urban areas. Six of these occur on private lands, eight on local agency lands (city and regional parks), four on State lands (Topanga State Park, Chino Hills State Park, and Coal Canyon Ecological Reserve), and two on Federal lands (Santa Monica Mountains National Recreation Area).

Pentachaeta lyonii is an annual herb in the Asteraceae (Sunflower family). Its yellow flower heads bloom in the late spring (April to June) on stems that grow up to 48 centimeters (cm) (18 inches (in)) tall. It occurs in saddles between hills, on the tops of small knolls, or in flat areas at the base of slopes at elevations ranging from 280 to 2,060 ft (85 to 628 m) (Fotheringham and Keeley 1998, CNDDDB 2003). It occurs within pocket grasslands underlain by clay soils that mosaic with chaparral and coastal sage scrub communities that are fire-adapted, although seeds do not require fire-related cues (such as heat, smoke, and charates) to germinate (Keeley and Baer-Keeley 1992, Keeley 1995). The chaparral and coastal sage scrub

communities are similar to those described above for *Astragalus brauntonii*. The pocket grasslands are comprised of native and nonnative grasses including *Nassella pulchra* (purple needlegrass), *Avena* spp. (wild oat), and *Bromus* spp. (bromes); and herbs such as *Brassica* spp. (mustard), *Erodium* spp. (filaree), *Stylocline* spp. (nest straw), and *Plantago erecta* (plantain).

Pentachaeta lyonii is self-incompatible, meaning that it is dependent on cross-pollination for effective seed set (Fotheringham and Keeley 1998). Known pollinators of *P. lyonii* include digger bees (Family Apidae), andrenid bees (*Andrena* sp.), and megachilid bees (*Ashmeadiella californica californica*); (Fotheringham and Keeley 1998, Braker and Verhoeven 1998). The resulting single-seeded fruits have deciduous pappus which would limit their dispersal by wind; however, the fruits most likely are attractive to small mammals which could disperse them through caching.

P. lyonii only occurs in the Santa Monica Mountains in eastern Ventura and western Los Angeles Counties and in the western Simi Hills in Ventura County. Based on historical records, it once occurred on the Palos Verdes Peninsula and on Santa Catalina Island; the species has not been seen at these locations since 1910 and 1855, respectively, and is assumed to be extirpated. At the time of listing in 1997, there were 29 known occurrences of *P. lyonii* (62 FR 4172). Four of these are reported to have been extirpated since the time of listing, although the habitat remains (CNDDDB 2005). Five new occurrences were reported since the time of listing; four of these are in the Santa Monica Mountains and one is in the western Simi Hills along Montclef Ridge. Currently, there are 30 known occurrences of *P. lyonii*, 21 of these are on private lands, eight on local agency lands (i.e., city and regional parks and a water district), and one on Federal lands (Santa Monica Mountains National Recreation Area).

Alteration and destruction of habitat and direct removal of plants resulting from urban development remain the greatest threats to *P. lyonii*. Indirect effects of urban development include habitat fragmentation, which reduces gene flow between sites, reduction in insect pollinators, and changes to the structure and composition of pocket grassland communities that displace *P. lyonii* (i.e., introduction of competitive weeds, changes in local hydrology, and increased gopher activity) (Conservation Biology Institute 2000). Most of the known occurrences are in the direct

vicinity of urban areas, and the majority of plants occur on private lands.

Previous Federal Actions

For more information on previous Federal actions concerning *A. brauntonii* and *P. lyonii*, refer to the final listing rule published in the **Federal Register** on January 29, 1997 (62 FR 4172). At the time of listing, we found the designation of critical habitat for both species to be not prudent. In September 1999, we published a recovery plan for *A. brauntonii* and *P. lyonii* (USFWS 1999). On January 27, 2003, our decision not to designate critical habitat for *A. brauntonii* and *P. lyonii* was challenged in *Center for Biological Diversity v. Norton* (Case No. 03-CV-0198-IEG (S.D.Cal.)). On July 28, 2003, the Court entered a settlement agreement, in which the Service agreed to submit for publication a proposal to withdraw the existing “not prudent” determination together with a new proposed critical habitat determination for both species by November 1, 2005.

Prudency Determination

Section 4(a)(3) of the Act and its implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time a species is listed as endangered or threatened. Our regulations at 50 CFR 424.12(a)(1) state that the designation of critical habitat is not prudent when one or both of the following situations exist: (1) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. In our January 29, 1997, final rule (62 FR 4172), we determined that designation of critical habitat for *A. brauntonii* and *P. lyonii* was not prudent based on the first reason. Specifically, we stated that publication of precise maps and descriptions of critical habitat would make these plants more vulnerable to incidents of vandalism which could contribute to the decline of the species; therefore, such designation would provide little conservation benefit over that provided by listing.

In addition, for *A. brauntonii*, we stated that designation of critical habitat could lead to overcollection by curiosity seekers as a result of increased publicity, especially because its striking appearance makes it vulnerable to casual collection. However, in the past few years, several of our determinations that the designation of critical habitat would not be prudent have been

overturned by court decisions. For example, in *Conservation Council for Hawaii v. Babbitt*, the United States District Court for the District of Hawaii ruled that the Service could not rely on the “increased threat” rationale for a “not prudent” determination without specific evidence of the threat to the species at issue (2 F. Supp. 2d 1280 [D. Hawaii 1998]). Additionally, in *Natural Resources Defense Council v. U.S. Department of the Interior*, the United States Court of Appeals for the Ninth Circuit ruled that the Service must balance, in order to invoke the “increased threat rationale,” the threat against the benefit to the species of designating critical habitat (113 F. 3d 1121, 1125 [9th Cir. 1997]).

We have reconsidered our evaluation of the threats posed by vandalism and overcollection in the prudency determination. Since the time of listing in 1997, we have gathered information indicating that populations of *A. brauntonii* and *P. lyonii* continue to be directly and indirectly affected by destruction and alteration of habitat due to residential development. However, we have no credible information that these two species have been threatened from vandalism and overcollection. Accordingly, we withdraw our previous determination that the designation of critical habitat is not prudent for *A. brauntonii* and *P. lyonii*. We determine that the designation of critical habitat is prudent for *A. brauntonii* and *P. lyonii*. At this time, we have sufficient information necessary to identify specific areas which contain features essential to the conservation of the two species and are therefore proposing critical habitat (see “Methods” sections below for a discussion of information used in our reevaluation).

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) that are essential to the conservation of the species and (II) which 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 have features that are essential for the conservation of the species. “Conservation” means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires 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.

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 and commercial data available, habitat areas that provide necessary life cycle needs of the species (i.e., areas on which are found the PCEs, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management 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 pursuant to section 4(b)(2).) Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but that was not known to be occupied at the time of listing will likely have features that are essential to the conservation of the species and, therefore, will be included in the critical habitat designation.

The Service’s Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and 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 and commercial data available. They require Service biologists, to the extent consistent with the Act and with the use of the best

scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources 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.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. 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)(1)(A) of the Act, we used the best scientific and commercial data available in determining areas that contain the features that are essential to the conservation of *A. brauntonii* and *P.*

lyonii. We have also reviewed available information that pertains to the habitat requirements of these species. This includes information from Service documents, including the final rule listing these taxa as endangered (62 FR 4172; January 29, 1997) and the recovery plan (USFWS 1999); information from the California Natural Diversity Database (CNDDDB 2003); data in reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; recent biological surveys; regional Geographic Information Systems (GIS) coverages; information from research published in peer-reviewed articles and presented in agency reports; aerial photos; and discussions with botanical experts. We designated no areas outside the geographic area presently occupied by the species.

We used agency and academic reports to describe the ecology, habitat, and pollination biology of *A. brauntonii* and other related *Astragalus* species (Carroll 1987; Karron 1987; Fotheringham and Keeley 1998; Gathmann and Tschardtke 2002). We used agency and academic reports to describe the ecology, habitat, and pollination biology of *P. lyonii* (Belnap 1990; Keeley and Baer-Keeley 1992; Keeley 1995; Braker and Verhoeven 1998; Fotheringham and Keeley 1998; Gathmann and Tschardtke 2002).

We also reviewed the criteria by which the Service identified in the final recovery plan that *A. brauntonii* and *P. lyonii* would be conserved to the point at which the protections of the Act are no longer necessary (Service 1999). The criteria for delisting *A. brauntonii* include: (1) full protection and management of all sites that were known at the time of listing with the primary intention of preserving the populations in perpetuity; (2) seed collected from all populations is stored at a certified Center for Plant conservation botanical garden; (3) reliable seed germination and propagation techniques for the species are understood; and (4) monitoring shows that populations are self-sustaining over a minimum of 15 years or longer.

The criteria for delisting *P. lyonii* include: (1) Full protection and management of 20 populations of 10,000 individuals or more with the primary intention of preserving the populations in perpetuity; (2) monitoring shows that populations are self-sustaining over a minimum of 15 years or longer; (3) seed collected from all populations is stored at a certified Center for Plant Conservation botanical garden; and (4) reliable seed germination and

propagation techniques for the species are understood.

Primary Constituent Elements

The Service below identifies those essential physical and biological features necessary to bring *A. brauntonii* and *P. lyonii* to the point where the protections of the Act are no longer necessary.

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

The specific PCEs required for *A. brauntonii* and *P. lyonii* habitat are derived from the physical and biological features that are essential to the conservation of a species as described below.

Astragalus brauntonii

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

Where a dormant seed bank is present, *A. brauntonii* establishes quickly after disturbance events that remove other plant competitors and stimulate dormant seeds to germinate (Fotheringham and Keeley 1998). Individual plants have a lifespan of two to three years, although some individuals may live up to five years, and then plants may not be visible again until the next disturbance event (Fotheringham and Keeley 1998).

Insect pollinators of *A. brauntonii* are polylectic, meaning that they utilize several plant species within an area (Karron 1987), and may need a variety of plants to sustain populations of pollinators. Insect visitors include megachilid bees and bumblebees (Fotheringham and Keeley 1998). Gathmann and Tschardtke (2002) determined that maximum foraging

distance of several species of solitary bees was positively correlated with body length. The body length of megachilid bees ranges 6–12 millimeters (mm) (0.24–0.47 in). Based on the linear regression model calculated by Gathmann and Tschardt (2002), the maximum foraging distance of megachilid bees is 150–600 m (492–1,968 ft). The body length of bumblebees (*Bombus* sp.) ranges 13–25 mm (0.51–0.98 in), giving them a maximum foraging distance of 600–1,200 m (1,968–3,937 ft) (Gathmann and Tschardt 2002).

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

A. brauntonii may be limited to carbonate limestone soils derived from marine substrates (Mistretta 1992, Fotheringham and Keeley 1998, Betsey Landis, California Native Plant Society, in litt. 2005). It occasionally occurs on non-carbonate soils at down-wash sites near other known occurrences, although survivorship of plants may be reduced on non-carbonate soils (Fotheringham and Keeley 1998; B. Landis, in litt. 2005).

Habitat of *A. brauntonii* has been described as scrub dominated by chaparral with a high overall percentage (<80%) of vegetative cover, however, the species does not tolerate shading and is associated with bare ground directly around the plant (Carroll 1987, Fotheringham and Keeley 1998). Common species associated with chaparral communities in this region of California are chamise (*Adenostoma fasciculatum*), California lilacs (*Ceanothus* spp.), manzanitas (*Arctostaphylos* spp.), sages (*Salvia* spp.), California buckwheat (*Eriogonum fasciculatum*), laurel sumac (*Malosma laurina*), sugar bush (*Rhus ovata*), and yucca (*Yucca whipplei*) (Hanes 1988). Common species associated with coastal sage scrub are California sagebrush (*Artemisia californica*), sages, California buckwheat, lemonade berry (*Rhus integrifolia*), encelia (*Encelia californica*), and goldenbush (*Isocoma menziesii*) (Mooney 1988). It may persist on sites where microsite conditions inhibit or are hostile to shrub growth, or it may be gradually crowded out by more robust and tough-woody chaparral plants until the next disturbance event that removes plant cover (Carroll 1987, Fotheringham and Keeley 1998).

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have

determined that the PCEs of critical habitat for *A. brauntonii* are:

- (1) Carbonate limestone soils derived from marine sediment;
- (2) Low proportion (<10%) of shrub cover directly around the plant; and
- (3) Periodic disturbances that stimulate seed germination (e.g., fire, flooding) and reduce vegetative cover.

Pentachaeta lyonii

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

P. lyonii is an annual plant that may exhibit large fluctuations in population size between years (Keeley and Baer-Keeley 1992). Population boundaries are also known to exhibit annual fluctuations, although the plants may generally remain within core areas that contain suitable microsite characteristics (Keeley and Baer-Keeley 1992). The presence of deciduous pappus bristles on the seeds indicates that the plant does not exhibit long-distance dispersal by wind, as do many other species in this family, reducing the likelihood of colonization of new areas and contributing to the limited distribution (Keeley and Baer-Keeley 1992; Fotheringham and Keeley 1998). *P. lyonii* seeds may persist in the soil during dry spells, although the species does not maintain a long-term seed bank (Fotheringham and Keeley 1998) because the seeds are small and do not contain large reserves of endosperm (energy source) to support the embryo until later germination.

P. lyonii is not capable of self-pollination, but is dependent upon insect pollinators for successful seed production (Fotheringham and Keeley 1998). Pollinators of *P. lyonii* include digger bees, andrenid bees, and megachilid bees (Braken and Verhoeven 1998; Fotheringham and Keeley 1998). These insect pollinators are polylectic, meaning that they utilize several plant species within an area (Braken and Verhoeven 1998), and may need a variety of plants to sustain populations of pollinators. Based on the linear regression model calculated by Gathmann and Tschardt (2002), the maximum foraging distance of digger bees (body length 13–19 mm; 0.51–0.75 in) is approximately 600 m (1,968 ft), and the maximum foraging distance of megachilid bees (body length 6–12 mm; 0.24–0.47 in) is 150–600 m (492–1,968 ft). The maximum foraging distance of andrenid bees is 260–500 m (853–1,640 ft) (Gathmann and Tschardt 2002).

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

P. lyonii tends to occur on rocky clay soils of volcanic origin (Baier & Associates 1991; Impact Sciences 2003). It has been recorded in areas with a large percentage of bare ground (>60%), a low proportion of vegetative cover (<25%), and it does not compete well with dense annual grasses or shrubs (Keeley 1995, Fotheringham and Keeley 1998). *P. lyonii* will persist in stable populations without disturbance if site conditions such as exposed soils that exhibit a microbiotic crust (Belnap 1990) inhibit invasion by shrubs and annual grasses, or it may require periodic disturbances to remove plant competitors (Fotheringham and Keeley 1998). The chaparral and coastal sage plant communities are described in the background section of this rule. The pocket grasslands within these shrub communities that support *P. lyonii* are comprised of native and nonnative grasses, including purple needlegrass (*Nassella pulchra*), wild oat (*Avena* spp.), and bromes (*Bromus* spp.); as well as a variety of herbs (see Background section).

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the PCEs of *P. lyonii* are:

- (1) Clay soils of volcanic origin;
- (2) Exposed soils that exhibit a microbiotic crust which may inhibit invasion by other plant competitors; and
- (3) Low proportion of total vegetative cover (<25%).

