

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R6-ES-2007-0014]

[MO 92210-0-0009]

RIN 1018-AT79

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Salt Creek Tiger Beetle**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service/USFWS), designate critical habitat for the Salt Creek tiger beetle (*Cicindela nevadica lincolniana*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 1,933 acres (ac) (782 hectares (ha)) located in Lancaster and Saunders Counties, Nebraska, fall within the boundaries of the critical habitat designation.

DATES: This rule becomes effective on May 6, 2010.

ADDRESSES: The final rule, final economic analysis, and map of critical habitat are available on the Internet at <http://www.regulations.gov> and <http://www.fws.gov/mountain-prairie/species/invertebrates/saltcreektiger/index.htm>. Supporting documentation we used in preparing this final rule are available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Nebraska Ecological Services Field Office, 203 West Second Street, Federal Building, 2nd Floor, Grand Island, NE 68801; telephone 308-382-6468; facsimile 308-384-6468.

FOR FURTHER INFORMATION CONTACT: John Cochran, Acting Field Supervisor, U.S. Fish and Wildlife Service, Nebraska Ecological Services Field Office, telephone 308-382-6468 (see **ADDRESSES** section). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:**Background**

It is our intent to discuss only those topics directly relevant to the development and designation of critical habitat for the Salt Creek tiger beetle in this final rule. For more information on the biology and ecology of the Salt Creek tiger beetle, refer to the final rule listing the subspecies as endangered that published in the **Federal Register**

on October 6, 2005 (70 FR 58335), proposed critical habitat rule published in the **Federal Register** on December 12, 2007 (72 FR 70716), and revised proposed rule published in the **Federal Register** on April 28, 2009 (74 FR 19167).

Subspecies Information

The Salt Creek tiger beetle is an active, ground-dwelling, predatory insect endemic to saline wetlands and streams in the eastern saline wetlands of Lancaster and Saunders Counties, Nebraska. Saline wetlands occur in swales and depressions, and at one time represented approximately 65,065 acres (ac) (26,342 hectares (ha)) within the floodplain of Salt Creek and its tributaries (Gilbert and Stutheit 1994, p. 5). Saline wetlands are characterized by saline soils and halophytes (plants adapted to saline conditions) and are often associated with a saline stream within the Salt Creek basin (LaGrange 1997, p. 19). Saline wetlands usually have a central area that is devoid of vegetation and, when dry, exhibit salt-encrusted mudflats (barren salt flats) (LaGrange 1997, p. 19).

Channel-straightening projects in the early 1900s (Rus *et al.* 2003, p. 2), and residential, commercial, industrial, infrastructure, and agricultural developments resulted in degradation, loss, and fragmentation of saline wetland and stream habitats. These modifications have had a negative impact on the Salt Creek tiger beetle, an insect adapted to saline wetland and stream ecosystems (Ratcliffe and Spomer 2002, p. 5).

As recently as 1994, six populations of Salt Creek tiger beetles were distributed along Oak, Little Salt, and Rock Creeks (Spomer *et al.* 1999, p. 1). Since 1994, half of these populations have been extirpated and the remaining three extant populations are all located along a single waterway: Little Salt Creek (Spomer *et al.* 2004, p. 2). The two largest populations along Little Salt Creek exist within 1 mile (mi) (1.61 kilometer (km)) of each other in an area on the north side of Lincoln, Nebraska, where extensive urban growth and development has already occurred and continues. The proximity of these remaining populations to one another greatly increases the threat of subspecies' extinction because a single stochastic event could cause the loss of these remaining habitats or populations. In 2004, the number of adult Salt Creek tiger beetles declined by 25 percent from 2003 (Spomer *et al.* 2004, pp. 1-2). In 2005, only 153 adult Salt Creek tiger beetles were found, a 73 percent decline from 2004, and the lowest count in the

past 12 years of surveys (Spomer 2005, pers. comm.). In 2006, 466 Salt Creek tiger beetles were found, representing a 300 percent increase and demonstrating the dynamic nature of annual insect populations (Spomer 2006, pers. comm.). However, in 2007, the population number had declined by approximately half, to 263 adults (Spomer 2007, pers. comm.). In 2008, 165 adult Salt Creek tiger beetles were detected during surveys (Spomer 2008, pers. comm.).