Criteria Used To Identify Critical Habitat

We are proposing to designate critical habitat on lands that were occupied at the time of listing and contain the PCEs that have features that are essential to the conservation of *A. brauntonii* and *P. lyonii*. In a few instances, we are also proposing to designate occupied areas that were identified after listing, but that we have determined to be essential to the conservation of *A. brauntonii* and *P. lyonii*.

Astragalus brauntonii

The long-term probability of the conservation of *A. brauntonii* is dependent upon the protection of existing population sites and surrounding areas that may contain a dormant seed bank, and the maintenance of ecologic functions within and between sites. Important ecologic functions include connectivity

between populations within close geographic proximity to facilitate pollinator activity, habitat of sufficient size and quality to maintain pollinators and seed dispersers, and the ability to allow or manage for appropriate periodic ground disturbances in order to stimulate dormant seeds within the soil to germinate.

All known occurrences of *A. brauntonii* were selected because they are essential to the conservation of the species. Plants only occur in very small populations in disjunct areas, making the species particularly vulnerable to extinction because a population that becomes extirpated is unlikely to reestablish from other areas.

We used a multi-step process to map proposed critical habitat units. First, we mapped all CNDDDB records of *A. brauntonii* in a GIS format. These data consist of polygons depicting the results of field surveys for *A. brauntonii*.

Additional records from recent surveys that are not in the CNDDDB database were also mapped in a GIS format. We then expanded the boundaries of these mapped locations outward from the edge of each population by a distance of 300 m (984 ft) to provide for pollinator habitat and support associated pollinator species. Studies by Steffan-Dewenter and Tscharnthke (1999) have shown that if pollinator habitat within 1,000 m (3,280 ft) of some host plants is eliminated, seed set of some plant species may be decreased by as much as 50 percent. Additional studies have shown that degradation of pollinator habitat is likely to have a negative effect on pollinator species (Jennersten 1988; Rathcke and Jules 1993). Using a distance of 300 m (984 ft) around each population, the minimum distance from one edge of the proposed habitat to the other would be 600 m (1,968 ft). As discussed in the PCEs section, known pollinators of *A. brauntonii* include megachilid bees and bumblebees. Based on body length, foraging ranges are approximately 150–600 m (492–1,968 ft) for megachilid bees and 600–1,200 m (1,968–3,937 ft) for bumblebees (Gathmann and Tscharnthke 2002). We chose 600 m (1,968 ft) as the minimum distance from one edge of the habitat to the other as necessary to support both megachilid bees and bumblebees because 600 m is the minimum foraging range for bumblebees, and megachilid bees also fall within this foraging range. Because *A. brauntonii* seeds can be dormant for long periods of time, this approach may also include areas where an unknown seed bank occurs.

Then, we connected areas that were within 600 m (1,968 ft) of each other because it is the distance between

populations that could be traversed by important insect pollinators. We did this to facilitate genetic exchange and connectivity between populations. Plant communities between these areas would also support insect pollinators and seed dispersers of *A. brauntonii*, and may also contain unknown *A. brauntonii* plants and/or a dormant seed bank.

The proposed critical habitat is designed to provide sufficient habitat to maintain self-sustaining populations of *A. brauntonii* throughout its range and provide those habitat components that have features that are essential for the conservation of the species. These habitat components provide for: (1) individual and population growth, including sites for germination, pollination, reproduction, pollen and seed dispersal, and seed bank; (2) intervening areas that allow gene flow and provide connectivity between occupied areas; and (3) areas that provide basic requirements for growth, such as appropriate soil type and vegetative cover.

Pentachaeta lyonii

The long-term probability of the conservation of *P. lyonii* is dependent upon the protection of existing population sites and surrounding areas, and the maintenance of ecologic functions such as connectivity between populations within close geographic proximity to facilitate pollinator activity. Extant occurrences not known to be occupied at the time of listing of *P. lyonii* were selected as essential to the conservation of the species because the plant exhibits large annual fluctuations in population size, and there is no evidence that it maintains a dormant seed bank, making it particularly vulnerable to extinction.

We used a multi-step process to map proposed critical habitat units. First, we mapped all CNDDDB records of *P. lyonii* in a GIS format. These data consist of polygons depicting the results of field surveys for *P. lyonii*. Additional records from recent surveys that are not in the CNDDDB database were also mapped in a GIS format. We then expanded the boundaries of these mapped locations outward from the edge of each population by a distance of 300 m (984 ft) to provide for pollinator habitat and support associated pollinator species. Using a distance of 300 m (984 ft) around each population, the minimum distance from one edge of the proposed habitat to the other would be 600 m (1,968 ft). As discussed in the PCEs section, known pollinators of *P. lyonii* include digger bees, megachilid bees and andrenid bees. Based on body length, foraging ranges are

approximately 600 m (1,968 ft) for digger bees, 150–600 m (492–1,968 ft) for megachilid bees and 260–500 m (853–1,640 ft) for andrenid bees (Gathmann and Tscharnthke 2002). We chose 600 m (1,968 ft) as the minimum distance from one edge of the habitat to the other as necessary to support all of the associated insect pollinators because 600 m is the foraging range for digger bees, and megachilid bees and andrenid bees also fall within this foraging range. Population boundaries are known to fluctuate, so this approach may also include areas into which populations could expand.

Then, we connected areas that were within 600 m (1,968 ft) of each other because it is the distance between populations that could be traversed by important insect pollinators. We did this to facilitate genetic exchange and connectivity between populations. Plant communities between these areas would also support insect pollinators of *P. lyonii*, and may also contain unknown *P. lyonii* plants.

The proposed critical habitat is designed to provide sufficient habitat to maintain self-sustaining populations of *P. lyonii* throughout its range and provide those habitat components that have features that are essential for the conservation of the species. These habitat components provide for: (1) Individual and population growth, including sites for germination, pollination, reproduction, pollen and seed dispersal, and seed bank; (2) intervening areas that allow gene flow and provide connectivity between occupied areas; and (3) areas that provide basic requirements for growth, such as appropriate soil type and vegetative cover.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP and executed implementation agreement (IA) under section 10(a)(1)(B) of the Act from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. We are aware of some efforts to conserve habitat for these species. However, at this point in time, we are unaware of any completed HCPs that have been done within the

areas that we are proposing for critical habitat. Before completion of the final rule, however, we will evaluate any HCPs brought to our attention during the comment period.

When determining proposed critical habitat boundaries, we made every effort to avoid proposing the designation of developed areas such as buildings, paved areas, boat ramps and other structures that lack PCEs for *A. brauntonii* and *P. lyonii*. Any such structures inadvertently left inside proposed critical habitat boundaries are not considered part of the proposed unit. This also applies to the land on which such structures sit directly. Therefore, Federal actions limited to these areas would not trigger section 7 consultations unless they affect the species and/or PCEs in adjacent critical habitat.

Special Management Considerations or Protections

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

Many of the known occurrences of *A. brauntonii* and *P. lyonii* are threatened by direct and indirect effects from habitat fragmentation and loss resulting from urban development. Threats to *A. brauntonii* include road maintenance, weed control, and fire suppression, which could result in improper disturbance frequencies, competition from nonnative plant species, cattle grazing, and recreation activities such as off-road vehicle use and equestrian and foot traffic. Threats to *P. lyonii* include

weed control, mowing, and discing associated with fire suppression activities, competition from nonnative plant species, cattle grazing, and recreation activities such as off-road vehicle use and equestrian and foot traffic. These threats may require special management.

Proposed Critical Habitat Designation

Astragalus brauntonii

We are proposing six units as critical habitat for *A. brauntonii*. The critical habitat areas described below constitute our best assessment at this time of areas determined to be occupied at the time of listing, contain the PCEs and that may require special management, and those additional areas that were not occupied at the time of listing but were found to be essential to the conservation of *A. brauntonii*. The units proposed as critical habitat are listed in Table 1 below:

TABLE 1.—CRITICAL HABITAT UNITS PROPOSED FOR ASTRAGALUS BRAUNTONII

[Area estimates reflect all land within critical habitat boundaries, acres (ac) (hectares (ha))]

Critical habitat unit and subunit	Federal	State	Local agency	Private	Total
Unit 1: Northern Simi Hills (Ventura Co.)	0 ac (0 ha)	0 (0)	10 (4)	461 (187)	471 (191)
Unit 1a	0 (0)	0 (0)	10 (4)	186 (75)	196 (79)
Unit 1b	0 (0)	0 (0)	0 (0)	80 (32)	80 (32)
Unit 1c	0 (0)	0 (0)	0 (0)	118 (48)	118 (48)
Unit 1d	0 (0)	0 (0)	0 (0)	77 (32)	77 (32)
Unit 2: Southern Simi Hills (Ventura and Los Angeles Co.)	211 (85)	0 (0)	386 (156.5)	531 (214)	1,128 (455.5)
Unit 2a	0 (0)	0 (0)	235 (95)	217 (88)	452 (183)
Unit 2b	0 (0)	0 (0)	1 (0.5)	0 (0)	1 (0.5)
Unit 2c	0 (0)	0 (0)	150 (61)	23 (9)	173 (70)
Unit 2d	121 (49)	0 (0)	0 (0)	0 (0)	121 (49)
Unit 2e	90 (36)	0 (0)	0 (0)	67 (27)	157 (63)
Unit 2f	0 (0)	0 (0)	0 (0)	224 (90)	224 (90)
Unit 3: Santa Monica Mountains (Los Angeles Co.)	183 (74)	0 (0)	0 (0)	60 (24)	243 (98)
Unit 4: Pacific Palisades Unit (Los Angeles Co.)	0 (0)	485 (196)	0 (0)	92 (37)	577 (233)
Unit 5: Monrovia (Los Angeles Co.)	0 (0)	0 (0)	267 (108)	64 (26)	331 (134)
Unit 6: Coal Canyon (Orange Co.)	0 (0)	632 (256)	0 (0)	257 (104)	889 (360)
Total	394 (159)	1,117 (452)	663 (268.5)	1,465 (592)	3,639 (1,471.5)

We present brief descriptions of all units, and reasons why they have the features that are essential for the conservation of *A. brauntonii*, below.

Unit 1: Northern Simi Hills Unit

This unit is located south of Simi Valley in the northern Simi Hills in Ventura County and consists of 10 ac (4 ha) of local agency land (Rancho Simi Parks and Recreation Department) and 460 ac (186 ha) of private lands. It is divided into four subunits mapped from occurrences, all of which were identified after the time of listing; they all occur within 1.5 mi (2.5 km) of each

other. This unit, inclusive of the four subunits, is located within the same physiographic area (the Simi Hills) as Unit 2, which is comprised of sites that were known to support *A. brauntonii* at the time of listing. Unit 1 represents a slightly northward range expansion of the species (2.1 mi (3.3 km) to the north), which is essential because the entire range of the species should be included to prevent range collapse of the species. These subunits contain features that are essential to the conservation of the species, specifically habitat that provides the space for *A. brauntonii* to complete its life cycle,

including germination, reproduction, and storage of a seed bank. All four subunits are now known to be occupied. Threats that may require special management in this unit include road maintenance, which could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, that could result in disturbances that are too infrequent and thereby does not allow the removal of the shrub cover that is preventing germination of new plants. Other threats which may require special management include invasion of nonnative plants

which could crowd out *A. brauntonii*, cattle grazing, and recreation activities such as equestrian and foot traffic, which could result in trampling of plants.

Subunit 1a: This subunit consists of 10 ac (4 ha) of local agency land in Challenger Park owned by Rancho Simi Parks and Recreation Department and 186 ac (75 ha) of private land. It occurs along Bus Canyon. This subunit contains at least three of the PCEs (2, 3, and 4); it is unknown if it contains PCE 1. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population as evidenced by three plants that were observed in three separate locations in 1998.

Subunit 1b: This subunit consists of 80 ac (32 ha) of private land that may be threatened by urban development. It occurs near the end of Peter Place Road in Simi Valley, which is north of Bus Canyon at the edge of an urban development. This subunit contains at least three of the PCEs (2, 3, and 4); it is unknown if it contains PCE 1. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population of at least three plants that were observed in 2000.

Subunit 1c: This subunit consists of 118 ac (48 ha) of private land within dedicated open space managed by the Bridle Path Homeowner's Association. It occurs along a ridge between Bus Canyon and Runkel Canyon above a fire road. This subunit contains all four of the PCEs. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population of approximately 66 plants observed in 2004.

Subunit 1d: This subunit consists of 77 ac (32 ha) of private land owned by Rocketdyne. This subunit contains at least three of the PCEs (2, 3, and 4); it is unknown if it contains PCE 1. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population of at least three plants found in a single location.

Unit 2: Southern Simi Hills Unit

This unit is located along the southern Simi Hills in Ventura and Los

Angeles Counties and consists of 211 ac (85 ha) of Federal lands, 386 ac (156.5 ha) of local agency lands (Conejo Open Space Conservation Authority (COSCA), City of Thousand Oaks, and Rancho Simi Parks and Recreation Department), and 531 ac (214 ha) of private land. This unit is divided into six subunits mapped from records known at the time of listing and occurrences identified after listing. These subunits are all within 3.2 mi (5.2 km) of each other and occur along the southern perimeter of the geologic Chatsworth Formation. Overall, these subunits provide connectivity between several occurrences known at the time of listing, and represent the southernmost portion of the species' range within the Simi Hills. Threats that may require special management in this unit include road and trail maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, which could result in disturbances that are too infrequent, preventing germination of new plants. Other threats which may require special management include invasion of shrubs and nonnative plants, which could crowd out *A. brauntonii*, edge effects from urban development, and recreation activities such as off-road vehicles and equestrian and foot traffic, which could result in trampling of plants.

Subunit 2a: This subunit consists of 235 ac (95 ha) of local agency lands designated as open space in Oak Brook Regional Park and owned and managed by COSCA, and 217 ac (88 ha) of private land. It includes small numbers of plants found in several locations along a ridge; we believe a seed bank exists within and between known occurrences because the locations are near to each other (e.g., 98–3,200 ft (30–970 m)) and the habitat is contiguous between them. This subunit contains all four of the PCEs. This subunit is mapped from occurrences known at the time of listing. Threats that may require special management in this unit include road and trail maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, which could result in disturbances that are too infrequent, preventing germination of new plants. Other threats which may require special management include invasion of shrubs and nonnative plants, which could crowd out *A. brauntonii*, edge effects from urban development, and recreation activities such as foot traffic which could result in trampling of plants.

Subunit 2b: This subunit consists of 1 ac (0.5 ha) of local agency land owned

by the City of Thousand Oaks. It is mapped from an occurrence identified after listing. This subunit occurs within a Southern California Edison easement and adjacent to a trail in Conejo Open Space District surrounded by a residential neighborhood. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit contains all four of the PCEs. Despite the small size of the subunit, it contains a relatively large population of *A. brauntonii*; approximately 68 plants were observed at this location in 2003. The population is enclosed by permanent fencing, and the area receives periodic vegetation clearing for fire control.

Subunit 2c: This subunit consists of 150 ac (61 ha) of local agency land in Oak Park Community Park owned and managed by Rancho Simi Parks and Recreation Department, and 23 ac (9 ha) of private land. This subunit is mapped from an occurrence known at the time of listing. This subunit contains all four of the PCEs. It includes plants found in several locations along both sides of Medea Creek and contains a relatively large area; we believe it also contains a seed bank because the locations are near to each other (< 910 ft (280 m)) and some of the habitat is contiguous between them. Approximately 400 plants were observed in this area in 1993, although few plants have been observed since then. This subunit is threatened by additional park development, which may require special management.

Subunit 2d: This subunit consists of 121 ac (49 ha) of Federal land within the Santa Monica Mountains National Recreation Area. It includes plants that were found at two separate locations on both sides of Palo Comado Canyon, and is mapped from an occurrence known at the time of listing. Fewer than 30 plants were observed in this area in 1987, and fewer than 10 plants at a time have been observed since then. This subunit contains all four of the PCEs. Threats that may require special management in this unit include road and trail maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, which could result in disturbances that are too infrequent, preventing germination of new plants. Other threats which may require special management include invasion of shrubs and nonnative plants, which could crowd out *A. brauntonii*, and recreation

activities such as foot traffic which could result in trampling of plants.

Subunit 2e: This subunit consists of 90 ac (36 ha) of Federal land within the Santa Monica Mountains National Recreation Area, and 67 ac (27 ha) of private land owned and managed as open space by Santa Monica Mountains Conservancy. This subunit is located on the east side of Cheseboro Canyon in an area that is relatively isolated from urban development. It is mapped from an occurrence identified after listing. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population of approximately 30 plants that were observed at this location in 2000 and contains all four of the PCEs.

Subunit 2f: This subunit consists of 224 ac (90 ha) of private land located east of the City of Chatsworth along Dayton Canyon in the eastern Simi Hills. It includes plants that were found in two separate locations that are within 0.5 mi (752 m) of each other, and is mapped from occurrences known at the time of listing and occurrences found since the time of listing. A portion of one of the populations was removed during development in 1999. This subunit is essential because *A. brauntonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit supports a population of approximately 14 plants that were observed in this area in 1999. This subunit contains all four of the PCEs.

Unit 3: Santa Monica Mountains Unit

This unit is located in the eastern Santa Monica Mountains in upper Zuma Canyon, north of Point Dume in Los Angeles County. It consists of 183 ac (74 ha) of Federal land within the Santa Monica Mountains National Recreation Area, and 60 ac (24 ha) of private land. It includes an area where more than 300 plants were found in 1999 after a prescribed burn, and is mapped from an occurrence identified after listing. This unit is essential to the conservation of the species because it contains all of the PCEs, is the only known location in the eastern Santa Monica Mountains, and represents the western edge of the species' range. We also believe this area supports a large seed bank based on the

observed post-fire germination that occurred here in 1999. Threats that may require special management in this unit include road maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, which could result in disturbances that are too infrequent, preventing germination of new plants. Other threats which may require special management include growth of shrubs, which could crowd out *A. brauntonii*.

Unit 4: Pacific Palisades Unit

This unit is located in the Santa Ynez Canyon north of Pacific Palisades in Los Angeles County and consists of 485 ac (196 ha) of State lands within Topanga State Park, and 92 ac (37 ha) of private land. It includes plants found in three separate locations, and is mapped from occurrences known at the time of listing. This is the largest known population; over 1,000 plants were observed at one of these locations in 1998. That site is cleared annually for a powerline and fuel break, a disturbance that likely causes large numbers of plants to germinate each year. This unit contains all of the PCEs, represents the western edge of the species' range within the Santa Monica Mountains, provides connectivity between the three separate locations, is a relatively large good-quality site, and contains an area that likely contains a seed bank. Threats that may require special management in this unit include road maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, or fire suppression, which could result in disturbances that are too infrequent, preventing germination of new plants. Other threats which may require special management include growth of shrubs, which could crowd out *A. brauntonii*.

Unit 5: Monrovia Unit

This unit is located in the City of Monrovia in Los Angeles County and consists of 267 ac (108 ha) of local agency land owned by the City of Monrovia and managed as open space (Monrovia Wilderness Preserve), and 64 ac (26 ha) of private land. It includes plants found in several locations, and is mapped from occurrences known at the time of listing. Approximately 700 plants were observed in this area in 2004. This unit contains all of the PCEs, represents a unique and disjunct piece

of the species' range, is a relatively large, good-quality site, and likely contains a seed bank. Threats that may require special management in this unit include maintenance of fire roads and fire suppression, which could result in improper disturbance frequencies, and the growth of shrubs and nonnative plants, which could crowd out *A. brauntonii*, and recreation activities such as foot and bicycle traffic, which could result in trampling of plants.

Unit 6: Coal Canyon Unit

This unit is located south of the City of Yorba Linda in Coal Canyon in Orange County and consists of 632 ac (256 ha) of State land (Chino Hills State Park and California Department of Fish and Game-Coal Canyon Ecological Reserve) and 257 ac (104 ha) of private land. This unit overlaps with final and re-proposed critical habitat for the coastal California gnatcatcher (*Poliophtila californica californica*; 65 FR 63680, October 24, 2000; 68 FR 20227, April 24, 2003). It includes plants found in several locations, and is mapped from an occurrence known at the time of listing. This population was very small and declining until a fire in 2003, after which more than 5,000 plants were reported. This unit contains all of the PCEs, represents a unique and disjunct portion of the species' range, is a relatively large area isolated from urban development, and provides connectivity between plants found at several locations within the unit. We also believe the site supports a large seed bank, based on the post-fire germination that occurred here in 2003. Threats that may require special management in this unit include maintenance of fire roads and fire suppression, which could result in improper disturbance frequencies, and the growth of shrubs and nonnative plants, which could crowd out *A. brauntonii*.

Pentachaeta lyonii

We are proposing seven units as critical habitat for *P. lyonii*. The critical habitat areas described below constitute our best assessment at this time of areas determined to be occupied at the time of listing, contain the PCEs and that may require special management, and additional areas that were not occupied at the time of listing but were found to be essential to the conservation of *P. lyonii*. The units proposed as critical habitat are listed in Table 1 below:

TABLE 2.—PROPOSED CRITICAL HABITAT UNITS FOR PENTACHAETA LYONII
 [Area estimates reflect all land within critical habitat unit boundaries (acres (ac) (hectares (ha)).]

Critical habitat unit and submit (county)	Federal	State	Local agency	Private	Total
Unit 1: Simi Valley (Ventura Co.)	0 ac (0 ha)	0 (0)	50 (20)	408 (165)	458 (185)
Unit 1a	0 (0)	0 (0)	0 (0)	283 (114)	283 (114)
Unit 1b	0 (0)	0 (0)	0 (0)	19 (8)	19 (8)
Unit 1c	0 (0)	0 (0)	50 (20)	0 (0)	50 (20)
Unit 1d	0 (0)	0 (0)	0 (0)	106 (43)	106 (43)
Unit 2: Montclef Ridge (Ventura Co.)	0 (0)	0 (0)	1,079 (437)	238 (96)	1,317 (533)
Unit 2a	0 (0)	0 (0)	1,037 (420)	159 (65)	1,196 (485)
Unit 2b	0 (0)	0 (0)	31 (13)	16 (6)	47 (19)
Unit 2c	0 (0)	0 (0)	11 (4)	63 (25)	74 (29)
Unit 3 Thousand Oaks (Ventura and Los Angeles Co.)	0 (0)	0 (0)	732 (296)	738 (298)	1,470 (594)
Unit 3a	0 (0)	0 (0)	150 (61)	86 (35)	236 (96)
Unit 3b	0 (0)	0 (0)	34 (14)	41 (16)	75 (30)
Unit 3c	0 (0)	0 (0)	548 (221)	611 (247)	1,159 (468)
Unit 4 Triunfo Canyon (Los Angeles Co.)	0 (0)	0 (0)	223 (90)	13 (5)	236 (95)
Unit 5: Mulholland Drive (Los Angeles Co.)	116 (47)	0 (0)	0 (0)	280 (113)	396 (160)
Unit 5a	0 (0)	0 (0)	0 (0)	82 (33)	82 (33)
Unit 5b	116 (47)	0 (0)	0 (0)	47 (19)	163 (66)
Unit 5c	0 (0)	0 (0)	0 (0)	78 (31)	78 (31)
Unit 5d	0 (0)	0 (0)	0 (0)	73 (30)	73 (30)
Unit 6: Cornell Road (Los Angeles Co.)	0 (0)	0 (0)	0 (0)	233 (94)	233 (94)
Unit 7: Malibu Lake (Los Angeles Co.)	0 (0)	67 (27)	0 (0)	35 (14)	102 (41)
Total	116 (47)	67 (27)	2,084 (843)	1,945 (785)	4,212 (1,703)

We present brief descriptions of all units, and reasons why they have the features that are essential for the conservation of *P. lyonii*, below.

Unit 1: Simi Valley Unit

This unit is located east of Moorpark and west of Simi Valley in Ventura County and consists of 50 ac (20 ha) of local agency lands and 408 ac (165 ha) of private land. This unit is divided into four subunits and mapped from occurrences known at the time of listing; they are all within 2.5 mi (4000 m) of each other. These subunits contain habitat with features that are essential to the conservation of the species because they contain at least three of the PCEs (1, 3, and 4) and represent the northernmost edge of the species' range. Soils have not been sampled for microbiotic crusts, so it is unknown if the subunits contain PCE 2. Threats that may require special management in this unit include the invasion of annual grasses and nonnative plants, which could crowd out *P. lyonii*, grazing, edge effects from urban development, road maintenance, and vehicle traffic, which could result in removal or trampling of plants.

Subunit 1a: This subunit is located east of Moorpark in the Tierra Rejada Hills and consists of 283 ac (114 ha) of private land. This subunit includes plants found at several locations. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been

sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 1b: This subunit is located in eastern Moorpark and consists of 19 ac (8 ha) of private land within the Tierra Rejada Vernal Pool Preserve owned by Serenata Homeowners association and managed by Mountains Recreation and Conservation Authority. It includes one of the largest known populations of *P. lyonii*, and is fenced and monitored annually. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 1c: This subunit is located in western Simi Valley near Wood Ranch Reservoir and consists of 50 ac (20 ha) of local agency land owned and managed by Callegas Municipal Water District. It includes plants found in two separate locations. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 1d: This subunit is located in western Simi Valley directly adjacent to Ronald Reagan National Library. It consists of 106 ac (43 ha) of private land and includes plants found in two separate locations. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 2: Montclef Ridge Unit

This unit is located along Montclef Ridge, northwest of Newbury Park in Ventura County. It consists of 1,079 ac (437 ha) of local agency land (Lynmere, Wildwood Park, and Mount Clef Ridge) owned and managed by COSCA and Conejo Recreation and Parks District, and 238 ac (96 ha) of private land. This unit is divided into three subunits mapped from occurrences known at the time of listing and one occurrence identified after listing. All of these subunits, including the occurrence identified after listing, contain habitat that have features that are essential to the conservation of the species because they contain at least three of the PCEs (1, 3, and 4). Soils have not been sampled for microbiotic crusts, so it is unknown if they contain PCE 2. Threats that may require special management include invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*, recreation including equestrian activities, foot traffic, and off-road vehicles, which could result in trampling of plants, illegal dumping, urban development, which could result in removal of plants, and edge effects from existing urban development.

Subunit 2a: This subunit includes plants from multiple locations and is mapped from several occurrences known at the time of listing and one occurrence identified after listing, and consists of 1,037 ac (420 ha) of local

agency land (Lynmere, Wildwood Park, and Mount Clef Ridge) designated as open space and owned by COSCA and Conejo Recreation and Parks District, and 159 ac (65 ha) of private land. The occurrence identified after listing is essential because it is known to be occupied, and provides connectivity between occurrences known at the time of listing because it is within 0.5 mi (785 m) of these occurrences. This subunit is also essential because *P. lyonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit consists of a relatively large contiguous area with multiple populations of *P. lyonii*. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 2b: This subunit includes plants from two populations and is mapped from an occurrence known at the time of listing. It consists of 31 ac (13 ha) of local agency land designated as open space and owned by COSCA, and 16 ac (6 ha) of private land owned by California Lutheran University. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 2c: This subunit includes plants from two populations and is mapped from an occurrence known at the time of listing. It consists of 11 ac (4 ha) of local agency land designated as open space and owned by COSCA, and 63 ac (25 ha) of private land owned by California Lutheran University. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 3: Thousand Oaks Unit

This unit is located in Thousand Oaks near Lake Sherwood in Ventura and Los Angeles Counties. It consists of 732 ac (296 ha) of local agency land (COSCA, Las Virgenes Metropolitan Water District, and Mountain Resources Conservation Authority) and 738 ac (298 ha) of private land. This unit is divided into three subunits mapped from occurrences known at the time of listing and one occurrence identified after listing. These subunits contain habitat with features that are essential to the conservation of the species because they contain at least three of the PCEs (1, 3, and 4) and represent a large proportion of the species' range. Soils have not been sampled for microbiotic crusts, so it is unknown if the subunits contain PCE 2. Threats that may require special

management include edge effects from urban development, removal of plants for urban development or fuel management, invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*, and equestrian and foot traffic, which could result in trampling of plants.

Subunit 3a: This subunit is located north of Lake Sherwood and consists of 150 ac (61 ha) of local agency land designated as open space owned by COSCA and Mountain Resources Conservation Authority, and 86 ac (35 ha) of private land. It is mapped from a relatively large population (11,000 plants in 1991) known at the time of listing. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 3b: This subunit is located on the north side of Lake Sherwood and consists of 34 ac (14 ha) of local agency land owned by COSCA, and 41 ac (16 ha) of private land. It is mapped from an occurrence known at the time of listing. Two of the three subpopulations known at the time of listing were extirpated in 1997 and only one remains. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Subunit 3c: This subunit is located south of Lake Sherwood and consists of 548 ac (221 ha) of local agency land designated as open space owned by COSCA and Mountain Resources Conservation Authority, and 611 ac (247 ha) of private land. It is mapped from occurrences known at the time of listing and two occurrences identified after listing and includes plants from numerous locations. The occurrences identified after listing are essential because they are currently occupied and they provide connectivity between occurrences known at the time of listing, because they are a short distance from the other populations in this unit (i.e., less than 785 m (0.5 mi)). This subunit is essential because *P. lyonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. Overall, this subunit contains at least 16 known populations of *P. lyonii*, all of which are less than 1000 m (0.6 mi) from each other. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 4: Triunfo Canyon Unit

This unit is located in Thousand Oaks in Los Angeles County. It consists of 223 ac (90 ha) of local agency land

(Mountain Resources Conservation Authority and Las Virgenes Metropolitan Water District), and 13 ac (5 ha) of private land. It is mapped from an occurrence known at the time of listing and includes plants from multiple locations. This unit contains habitat that has features that are essential to the conservation of the species because it contains all of the PCEs and represents a relatively large population of *P. lyonii* (37,300 individuals estimated in 2000). Threats that may require special management include invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*, fuel management, which could result in removal of plants, and foot traffic, which could result in trampling of plants.

Unit 5: Mullholland Drive Unit

This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 116 ac (47 ha) of Federal land (Santa Monica Mountains National Recreation Area) and 280 ac (113 ha) of private land. It is mapped from occurrences known at the time of listing, and occurrences identified after listing, and is divided into 4 subunits. These subunits contain habitat that has features that are essential to the conservation of the species because they contain at least three of the PCEs (1, 3, and 4) and represent one of the southernmost locations within the species' range. Soils have not been sampled for microbiotic crusts, so it is unknown if the subunits contain PCE 2. Threats that may require special management include the potential for development, which could result in removal of plants, and fuel management, which could result in removal of plants, and invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*.