Previous Federal Actions

The final rule to list the Salt Creek tiger beetle as endangered was published in the **Federal Register** on October 6, 2005 (70 FR 58335). We stated that critical habitat was prudent and determinable, however, we did not designate critical habitat at the time of listing because we were in the process of identifying the physical and biological features essential to the conservation of the Salt Creek tiger beetle. We published a proposed rule to designate critical habitat in the **Federal Register** on December 12, 2007 (72 FR 70716). On June 3, 2008, we published a notice in the **Federal Register** to reopen the comment period and announce a public hearing (73 FR 31665). On April 28, 2009, we published a revised proposed rule in the **Federal Register** to include an additional 138 ac (56 ha) as critical habitat and reopened the public comment period (74 FR 19167). We have not yet developed a recovery plan for the Salt Creek tiger beetle.

Summary of Comments and Recommendations

We requested written comments from the public and contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule, draft environmental assessment, and draft economic analysis (Draft EA) during three comment periods. The first comment period opened on December 12, 2007, the date of publication of the proposed rule (72 FR 70716), and closed on February 11, 2008. We received two requests for a public hearing during this comment period. On June 3, 2008, we reopened the comment period until July 11, 2008, and announced that a public open house and hearing would be held on July 1, 2008, in Lincoln, Nebraska (73 FR 31665). On April 28, 2009, we reopened the comment period until May 28, 2009, and announced our proposal to include an additional 138 ac (56 ha) as critical habitat for the Salt Creek tiger

beetle along Little Salt Creek in Units 1, 2, and 3 (74 FR 19167).

During the first comment period, we received six comment letters directly addressing the proposed critical habitat designation: two from peer reviewers, one from a local government agency, two from private organizations, and one from an individual. During the second comment period, we received seven comment letters directly addressing the proposed critical habitat designation: one from a State agency, one from a peer reviewer, one from a private business, two from private organizations, and two from individuals. We also accepted comments from three peer reviewers between the two comment periods. During the public hearing, five speakers presented their comments relative to the proposed rule to designate critical habitat. During the third comment period, we received one comment letter directly addressing our proposal to include an additional 138 ac (56 ha).

We reviewed all comments we received during all three comment periods and at the public hearing for substantive issues and new information regarding the designation of critical habitat for the Salt Creek tiger beetle. We address these comments in the following summary, and have incorporated them into the final rule as appropriate.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from 10 knowledgeable individuals with scientific and economic expertise with the subspecies, the geographic region in which the subspecies occurs, the economic analysis, and relative conservation biology principles. We received responses from 6 of the 10 peer reviewers.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer commented that we should include a segment of Little Salt Creek in the critical habitat designation because it contains the largest known population of the Salt Creek tiger beetle.

Our Response: We agree that we should include that segment of Little Salt Creek in the designation, and we have included an additional 138 ac (56 ha) of critical habitat (74 FR 19167) that includes that segment. In recognition of the importance of saline seeps to the Salt Creek tiger beetle, we have included currently occupied segments of Little Salt Creek within the critical habitat units. We solicited comments from the public on the addition of these

areas in the **Federal Register** (74 FR 19167).

(2) *Comment:* One peer reviewer commented that the proposed rule contained no discussion of the role of groundwater in supplying the needed salinity to wetlands which sustain the Salt Creek tiger beetle, nor does the proposed rule use groundwater discharge locations or regional flow conditions to designate critical habitat areas. The peer reviewer also recommended making reference in the proposed rule to the saline recharge area and its influence on saline habitats used by the Salt Creek tiger beetle. The peer reviewer also suggested the inclusion of buffer areas encompassing saline wetlands or implementation of restrictions to limit the amount of freshwater intrusion in saline wetland habitats.