Unit 5a: This subunit consists of 82 ac (33 ha) of private land along the south side of Mulholland Drive. It is mapped from an occurrence known at the time of listing. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 5b: This subunit consists of 116 ac (47 ha) of Federal land (Santa Monica Mountains National Recreation Area) in Rocky Oaks Park and 47 ac (19 ha) of private land on the west side of Kanan Road. It is mapped from an occurrence known at the time of listing. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 5c: This subunit consists of 78 ac (31 ha) of private land designated as

open space and managed by Santa Monica Mountains Conservancy on Mulholland Drive. It includes plants found in two separate locations and is mapped from an occurrence identified after listing. This subunit is essential because *P. lyonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit is occupied, and is in the same geographic area in the Santa Monica Mountains as Units 5b and 5d, occurring midway between and less than 1500 m (0.9 mi) from both subunits. Because of its close proximity to other populations, we consider it to be part of the same population complex. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 5d: This subunit consists of 73 ac (30 ha) of private land on Kanan Road. It is mapped from an occurrence identified after listing. This subunit is essential because *P. lyonii* is extremely limited in distribution and has a very small overall population size, making it necessary to include every known occurrence. This subunit is occupied, and is in the same geographic area in the Santa Monica Mountains as Unit 4 and 5c, occurring midway between and less than 1650 m (1 mi) from both subunits. Because of its close proximity to other populations, we consider it to be part of the same population complex. This subunit contains at least three of the PCEs (1, 3, and 4); soils have not been sampled for microbiotic crusts, so it is unknown if it contains PCE 2.

Unit 6: Cornell Road Unit

This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 233 ac (94 ha) of private land. It includes plants found in several locations and is mapped from an occurrence known at the time of listing. This unit contains habitat that has features that are essential to the conservation of the species because it contains all of the PCEs, represents one of the southernmost locations within the species' range, contains numerous distinct patches and a very large population of individuals (> 3 million plants estimated in 1999), is genetically distinct from the other populations, and contains more genetic variability than the other populations (Arias *et al.*, no date). Threats that may require special management include the potential for grading and development, which could result in removal of plants, edge effects from nearby developments, and invasion by annual grasses and

nonnative plants, which could crowd out *P. lyonii*.

Unit 7: Malibu Lake Unit

This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 67 ac (27 ha) of State land (Malibu Creek State Park) and 35 ac (14 ha) of private land. It is mapped from an occurrence known at the time of listing. This unit contains habitat that has features that are essential to the conservation of the species because it contains at least three of the PCEs (PCE 1, 3, and 4), represents the easternmost known location within the species' range, and contains a relatively large population (100,000–200,000 plants estimated in 1998). Soils have not been sampled for microbiotic crusts, so it is unknown if the subunits contain PCE 2. Threats that may require special management include recreation activities such as foot traffic, which may result in trampling of plants.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.2, we define destruction or adverse modification as “a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: Alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.” We are currently reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. We may issue a formal

conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). Until such time as a proposed designation is finalized, any reasonable and prudent alternatives or reasonable and prudent measures included in a conference report are advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the action agency ensures that their actions do not destroy or adversely modify critical habitat.

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

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinstatement of consultation or conference with us on

actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

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

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of *A. brauntonii* or *P. lyonii*.

Federal activities that, when carried out, may adversely affect critical habitat for *A. brauntonii* and *P. lyonii* include, but are not limited to:

(1) Removing, thinning, or destroying *A. brauntonii* or *P. lyonii* plants. This may occur through burning, mechanical, chemical, or other means, including plowing, grading, woodcutting, livestock grazing, construction, road building, mechanical weed control, herbicide application, and firefighting activities;

(2) Activities that appreciably degrade or destroy *A. brauntonii* or *P. lyonii* habitat (and its PCEs). Such activities include, but are not limited to: livestock grazing, clearing, discing, farming, residential or commercial development, introducing or encouraging the spread of nonnative species, off-road vehicle use;

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

(4) Any activity, including the regulation of activities by the Corps of Engineers under section 404 of the Clean Water Act or activities carried out by or licensed by the Environmental

Protection Agency (EPA), that could alter watershed or soil characteristics in ways that would appreciably alter or reduce the quality or quantity of surface and subsurface flow of water needed to maintain *A. brauntonii* or *P. lyonii*. These activities include, but are not limited to: altering the natural fire regime either through fire suppression or by using prescribed fires that are too frequent or poorly-timed; development, including road building and other direct or indirect activities; agricultural activities; livestock grazing; and vegetation manipulation such as clearing or grubbing in the watershed upslope from *A. brauntonii* or *P. lyonii*.

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

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

All of the proposed critical habitat units for *A. brauntonii* and *P. lyonii* are within the geographical area that is occupied by the species. We consider four of the six units for *A. brauntonii* to be occupied by the species at the time of listing, although three subunits within Unit 2 contain current populations that were not known at the time of listing. Units 1 and 4 were not known to be occupied at the time of listing but are currently occupied. We consider all of these units included in this proposed designation to contain the features essential to the conservation of *A. brauntonii*, and, if unoccupied at the time of listing, are essential to the conservation of the species. We consider all of the seven units for *P. lyonii* to be occupied by the species at the time of listing, although four subunits within these units contain current populations that were not known at the time of listing. We consider all of these units included in this proposed designation to contain the features essential to the conservation of *P. lyonii*.

Application of Section 3(5)(A) and 4(a)(3) and Exclusions Under Section 4(b)(2) of the Act

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographical area occupied

by the species at the time of listing on which are found those physical and biological features (i) essential to the conservation of the species and (ii) which may require special management considerations or protection. Therefore, areas within the geographical area occupied by the species at the time of listing that do not contain the features that are essential for the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographical area occupied by the species at the time of listing that do not require special management or protection also are not, by definition, critical habitat. To determine whether an area requires special management, we first determine if the essential features located there generally require special management to address applicable threats. If those features do not require special management, or if they do in general but not for the particular area in question because of the existence of an adequate management plan or for some other reason, then the area does not require special management.

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species' population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the conservation management strategies and actions will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances that the conservation strategies and measures will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives).

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

will result in the extinction of the species.

In our critical habitat designations, we use both the provisions outlined in sections 3(5)(A) and 4(b)(2) of the Act to evaluate those specific areas that we are proposing for designation as critical habitat. Lands we have found do not meet the definition of critical habitat under section 3(5)(A) or have excluded pursuant to section 4(b)(2) include those covered by the following types of plans if they provide assurances that the conservation measures they outline will be implemented and effective: (1) Legally operative HCPs that cover the species, (2) draft HCPs that cover the species and have undergone public review and comment (i.e., pending HCPs), (3) Tribal conservation plans that cover the species, (4) State conservation plans that cover the species, and (5) National Wildlife Refuge System Comprehensive Conservation Plans.

We have not excluded any lands from this proposal pursuant to 3(5)(A) and 4(a)(3) of the Act. We are unaware of any current HCPs, or HCPs that are near completion, that include *A. brauntonii* or *P. lyonii*. We are unaware of any State, County, or local conservation plans that protect *A. brauntonii* or *P. lyonii*. Although Units 4 and 6 for *A. brauntonii* both occur partially within State Parks, and Unit 6 also partially occurs within a State Ecological Reserve, neither location has a written management plan that protects the species. Unit 7 for *P. lyonii* partially occurs within a State Park, although there is no written management plan that protects the species. Units 2d and 2e for *A. brauntonii*, and Unit 5b for *P. lyonii* both occur within the Santa Monica Mountains National Recreation Area, although there is no written management plan that protects the species. We have determined that the lands within the proposed designation of critical habitat for *A. brauntonii* and *P. lyonii* are not owned or managed by the Department of Defense, and the designation does not include any Tribal lands or trust resources.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for *A. brauntonii* and *P. lyonii* is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at <http://ventura.fws.gov>, or by contacting the Ventura Fish and

Wildlife Office directly (see **ADDRESSES** section).

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 these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule 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. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, 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 document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have 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. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the internet Web site at <http://ventura.fws.gov>, or by contacting the Ventura Fish and Wildlife Office directly (see **ADDRESSES** section).

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

Our assessment of economic effect will be completed prior to final rulemaking based upon review of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn. v. U.S. Fish & Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment

a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for *A. brauntonii* and *P. lyonii* is not a significant regulatory action under E.O. 12866, and it 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, 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.

We do not believe that this rule will significantly or uniquely affect small governments because critical habitat provides no incremental restrictions, we do not anticipate that this rule will significantly or uniquely affect small governments. Although 18% of the land within the *A. brauntonii* proposed critical habitat units and 50% of the land within the *P. lyonii* proposed units are owned by local agencies, the majority of those lands are within designated open space areas managed for conservation. As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI 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 designation of critical habitat in areas currently occupied by *A. brauntonii* and *P. lyonii* imposes no additional restrictions to those currently in place and, therefore, 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 that are essential to the conservation of the species are more clearly defined, and the PCEs 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, 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 PCEs within the designated areas to assist the public in understanding the habitat needs of *A. brauntonii* and *P. lyonii*.

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 that have the features that are essential for the conservation of *A. brauntonii* or *P. lyonii*. Therefore, critical habitat for *A. brauntonii* or *P. lyonii* has not been proposed on Tribal lands.

References Cited

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

Author(s)

The primary author of this package is Christine Hamilton (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, 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 § 17.12(h), revise the entries for *Astragalus brauntonii* (Braunton's milk-vetch) and *Pentachaeta lyonii* (Lyon's pentachaeta) under AFLOWERING PLANTS," to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *
(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
* <i>Astragalus brauntonii</i>	* Braunton's milk-vetch.	* U.S.A. (CA)	* Fabaceae	* E	* 606	* 17.96(a)	* NA
* <i>Pentachaeta lyonii</i> ...	* Lyon's pentachaeta	* U.S.A. (CA)	* Asteraceae	* E	* 606	* 17.96(a)	* NA
*	*	*	*	*	*	*	*

3. Amend § 17.96(a) by adding an entry for *Pentachaeta lyonii* (Lyon's pentachaeta) in alphabetical order under family Asteraceae and an entry for *Astragalus brauntonii* (Braunton's milk-vetch) in alphabetical order under family Fabaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Asteraceae: *Pentachaeta lyonii* (Lyon's pentachaeta).

(1) Critical habitat units are depicted for Ventura and Los Angeles Counties, California, on the maps below.

(2) Critical habitat includes the plant communities within the range of *Pentachaeta lyonii* that are characterized by the following primary constituent elements:

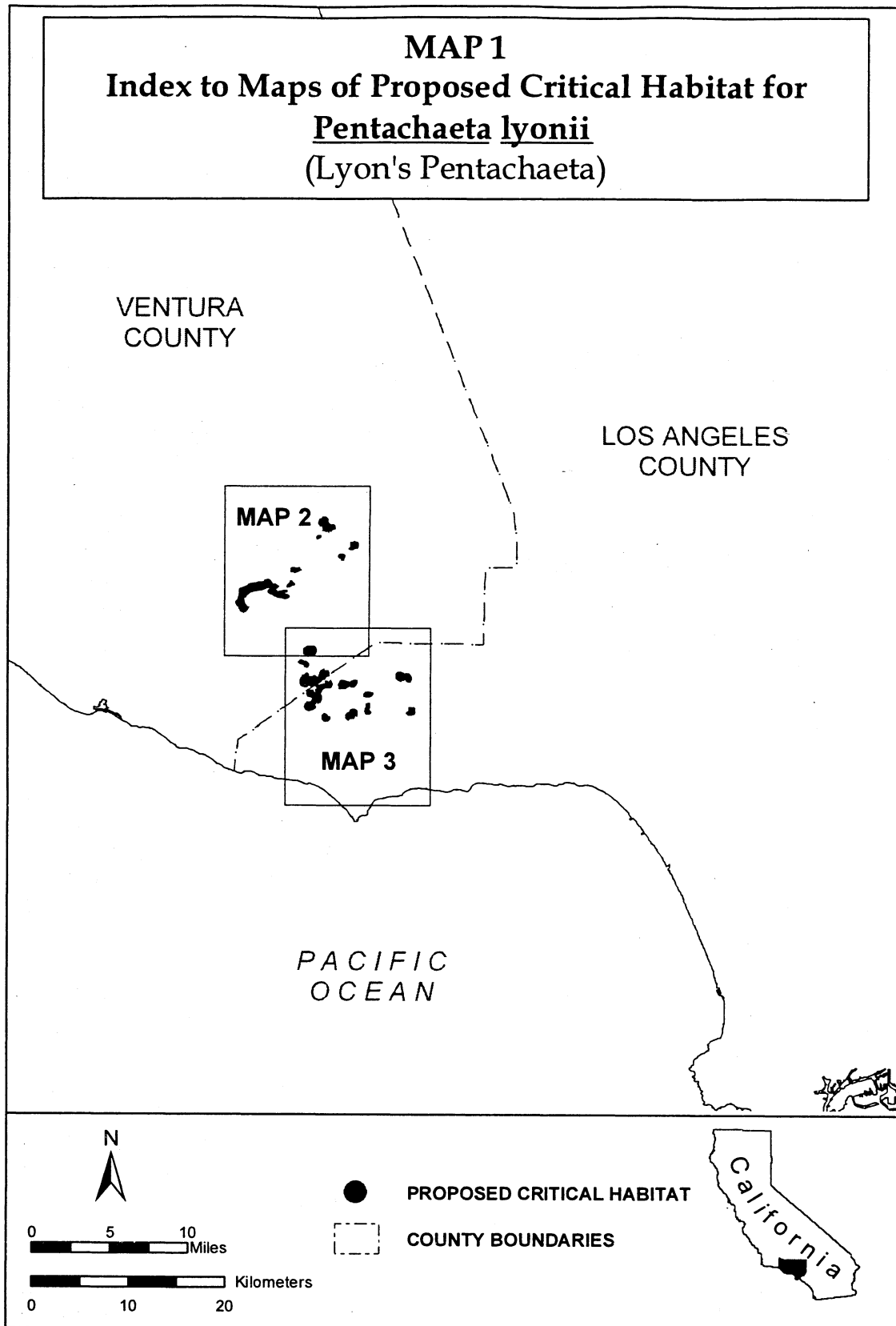
- (i) Clay soils of volcanic origin;
- (ii) Exposed soils that exhibit a microbiotic crust, which may inhibit invasion by other plant competitors; and
- (iii) Low proportion of total vegetative cover (less than 25 percent).

(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the

land on which such structures are located.

(4) Data layers defining map units were created on base maps using the following aerial imagery: for eastern Ventura County, we used Air Photo USA Inc. aerial imagery captured October 2002; for westernmost Los Angeles county populations, we used Air Photo USA Inc. aerial imagery captured August 1999. Both were projected to Universal Transverse Mercator (UTM) zone 11, North American Datum (NAD) 1927.

(5) Map 1 (Index map for *Pentachaeta lyonii*) follows:



3787491; 322224, 3787487; 321693, 3787055; 321656, 3787009; 321627, 3786983; 321587, 3786958; 321428, 3786837; 321408, 3786808; 321398, 3786777; 321407, 3786696; 321420, 3786636; 321477, 3786455; 321488, 3786403; 321490, 3786342; 321469, 3786232; 321605, 3786154; 321658, 3786057; 321725, 3785853; 321905, 3785804; 321896, 3785756; 321883, 3785719; 321856, 3785667; 321832, 3785636; 321786, 3785590; 321734, 3785553; 321709, 3785526; 321680, 3785500; 321621, 3785464; 321523, 3785626; 321467, 3785627; 321419, 3785719; 321373, 3785722; 321377, 3785628; 321385, 3785572; 321440, 3785428; 321402, 3785428; 321383, 3785431; 321345, 3785441; 321309, 3785456; 321259, 3785487; 321202, 3785539; 321176, 3785568; 321154, 3785601; 321119, 3785672; 321106,

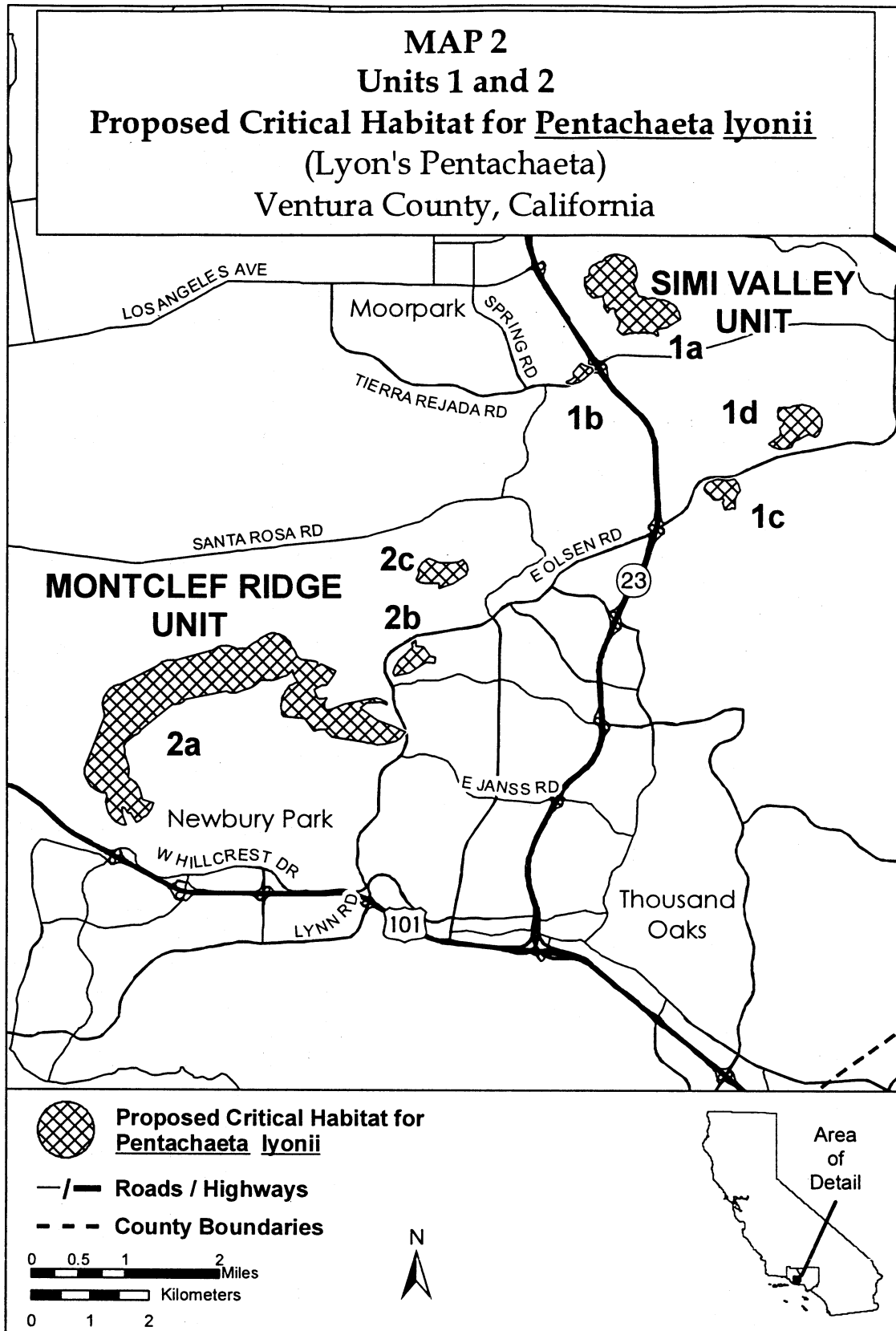
3785709; 321092, 3785796; 321092, 3785836; 321102, 3785920; 321093, 3785975; 321034, 3785983; 320964, 3786004; 320900, 3786039; 320844, 3786085; 320797, 3786141; 320762, 3786204; 320745, 3786254; 320737, 3786287; 320731, 3786360.

(ii) Subunit 2b: from USGS 1:24,000 scale quadrangle Newbury Park. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 325989, 3788043; 326019, 3788123; 326091, 3788240; 326227, 3788353; 326250, 3788403; 326324, 3788464; 326313, 3788542; 326384, 3788583; 326386, 3788484; 326514, 3788481; 326632, 3788320; 326713, 3788298; 326696, 3788204; 326577, 3788206; 326524, 3788204; 326477, 3788163; 326370, 3788097; 326277, 3788045; 326016, 3787984; 325989, 3788043.

(iii) Subunit 2c: from USGS 1:24,000 scale quadrangles Newbury Park and Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 326421, 3789739; 326407, 3789791; 326424, 3789826; 326454, 3789875; 326477, 3789906; 326520, 3789946; 326553, 3789968; 326592, 3789987; 326793, 3789915; 326991, 3789908; 327107, 3789924; 327178, 3789966; 327212, 3789928; 327234, 3789896; 327257, 3789847; 327274, 3789788; 327248, 3789777; 327236, 3789712; 327019, 3789561; 326772, 3789480; 326771, 3789566; 326524, 3789567; 326447, 3789579; 326391, 3789612; 326386, 3789637; 326421, 3789739.

(iv) **Note:** Unit 2 for *Pentachaeta lyonii* is depicted on Map 2—Units 1 and 2—which follows:

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3777037; 334664, 3776991; 334726, 3776954; 334838, 3776920; 334824, 3776863; 334800, 3776809; 334778, 3776776; 334752, 3776747; 334707, 3776710; 334655, 3776682; 334471, 3776619; 334415, 3776606; 334376, 3776604; 334230, 3776611; 334191, 3776616; 334135, 3776633; 334083, 3776661; 334052, 3776685; 334015, 3776723; 333982, 3776740; 333938, 3776910.

(v) **Note:** Unit 5 for *Pentachaeta lyonii* is depicted on Map 3—Units 3, 4, 5, 6, and 7—see paragraph (12)(ii).

(11) Unit 6 for *Pentachaeta lyonii*: Cornell Road Canyon Unit, Los Angeles County, California.

(i) Unit 6: From USGS 1:24,000 scale quadrangles Thousand Oaks and Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 337290, 3778817; 337296, 3778876; 337306, 3778914; 337319, 3778948; 337347, 3779000; 337384, 3779045; 337435, 3779091; 337485, 3779123; 337540, 3779143; 337608, 3779154; 337660, 3779155; 337751, 3779144; 337789, 3779136; 337872, 3779107; 337924, 3779080; 337969, 3779042; 338019, 3778981; 338039, 3778947; 338057, 3778900; 338085, 3778865; 338113, 3778812; 338139, 3778846; 338182, 3778886; 338236, 3778921; 338289, 3778946;

338327, 3778956; 338386, 3778961; 338438, 3778957; 338514, 3778940; 338600, 3778901; 338632, 3778879; 338662, 3778854; 338688, 3778824; 338710, 3778791; 338743, 3778719; 338756, 3778682; 338764, 3778643; 338767, 3778591; 338765, 3778544; 338776, 3778504; 338781, 3778465; 338778, 3778384; 338771, 3778338; 338761, 3778301; 338737, 3778247; 338682, 3778166; 338422, 3778195; 338388, 3778238; 338378, 3778288; 338422, 3778389; 338407, 3778432; 338326, 3778401; 338289, 3778476; 338203, 3778515; 338116, 3778480; 338056, 3778428; 338023, 3778412; 337978, 3778380; 337943, 3778363; 337876, 3778339; 337779, 3778324; 337729, 3778313; 337690, 3778311; 337631, 3778316; 337570, 3778334; 337516, 3778359; 337461, 3778398; 337418, 3778438; 337384, 3778486; 337358, 3778538; 337346, 3778575; 337338, 3778613; 337336, 3778642; 337315, 3778689; 337296, 3778759; 337290, 3778817.

(ii) **Note:** Unit 6 for *Pentachaeta lyonii* is depicted on Map 3—Units 3, 4, 5, 6, and 7—see paragraph (12)(ii).

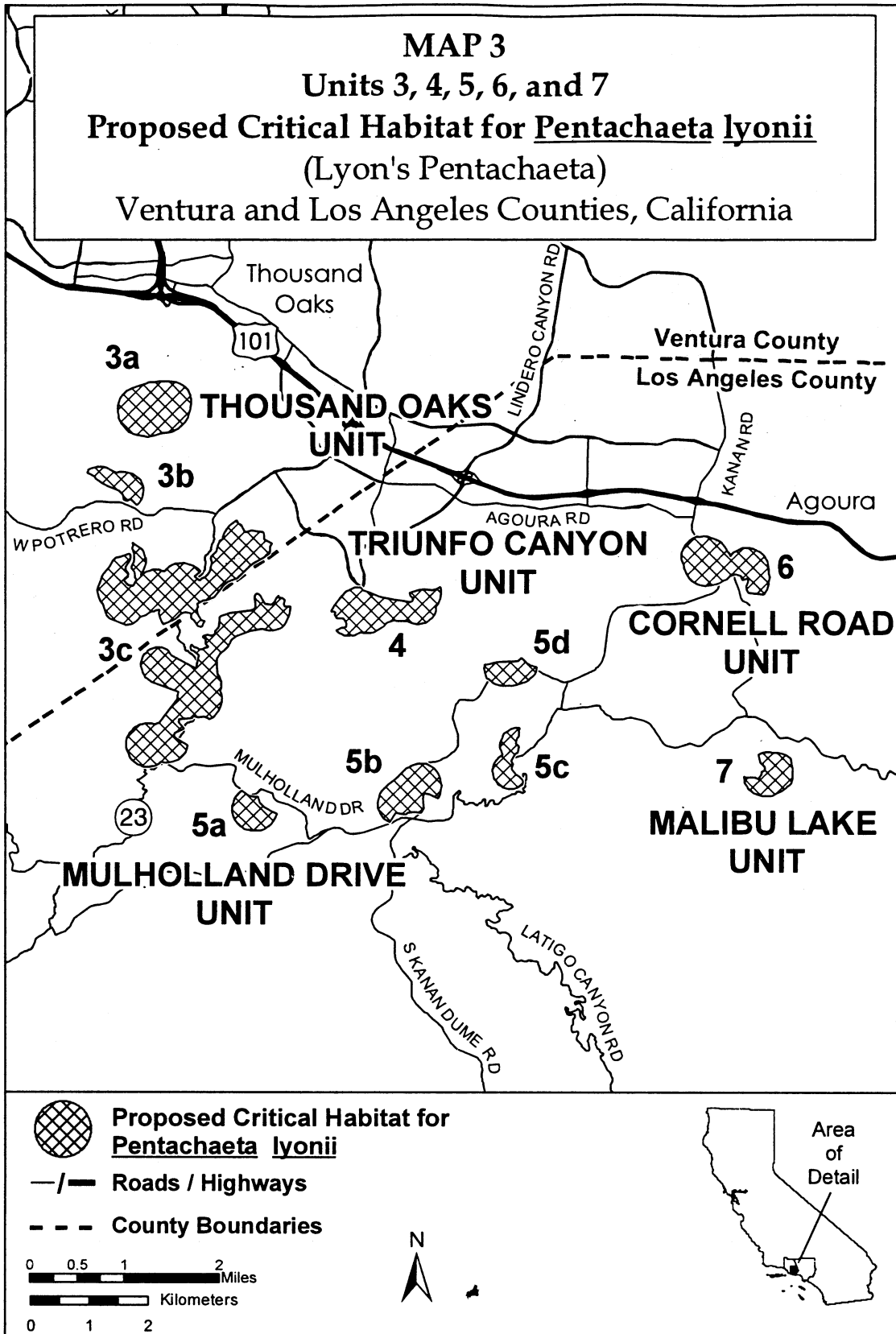
(12) Unit 7 for *Pentachaeta lyonii*: Malibu Lake Unit, Los Angeles County, California.

(i) Unit 7: From USGS 1:24,000 scale quadrangles Point Dume and Malibu

Beach. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338355, 3775059; 338440, 3775052; 338535, 3775051; 338558, 3775046; 338571, 3775034; 338597, 3775025; 338651, 3775105; 338662, 3775115; 338661, 3775158; 338692, 3775172; 338711, 3775200; 338713, 3775218; 338701, 3775240; 338650, 3775289; 338626, 3775315; 338619, 3775330; 338616, 3775391; 338599, 3775448; 338619, 3775457; 338671, 3775474; 338736, 3775484; 338795, 3775482; 338842, 3775472; 338893, 3775476; 338951, 3775471; 339024, 3775452; 339078, 3775428; 339094, 3775417; 339143, 3775364; 339164, 3775290; 339178, 3775202; 339185, 3775114; 339185, 3775015; 339148, 3774940; 339110, 3774899; 339080, 3774873; 339001, 3774825; 338955, 3774807; 338904, 3774770; 338857, 3774747; 338820, 3774735; 338782, 3774727; 338742, 3774725; 338703, 3774727; 338665, 3774735; 338582, 3774760; 338513, 3774791; 338480, 3774813; 338451, 3774839; 338425, 3774868; 338403, 3774901; 338371, 3774968; 338361, 3775006; 338355, 3775059.

(ii) **Note:** Unit 7 for *Pentachaeta lyonii* is depicted on Map 3—Units 3, 4, 5, 6, and 7—which follows:

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* * * * *

Family Fabaceae: *Astragalus brauntonii* (Braunton's milk-vetch).