Our Response: We agree with the peer reviewer about the importance of discussing and considering groundwater, salinity, and saline recharge areas and their involvement in maintaining habitat for this subspecies. However, groundwater that supplies the needed salinity to saline wetland habitats, groundwater discharge locations, and regional flow conditions were not used to identify critical habitat areas, because this information is currently not available at the resolution required to identify critical habitat boundaries. We will continue to carefully consider the influence of groundwater discharge during the development of a recovery plan for the Salt Creek tiger beetle.

We also concur with the peer reviewer's comment that buffers provide an important function to prevent excess freshwater and sediment intrusion into saline wetland habitats. Freshwater intrusion is a threat to the habitat; however, a critical habitat designation is not the proper forum for implementing restrictions to prevent freshwater and sediment intrusion that result from impacts outside of the critical habitat boundaries. Site-specific recommendations to address freshwater and sediment intrusion can be developed when the Service reviews proposed Federal actions that may impact saline wetlands and streams within the critical habitat areas. For example, Federal actions that are proposed to occur outside of the boundaries of critical habitat, but could still result in the destruction or adverse modification of critical habitat, would be considered a component of the effects analysis when the Service conducts a review of a proposed Federal action.

(3) *Comment:* One peer reviewer indicated that he and other biologists familiar with the Salt Creek tiger beetle believed that 15,000 ac (6,070 ha) should be included in the critical habitat designation based on site inspections, geographic information system analyses, soil maps, and an evaluation of the presence of the primary constituent elements at each of these sites. However, the peer reviewer said that we proposed only 1,742 ac (705 ha) as critical habitat in the proposed rule. Five public commenters also stated that the proposed rule falls short of that which is essential for the conservation of the Salt Creek tiger beetle. A peer reviewer questioned our scientific rationale for the decrease in acreage and further pointed out that having multiple critical habitat units in multiple stream systems reduces the risk of extinction.

Our Response: An evaluation completed by a team of biologists identified approximately 15,000 ac (6,070 ha) of habitat that could potentially be critical habitat for the Salt Creek tiger beetle. Critical habitat is defined in section 3(5)(A) of the Act as: (1) 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 that are essential to the conservation of the species and which may require special management considerations or protection; and (2) Specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. We are designating all the areas occupied by the subspecies at the time of listing because we determined that they contain the physical and biological features essential to the conservation of the subspecies, and that they require special management considerations and protection. In delineating critical habitat we focused on: (1) Areas known to be occupied that contain the primary constituent elements in the appropriate quantity and spatial arrangement that form the features essential for the conservation of the tiger beetle; or (2) unoccupied areas that are essential to conservation of the Salt Creek tiger beetle.

We determined that most of the 15,000 ac (6,070) do not presently have the ability to support sustainable populations of beetles. For example, we eliminated the Oak Creek, Middle Creek/Haines Branch, Ashland, Upper Salt Creek, and Roca areas from further consideration because these areas contain degraded saline wetlands and

stream segments, and are currently unable to support the Salt Creek tiger beetle. Further, with the exception of Oak Creek, we have no information that the Salt Creek tiger beetle ever inhabited these areas. We also eliminated palustrine (inland wetland lacking flowing water) freshwater wetlands and contiguous stream segments between populations from further consideration because these areas may not presently have the ability to support sustainable populations of beetles. Our evaluation conducted for the proposed rule resulted in the identification of 1,795 ac (727 ha) of habitat that are essential for the conservation of the Salt Creek tiger beetle. Subsequent to further evaluation and based upon the comments received, we now include an additional 138 ac (56 ha) of stream habitat along Little Salt Creek in Units 1, 2, and 3 to encompass occupied habitat, protect saline seeps, and ensure that a movement corridor is maintained for the beetle. This inclusion increases the area of critical habitat to 1,933 ac (782 ha).