(1) Critical habitat units are depicted for Ventura, Los Angeles, and Orange Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Astragalus brauntonii* are the habitat components that provide:

(i) Carbonate limestone soils derived from marine sediment;

(ii) Low proportion (less than 10 percent) of shrub cover directly around the plant; and

(iii) Periodic disturbances that stimulate seed germination (*e.g.*, fire, flooding) and reduce vegetative cover,

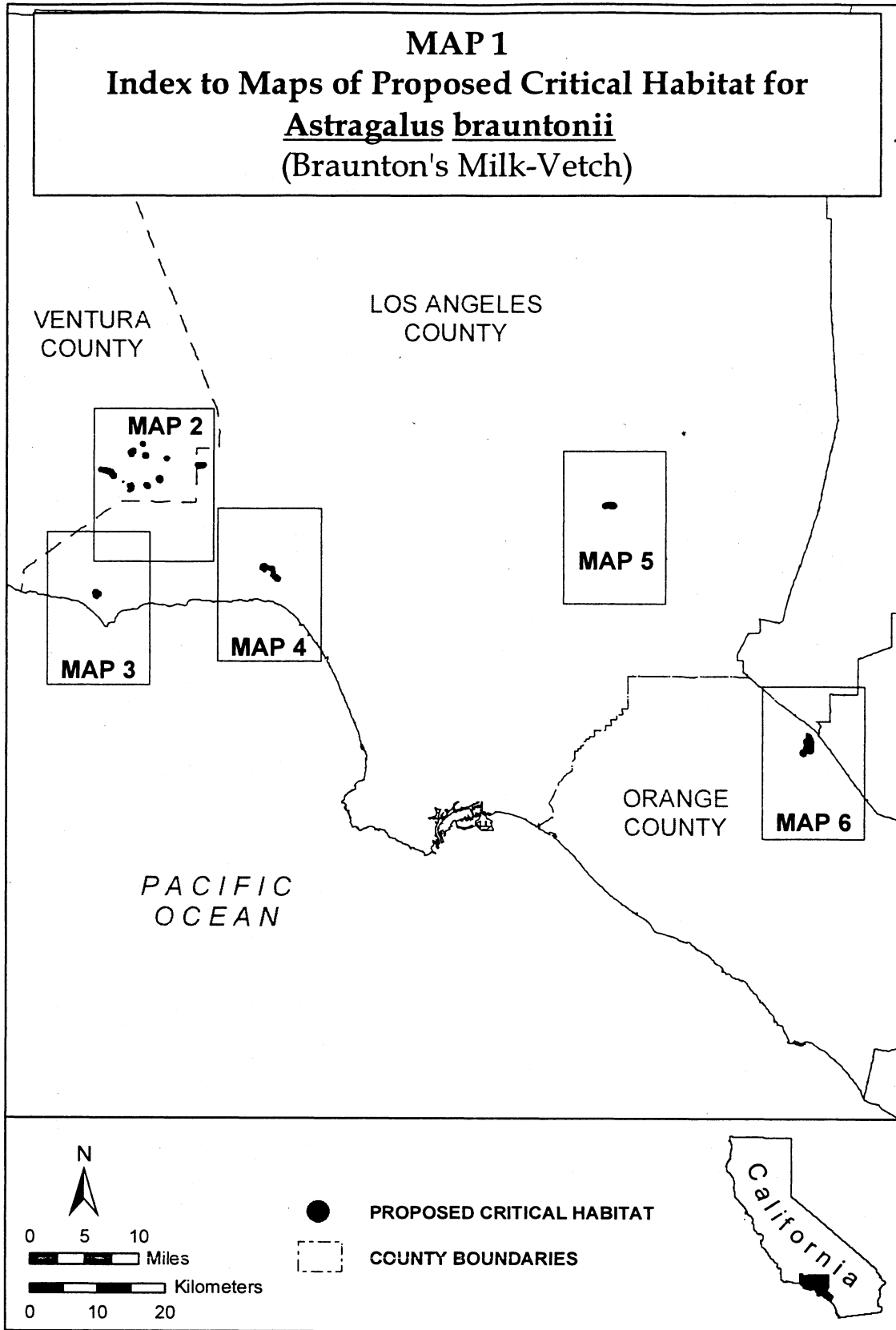
(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

(4) Critical habitat units are described below. Data layers defining map units were created on base maps using the following aerial imagery: For eastern

Ventura County, we used AirPhotoUSA Inc. aerial imagery captured October, 2002; for westernmost Los Angeles county populations, we used AirPhotoUSA Inc. aerial imagery captured August, 1999; for populations near the City of Monrovia, Los Angeles County and for the population in Orange County, we used USGS Digital Orthophoto Quarter Quadrangles captured in the mid-1990s. All were projected to UTM zone 11, NAD27.

(5) **Note:** Map 1 (Index map for *Astragalus brauntonii*) follows:

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(6) Unit 1 for *Astragalus brauntonii*, Northern Simi Hills Unit, Ventura County, California.

(i) Subunit 1a: From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 336361, 3789405; 336369, 3789480; 336393, 3789561; 336411, 3789596; 336432, 3789629; 336480, 3789679; 336537, 3789719; 336572, 3789737; 336609, 3789749; 336687, 3789761; 336726, 3789761; 336761, 3789758; 336802, 3789811; 336845, 3789851; 336908, 3789889; 336963, 3789910; 337037, 3789923; 337095, 3789921; 337160, 3789910; 337197, 3789897; 337231, 3789881; 337260, 3789864; 337291, 3789840; 337332, 3789797; 337369, 3789735; 337389, 3789680; 337400, 3789626; 337403, 3789587; 337397, 3789528; 337383, 3789474; 337352, 3789404; 337330, 3789371; 337305, 3789342; 337275, 3789316; 337244, 3789294; 337210, 3789275; 337173, 3789258; 337182, 3789199; 337182, 3789160; 337178, 3789120; 337164, 3789059; 337142, 3789009; 337107, 3788953; 337060, 3788904; 337030, 3788882; 336996, 3788862; 336941, 3788841; 336894, 3788832; 336855, 3788829; 336793, 3788834; 336755, 3788841; 336701, 3788859; 336666, 3788877; 336634, 3788899; 336604, 3788924; 336569, 3788964; 336538, 3789014; 336517, 3789069; 336507, 3789129; 336475, 3789154; 336438, 3789191; 336414, 3789222; 336394, 3789256; 336379, 3789292; 336369, 3789330; 336361, 3789405.

(ii) Subunit 1b: From USGS 1:24,000 scale quadrangles Thousand Oaks and Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338156, 3790653; 338162, 3790718; 338180, 3790777; 338210, 3790834; 338249, 3790882; 338299, 3790923; 338354, 3790952; 338416, 3790970; 338477, 3790976; 338539, 3790970; 338601, 3790952; 338655, 3790923; 338705, 3790882; 338745, 3790834; 338775, 3790777; 338793, 3790718; 338799, 3790656; 338793, 3790592; 338775, 3790533; 338745, 3790475; 338705, 3790428; 338655, 3790387; 338601, 3790358; 338539, 3790339; 338477, 3790333; 338416, 3790339; 338354, 3790358; 338299, 3790387; 338249, 3790428; 338210, 3790475; 338180, 3790533; 338162, 3790592; 338156, 3790653.

(iii) Subunit 1c: From USGS 1:24,000 scale quadrangles Thousand Oaks and Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338500, 3788934; 338508, 3789006; 338529, 3789076; 338563, 3789140; 338595, 3789182; 338625, 3789212; 338648, 3789232;

338692, 3789261; 338759, 3789291; 338830, 3789308; 338912, 3789313; 338985, 3789306; 339054, 3789285; 339119, 3789251; 339175, 3789205; 339222, 3789149; 339240, 3789121; 339263, 3789073; 339283, 3789003; 339290, 3788931; 339282, 3788858; 339261, 3788789; 339227, 3788724; 339195, 3788682; 339165, 3788652; 339142, 3788632; 339098, 3788603; 339031, 3788573; 338960, 3788557; 338878, 3788551; 338805, 3788559; 338736, 3788580; 338672, 3788614; 338615, 3788659; 338568, 3788715; 338550, 3788743; 338527, 3788791; 338507, 3788861; 338500, 3788934.

(iv) Subunit 1d: From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 341687, 3788511; 341693, 3788574; 341711, 3788633; 341740, 3788687; 341779, 3788734; 341828, 3788775; 341882, 3788803; 341941, 3788821; 342002, 3788827; 342063, 3788821; 342123, 3788803; 342177, 3788774; 342225, 3788735; 342264, 3788688; 342294, 3788632; 342311, 3788573; 342317, 3788512; 342311, 3788451; 342294, 3788393; 342264, 3788337; 342225, 3788289; 342177, 3788250; 342123, 3788222; 342063, 3788203; 342002, 3788197; 341941, 3788203; 341882, 3788221; 341828, 3788250; 341779, 3788290; 341740, 3788338; 341711, 3788392; 341693, 3788450; 341687, 3788511.

(v) **Note:** Unit 1 for *Astragalus brauntonii* is depicted on Map 2—Units 1 and 2—see paragraph (7)(vii).

(7) Unit 2 for *Astragalus brauntonii*, Southern Simi Hills Unit, Ventura County and Los Angeles County, California.

(i) Subunit 2a: From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331954, 3786766; 332021, 3786816; 332027, 3786840; 332099, 3786833; 332092, 3786878; 332016, 3786906; 332053, 3786977; 332105, 3787043; 332194, 3787118; 332274, 3787160; 332410, 3787127; 332550, 3787113; 332655, 3787123; 332660, 3787106; 332813, 3787081; 333141, 3787015; 333311, 3786969; 333356, 3786967; 333409, 3786956; 333477, 3786930; 333511, 3786910; 333535, 3786892; 333573, 3786892; 333612, 3786886; 333666, 3786873; 333702, 3786859; 333771, 3786872; 333824, 3786873; 333883, 3786863; 333920, 3786851; 333967, 3786827; 334015, 3786793; 334062, 3786743; 334093, 3786693; 334113, 3786638; 334124, 3786573; 334122, 3786515; 334112, 3786466; 334162, 3786442; 334215, 3786409; 334246, 3786386; 334290, 3786343; 334435,

3786178; 334454, 3786152; 334474, 3786118; 334498, 3786067; 334511, 3786030; 334524, 3785941; 334521, 3785857; 334507, 3785971; 334494, 3785754; 334467, 3785702; 334416, 3785642; 334386, 3785616; 334354, 3785594; 334300, 3785570; 334262, 3785559; 334205, 3785551; 334147, 3785549; 334089, 3785559; 334012, 3785583; 333976, 3785600; 333944, 3785622; 333882, 3785676; 333857, 3785706; 333824, 3785753; 333777, 3785813; 333735, 3785875; 333716, 3785908; 333677, 3785997; 333659, 3786071; 333653, 3786127; 333602, 3786143; 333567, 3786160; 333525, 3786189; 333495, 3786216; 333446, 3786240; 333367, 3786290; 333326, 3786287; 333287, 3786288; 333206, 3786303; 333151, 3786324; 333117, 3786343; 333086, 3786367; 332691, 3786471; 332424, 3786528; 332323, 3786540; 332277, 3786536; 332238, 3786539; 332200, 3786546; 332163, 3786559; 332081, 3786601; 332036, 3786638; 331995, 3786689; 331966, 3786737; 331954, 3786766.

(ii) Subunit 2b: From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 335546, 3785093; 335554, 3785104; 335565, 3785110; 335575, 3785109; 335590, 3785102; 335569, 3784979; 335559, 3784977; 335546, 3784977; 335538, 3784979; 335530, 3784984; 335546, 3785093.

(iii) Subunit 2c: From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 336264, 3784505; 336266, 3784544; 336280, 3784615; 336293, 3784653; 336323, 3784712; 336368, 3784709; 336405, 3784690; 336467, 3784653; 336486, 3784616; 336541, 3784616; 336579, 3784641; 336616, 3784672; 336659, 3784728; 336697, 3784783; 336753, 3784821; 336790, 3784827; 336839, 3784821; 336904, 3784821; 336932, 3784781; 336949, 3784745; 336966, 3784689; 336971, 3784647; 336998, 3784603; 337013, 3784566; 337028, 3784505; 337034, 3784440; 337080, 3784406; 337120, 3784363; 337152, 3784313; 337170, 3784266; 337094, 3784206; 337031, 3784210; 337045, 3784086; 337153, 3784041; 337115, 3784014; 337064, 3783816; 337012, 3783819; 336983, 3783806; 336973, 3783806; 336958, 3783843; 336954, 3783873; 336895, 3783962; 336871, 3784003; 336869, 3784037; 336879, 3784082; 336883, 3784153; 336879, 3784177; 336859, 3784238; 336838, 3784256; 336820, 3784262; 336755, 3784266; 336676, 3784283; 336658, 3784311; 336640, 3784317; 336613, 3784299; 336603, 3784281; 336603,

3784268; 336629, 3784222; 336635, 3784187; 336635, 3784143; 336640, 3784120; 336755, 3784049; 336844, 3783987; 336848, 3783952; 336883, 3783901; 336903, 3783853; 336873, 3783853; 336849, 3783833; 336856, 3783796; 336847, 3783768; 336850, 3783748; 336832, 3783715; 336793, 3783703; 336741, 3783721; 336686, 3783722; 336628, 3783708; 336647, 3783616; 336513, 3783551; 336490, 3783578; 336336, 3783628; 336323, 3783685; 336320, 3783724; 336331, 3783837; 336338, 3783876; 336351, 3783913; 336368, 3783948; 336391, 3783985; 336397, 3784052; 336413, 3784106; 336382, 3784137; 336358, 3784168; 336339, 3784202; 336324, 3784238; 336313, 3784276; 336306, 3784326; 336285, 3784374; 336275, 3784412; 336264, 3784505.

(iv) Subunit 2d: From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338692, 3784551; 338695, 3784602; 338702, 3784640; 338715, 3784677; 338732, 3784712; 338772, 3784768; 338811, 3784806; 338842, 3784830; 338876, 3784849; 338912, 3784864; 338985, 3784882; 339024, 3784885; 339063, 3784882; 339134, 3784866; 339188, 3784841; 339266, 3784784; 339318, 3784764; 339368, 3784733; 339421, 3784683; 339455, 3784635; 339473,

3784600; 339485, 3784565; 339494, 3784531; 339499, 3784492; 339500, 3784400; 339492, 3784338; 339482, 3784300; 339457, 3784247; 339415, 3784188; 339372, 3784148; 339322, 3784117; 339267, 3784096; 339194, 3784083; 339135, 3784085; 339067, 3784100; 339013, 3784125; 338972, 3784151; 338929, 3784191; 338900, 3784230; 338834, 3784273; 338804, 3784299; 338782, 3784323; 338742, 3784379; 338715, 3784437; 338698, 3784493; 338692, 3784551.

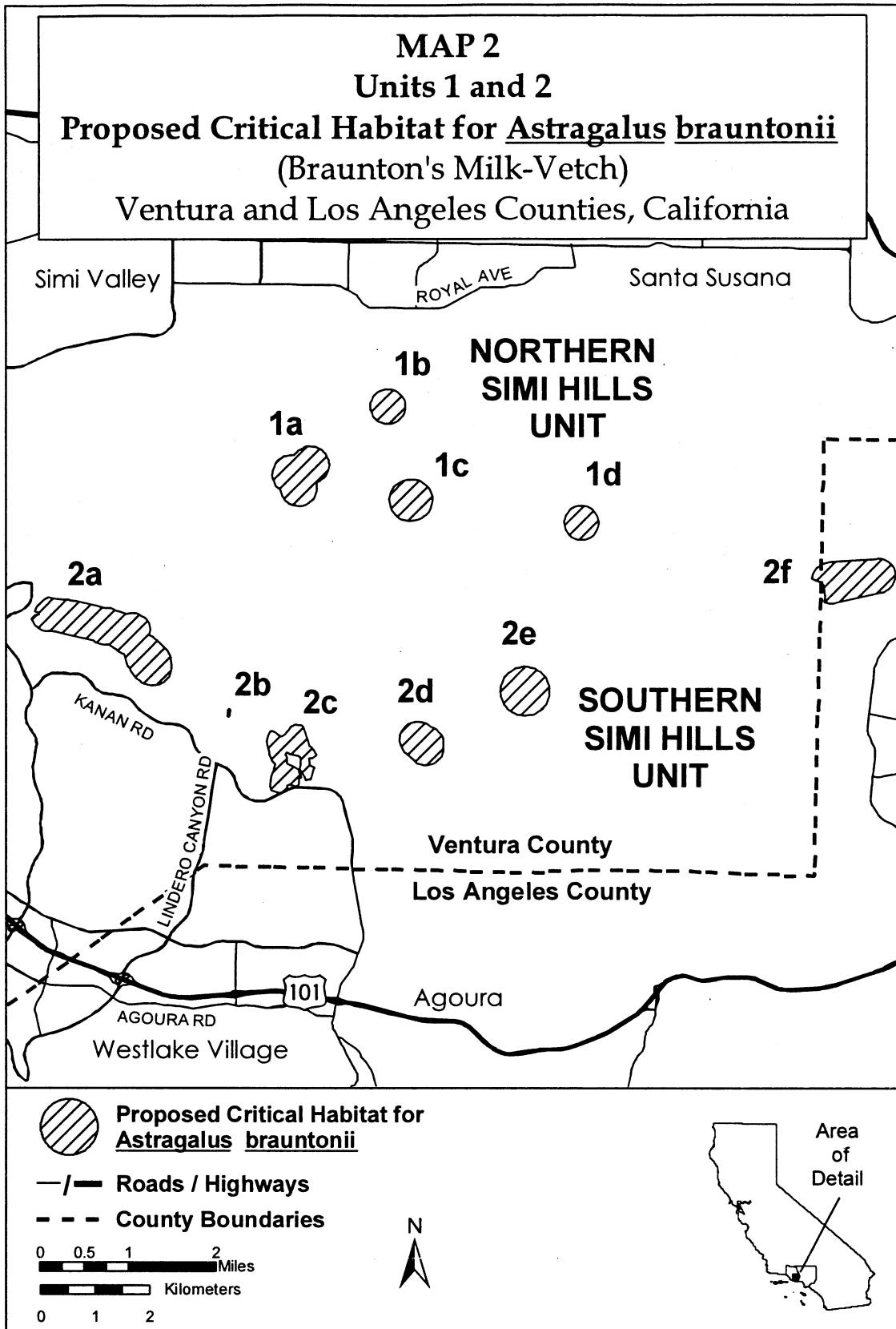
(v) Subunit 2e: From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 340525, 3785443; 340534, 3785527; 340557, 3785607; 340579, 3785653; 340602, 3785692; 340655, 3785757; 340688, 3785787; 340730, 3785818; 340804, 3785857; 340884, 3785881; 340927, 3785888; 340980, 3785891; 341024, 3785888; 341068, 3785881; 341148, 3785856; 341222, 3785817; 341256, 3785792; 341297, 3785756; 341350, 3785691; 341389, 3785617; 341407, 3785567; 341417, 3785525; 341425, 3785442; 341418, 3785358; 341406, 3785308; 341390, 3785266; 341351, 3785192; 341323, 3785155; 341289, 3785118; 341224, 3785066; 341150, 3785026; 341109, 3785011; 341058, 3784998; 340975, 3784991; 340891, 3784999; 340850, 3785009; 340799,

3785027; 340726, 3785067; 340661, 3785119; 340625, 3785159; 340599, 3785194; 340560, 3785268; 340535, 3785348; 340528, 3785399; 340525, 3785443.

(vi) Subunit 2f: From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 346203, 3787499; 346224, 3787565; 346243, 3787605; 346269, 3787645; 346304, 3787686; 346344, 3787721; 346388, 3787750; 346423, 3787767; 346474, 3787785; 346545, 3787797; 347376, 3787853; 347416, 3787858; 347475, 3787856; 347533, 3787843; 347588, 3787818; 347636, 3787783; 347677, 3787740; 347709, 3787689; 347730, 3787632; 347740, 3787573; 347739, 3787527; 347730, 3787475; 347717, 3787437; 347700, 3787401; 347665, 3787353; 347619, 3787306; 347587, 3787282; 347547, 3787259; 347516, 3787247; 347477, 3787236; 346657, 3787048; 346603, 3787040; 346530, 3787041; 346478, 3787051; 346445, 3787061; 346447, 3787169; 346445, 3787293; 346426, 3787376; 346382, 3787428; 346293, 3787460; 346203, 3787499.

(vii) **Note:** Unit 2 for *Astragalus brauntonii* is depicted on Map 2—Units 1 and 2—which follows:

BILLING CODE 4310-55-P



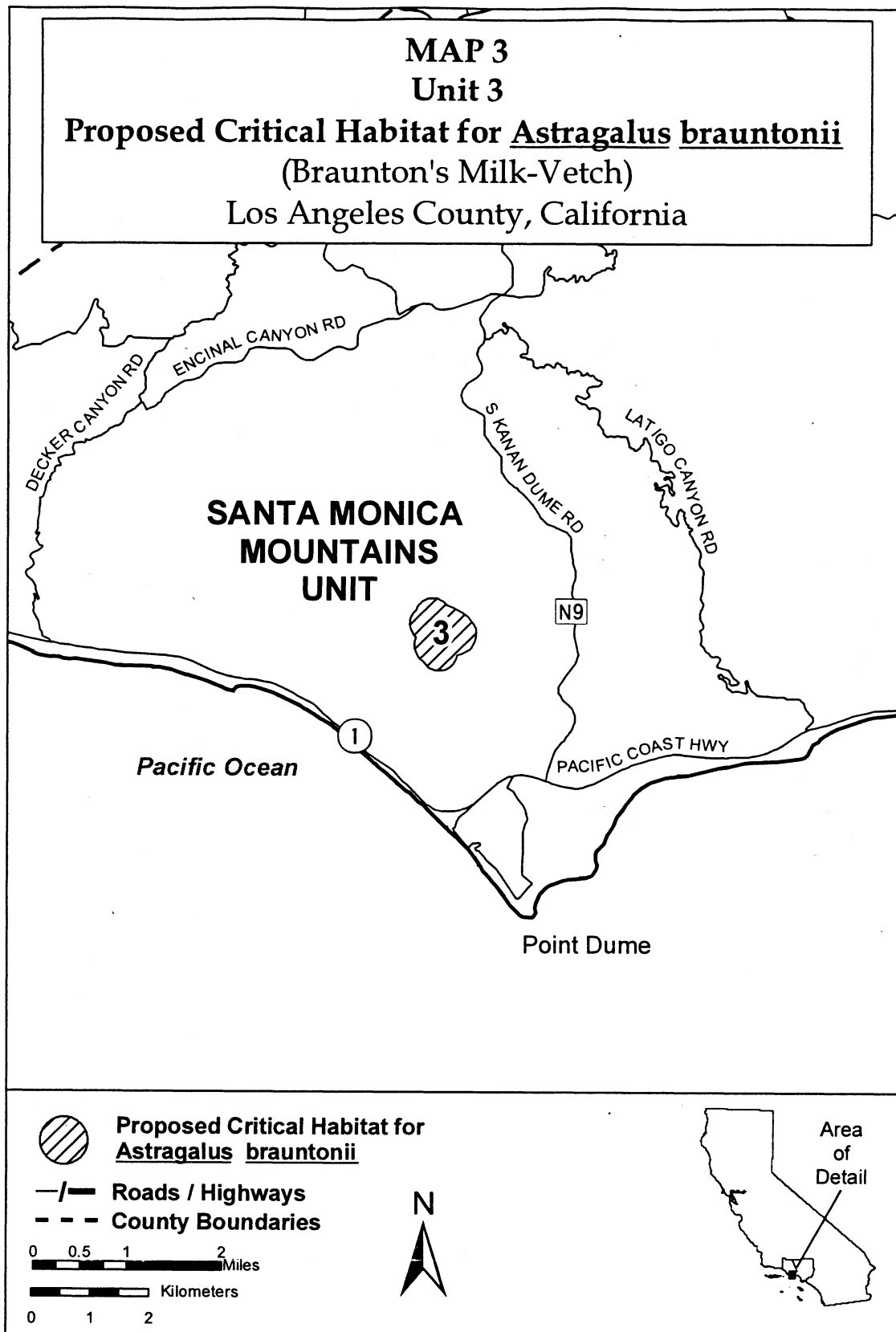
(8) Unit 3 for *Astragalus brauntonii*, Santa Monica Mountains Unit, Los Angeles County, California.

(i) Unit 3: From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331168, 3768692; 331170, 3768732; 331178, 3768771; 331202, 3768832; 331233, 3768881; 331272, 3768921; 331288, 3768960; 331311, 3769000; 331332, 3769026; 331360, 3769054; 331392, 3769079; 331426, 3769098; 331482, 3769120; 331521, 3769127; 331561, 3769130; 331601, 3769127; 331640, 3769120;

331689, 3769102; 331730, 3769079; 331776, 3769041; 331804, 3769010; 331919, 3768962; 332066, 3768881; 332127, 3768839; 332167, 3768801; 332211, 3768752; 332249, 3768696; 332266, 3768661; 332287, 3768601; 332295, 3768563; 332297, 3768524; 332290, 3768450; 332283, 3768412; 332270, 3768375; 332243, 3768323; 332201, 3768268; 332173, 3768240; 332125, 3768206; 332061, 3768174; 332024, 3768161; 331973, 3768152; 331959, 3768093; 331934, 3768038; 331900, 3767990; 331854, 3767947; 331823, 3767927; 331791, 3767911;

331730, 3767892; 331663, 3767886; 331631, 3767889; 331592, 3767896; 331532, 3767919; 331501, 3767937; 331469, 3767962; 331431, 3768002; 331400, 3768050; 331354, 3768082; 331323, 3768113; 331286, 3768165; 331271, 3768197; 331258, 3768235; 331250, 3768274; 331248, 3768314; 331255, 3768382; 331268, 3768423; 331282, 3768454; 331233, 3768502; 331199, 3768557; 331184, 3768594; 331175, 3768624; 331168, 3768692.

(ii) **Note:** Unit 3 (Map 3 for *Astragalus brauntonii*) follows:



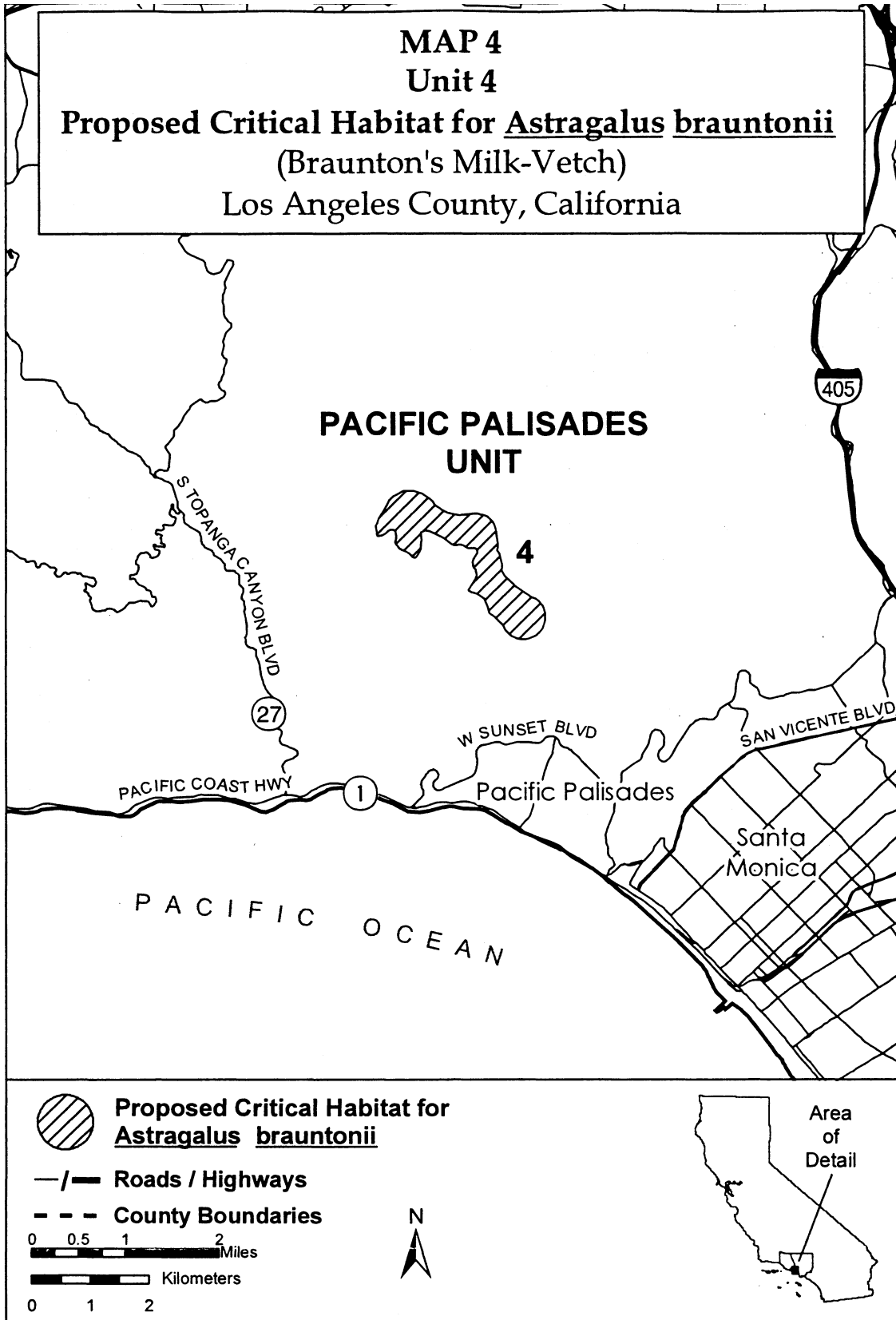
(9) Unit 4 for *Astragalus brauntonii*: Pacific Palisades Unit, Los Angeles County, California.

(i) Unit 4: From USGS 1:24,000 scale quadrangle Topanga. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 355689, 3772332; 355692, 3772371; 355699, 3772409; 355712, 3772454; 355727, 3772490; 355772, 3772569; 355811, 3772617; 355858, 3772714; 355913, 3772798; 355976, 3772866; 356021, 3772903; 356119, 3772955; 356156, 3772968; 356195, 3772975; 356234, 3772978; 356338, 3772971; 356425, 3772950; 356468, 3772931; 356516, 3772904; 356623, 3772829; 356663, 3772786; 356695, 3772734; 356801, 3772649; 356922, 3772594; 357127, 3772555; 357173, 3772568; 357211, 3772573; 357374, 3772580; 357443, 3772577; 357482, 3772572; 357520, 3772562; 357587, 3772531; 357635, 3772497; 357691, 3772438; 357722, 3772388; 357742, 3772333; 357754, 3772270; 357779, 3772064; 357777, 3772005; 357768, 3771958; 357784, 3771933;

357808, 3771884; 357825, 3771827; 357846, 3771692; 357846, 3771653; 357840, 3771605; 357897, 3771504; 358105, 3771318; 358313, 3771166; 358364, 3771149; 358428, 3771115; 358485, 3771069; 358531, 3771013; 358558, 3770967; 358578, 3770918; 358591, 3770866; 358597, 3770816; 358595, 3770755; 358585, 3770703; 358568, 3770652; 358544, 3770605; 358501, 3770546; 358448, 3770497; 358386, 3770458; 358318, 3770432; 358266, 3770422; 358193, 3770420; 358121, 3770431; 358053, 3770456; 358007, 3770483; 357951, 3770528; 357904, 3770584; 357877, 3770630; 357863, 3770664; 357732, 3770798; 357639, 3770863; 357601, 3770984; 357552, 3771121; 357410, 3771202; 357332, 3771226; 357278, 3771255; 357300, 3771301; 357333, 3771340; 357360, 3771395; 357393, 3771449; 357415, 3771526; 357409, 3771581; 357401, 3771617; 357376, 3771641; 357354, 3771668; 357346, 3771747; 357360, 3771794; 357418, 3771889; 357429, 3771916; 357430, 3771940;

357421, 3771960; 357411, 3771975; 357394, 3771986; 357361, 3771991; 357331, 3771991; 357278, 3771981; 357247, 3771996; 357218, 3772022; 357197, 3772033; 357156, 3772046; 357117, 3772046; 357039, 3772030; 356980, 3772059; 356868, 3772150; 356790, 3772191; 356615, 3772271; 356538, 3772284; 356509, 3772273; 356461, 3772259; 356470, 3772138; 356465, 3772043; 356455, 3771985; 356443, 3771947; 356415, 3771884; 356384, 3771834; 356373, 3771821; 356332, 3771825; 356267, 3771885; 356202, 3771924; 356132, 3771955; 356083, 3771989; 356049, 3772028; 356029, 3772068; 356018, 3772112; 356035, 3772161; 356040, 3772210; 356019, 3772272; 356010, 3772288; 355979, 3772303; 355961, 3772306; 355929, 3772303; 355911, 3772295; 355883, 3772262; 355849, 3772233; 355792, 3772204; 355720, 3772183; 355709, 3772213; 355698, 3772251; 355689, 3772332.

(ii) **Note:** Unit 4 (Map 4 for *Astragalus brauntonii*) follows:



(10) Unit 5 for *Astragalus brauntonii*:
Monrovia Unit, Los Angeles County,
California.

(i) Unit 5: From USGS 1:24,000 scale
quadrangle Azusa and Mount Wilson.

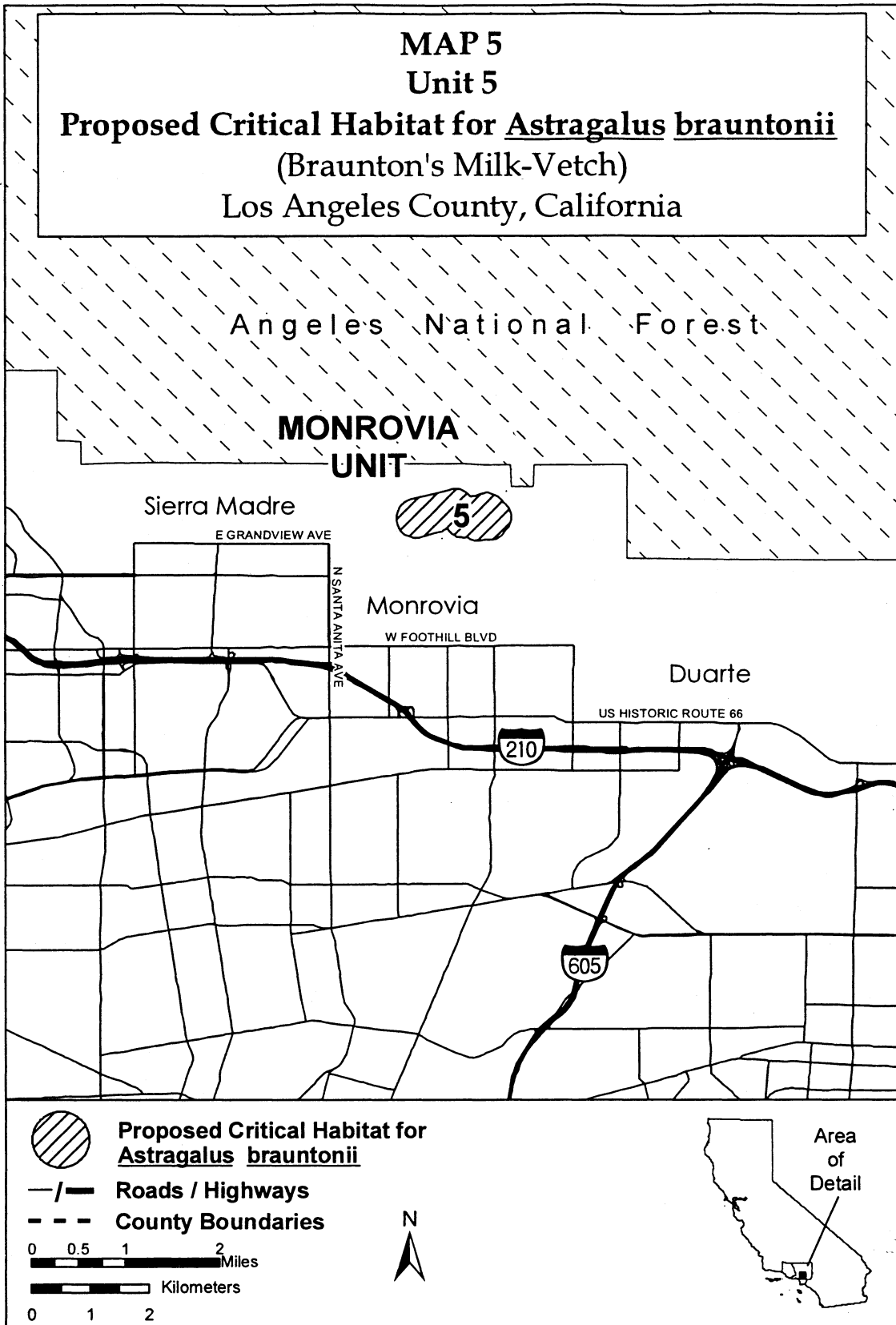
Land bounded by the following UTM
zone 11, NAD83 coordinates (E, N):

405959, 3781594; 405961, 3781633;
405975, 3781691; 405990, 3781727;
406009, 3781761; 406052, 3781816;
406080, 3781843; 406111, 3781867;
406145, 3781887; 406200, 3781908;
406873, 3782076; 406912, 3782084;
406980, 3782087; 407020, 3782085;
407058, 3782077; 407113, 3782057;
407163, 3782025; 407233, 3781959;
407277, 3781964; 407323, 3781964;

407349, 3781978; 407385, 3781993;
407459, 3782014; 407497, 3782019;
407537, 3782019; 407576, 3782014;
407613, 3782003; 407650, 3781988;
407709, 3781953; 407740, 3781929;
407768, 3781902; 407801, 3781856;
407833, 3781828; 407870, 3781783;
407898, 3781731; 407911, 3781694;
407923, 3781633; 407926, 3781594;
407923, 3781555; 407915, 3781516;
407903, 3781479; 407880, 3781433;
407859, 3781400; 407829, 3781367;
407798, 3781325; 407759, 3781285;
407727, 3781261; 407676, 3781233;
407608, 3781213; 407569, 3781208;
407532, 3781207; 407467, 3781215;
407415, 3781201; 407356, 3781195;

407298, 3781201; 407247, 3781215;
407211, 3781230; 407169, 3781255;
407112, 3781249; 407073, 3781252;
407018, 3781263; 406980, 3781275;
406945, 3781293; 406896, 3781327;
406854, 3781367; 406830, 3781398;
406785, 3781386; 406750, 3781351;
406611, 3781322; 406377, 3781250;
406339, 3781243; 406300, 3781240;
406261, 3781243; 406222, 3781250;
406145, 3781281; 406101, 3781305;
406070, 3781329; 406029, 3781372;
406008, 3781405; 405983, 3781458;
405965, 3781536; 405959, 3781594.

(ii) **Note:** Unit 5 (Map 5 for *Astragalus
brauntonii*) follows:



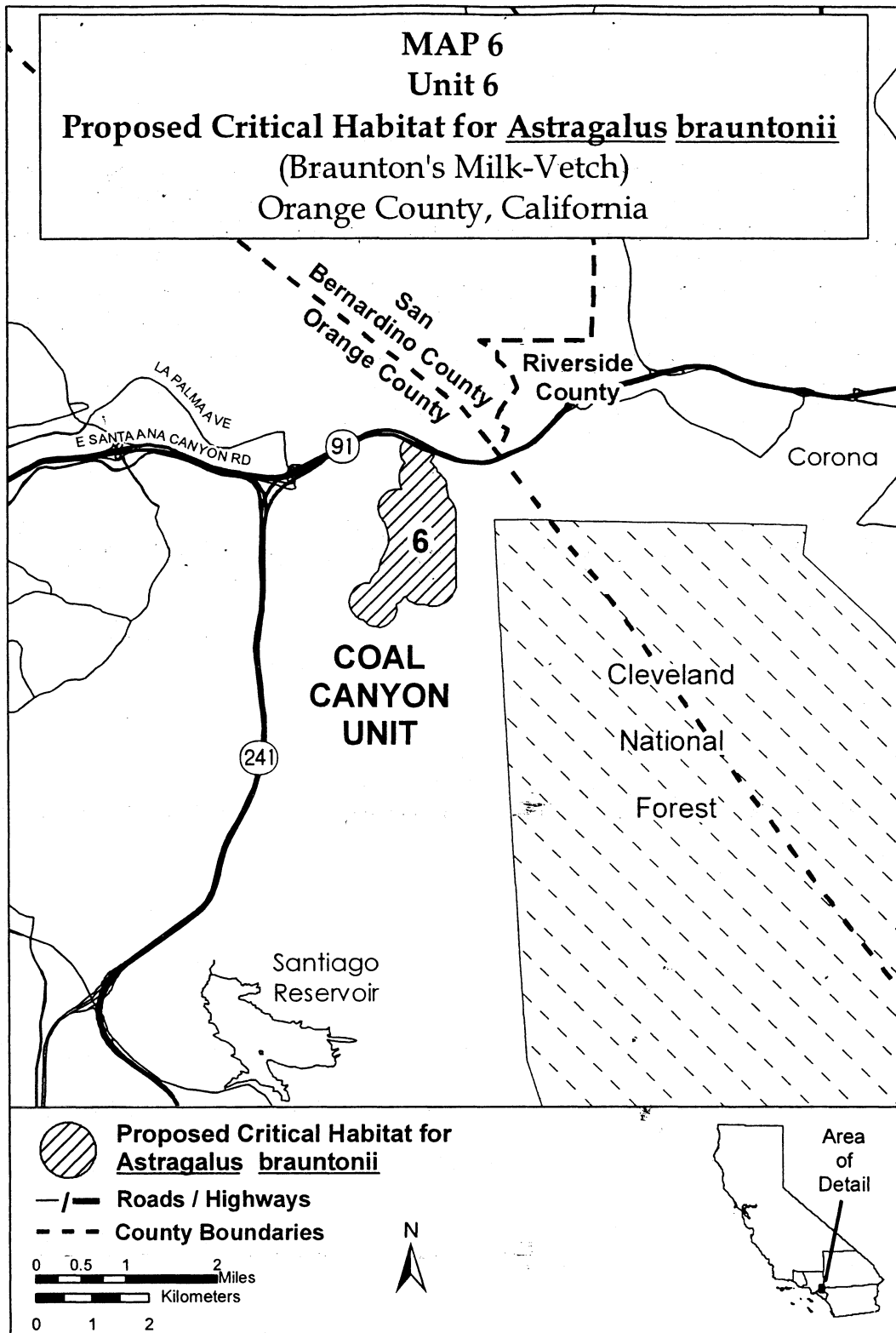
(11) Unit 6 for *Astragalus brauntonii*, Coal Canyon Unit, Orange County, California.

(i) Unit 6: From USGS 1:24,000 scale quadrangle Black Star Canyon. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 435130, 3745354; 435136, 3745413; 435156, 3745482; 435193, 3745550; 435230, 3745595; 435260, 3745621; 435292, 3745643; 435356, 3745672; 435394, 3745682; 435433, 3745688; 435504, 3745686; 435522, 3745747; 435550, 3745799; 435597, 3745858; 435627, 3745884; 435660, 3745906; 435665, 3746005; 435678, 3746062; 435703, 3746115; 435727, 3746152; 435797, 3746305; 435830, 3746399; 435835, 3746517; 435804, 3746647; 435757, 3746783; 435730, 3746811; 435706, 3746842; 435687, 3746876; 435672, 3746912; 435654, 3746983; 435651, 3747037; 435654, 3747076; 435661, 3747114; 435674, 3747152; 435702, 3747204; 435739, 3747249; 435804, 3747304; 435856, 3747331; 435942, 3747359; 436000, 3747369; 436069,

3747367; 436045, 3747421; 436032, 3747478; 436029, 3747531; 436035, 3747641; 436049, 3747698; 436073, 3747752; 436107, 3747800; 436141, 3747832; 436106, 3747873; 436083, 3747913; 436067, 3747950; 436054, 3748008; 436051, 3748048; 436057, 3748107; 436067, 3748146; 436092, 3748201; 436118, 3748238; 436428, 3748073; 436657, 3747997; 436645, 3747950; 436632, 3747919; 436610, 3747879; 436586, 3747847; 436629, 3747812; 436656, 3747784; 436691, 3747736; 436716, 3747680; 436759, 3747649; 436787, 3747621; 436822, 3747579; 436841, 3747545; 436856, 3747508; 436870, 3747451; 436875, 3747396; 436872, 3747354; 436885, 3747323; 436895, 3747285; 436900, 3747246; 436900, 3747206; 436946, 3747163; 436991, 3747102; 437008, 3747067; 437021, 3747031; 437040, 3746948; 437046, 3746876; 437043, 3746564; 437038, 3745615; 437028, 3745577; 436985, 3745483; 436963, 3745451; 436937, 3745421; 436886, 3745373; 436855, 3745349; 436794,

3745317; 436743, 3745296; 436694, 3745282; 436655, 3745277; 436616, 3745277; 436577, 3745282; 436539, 3745292; 436488, 3745315; 436444, 3745309; 436383, 3745308; 436344, 3745314; 436306, 3745324; 436253, 3745348; 436212, 3745374; 436181, 3745398; 436144, 3745437; 436123, 3745451; 436098, 3745412; 436051, 3745361; 436020, 3745337; 435973, 3745312; 435981, 3745236; 435978, 3745197; 435970, 3745150; 435961, 3745118; 435945, 3745082; 435926, 3745048; 435902, 3745017; 435851, 3744970; 435801, 3744939; 435746, 3744918; 435677, 3744908; 435605, 3744909; 435558, 3744918; 435520, 3744931; 435476, 3744953; 435444, 3744974; 435414, 3745000; 435387, 3745031; 435312, 3745058; 435278, 3745078; 435250, 3745099; 435223, 3745123; 435197, 3745153; 435166, 3745203; 435151, 3745239; 435140, 3745277; 435133, 3745315; 435130, 3745354.

(ii) **Note:** Unit 6 (Map 6 for *Astragalus brauntonii*) follows:



* * * * *

Dated: November 1, 2005.
Craig Manson,
Assistant Secretary for Fish and Wildlife and Parks.
[FR Doc. 05-22191 Filed 11-9-05; 8:45 am]
BILLING CODE 4310-55-C