We agree that multiple areas should be considered to reduce the risk of extinction that could be conveyed to a single population of the Salt Creek tiger beetle. Ensuring the existence of a potential refugium in a different watershed than the three currently occupied units is essential to the conservation of the subspecies, should an event or series of events threaten the existence of the remaining three populations. Consequently, we have identified a currently unoccupied area on Rock Creek (associated with the Jack Sinn Wildlife Management Area of the Nebraska Game and Parks Commission (NGPC)) as an additional unit for final critical habitat designation. This area was known to be occupied as recently as 1998 (Spomer *et al.* 2001, p. 1) and contains all the features essential to the conservation of the subspecies. We do not include other saline wetlands in the critical habitat designation based on a determination that they are not essential to the conservation of the subspecies, because they do not contain the features essential to the conservation of the subspecies and do not support sustainable populations of the Salt Creek tiger beetle. However, with restoration efforts, these areas could be important for the recovery of the Salt Creek tiger beetle.

(4) *Comment:* One peer reviewer recommended the inclusion of additional unoccupied areas as critical habitat to augment currently available habitat for the Salt Creek tiger beetle that is under heavy development pressure.

Our Response: We have included an additional 138 ac (56 ha) of habitat along Little Salt Creek in Units 1, 2, and 3 in the critical habitat designation to increase the final designation from 1,795 to 1,933 ac (727 to 782 ha). This additional acreage includes an area along Little Salt Creek currently occupied by the Salt Creek tiger beetle, and currently under heavy development pressure, and protects important saline seep and movement corridor habitats along Little Salt Creek for the subspecies. Regarding the inclusion of unoccupied habitat, see our response to Comment 3 above.

Public Comments

Comments related to the rationale for determining acreage of critical habitat

(5) *Comment:* One commenter stated that we did not provide scientific rationale for how the proposed designation would allow for the recovery and long-term maintenance of the Salt Creek tiger beetle.

Our Response: Designation of critical habitat in and of itself will likely not ensure the recovery and long-term maintenance of the Salt Creek tiger beetle. Designation of critical habitat; preparation and implementation of a recovery plan; and partnerships with private landowners; State, Federal, and local resource agencies; and city and county entities will support important long-term recovery goals. We believe the final critical habitat designation is adequate in size and distribution to provide for the conservation and recovery of the Salt Creek tiger beetle.

Comments related to inclusion of occupied habitat and movement corridors as critical habitat

(6) *Comment:* Three commenters pointed out that we did not include all populations of the Salt Creek tiger beetle in the proposed rule, and that proposed critical habitat areas along Little Salt Creek are too fragmented and do not provide corridors for movement of the Salt Creek tiger beetle. Three commenters stated that the proposed rule acreage is inadequate in distribution to provide for the protection of extant populations and recovery of the subspecies.

Our Response: Information we received during the public comment period identified that habitats occupied by the Salt Creek tiger beetle were not included in our proposed critical habitat designation. Consequently, as discussed in our response to Comment 1, we have added another 138 ac (56 ha) to the final critical habitat designation. In regard to the commenter's assertion about

fragmentation, this additional area includes an area currently occupied by the Salt Creek tiger beetle that contains important saline seep and movement corridor habitats along Little Salt Creek (Units 1, 2, and 3). Furthermore, the critical habitat designation includes an unoccupied area along Rock Creek (Unit 4) that includes saline seep and movement corridor habitats. We believe that the final critical habitat designation is sufficient in size and distribution to provide for the conservation and recovery of the Salt Creek tiger beetle. We do not include other saline wetlands in the area in the critical habitat designation due to their inability to provide the PCEs in the appropriate quantity and spatial arrangement that form the features essential to the conservation of the subspecies, and to support a sustainable population of the Salt Creek tiger beetle.

(7) *Comment:* One commenter stated that saline wetlands are dependent on a highly saline source of groundwater that mixes with surface water to create saline wetland complexes. The protection of critical habitat must consider those factors outside of the immediate saline habitat that impact the entire saline wetland.

Our Response: Although groundwater is always recognized as an important factor in the ecology of saline wetlands and streams, little research is currently available to ascertain the influence of groundwater on the saline and stream system. However, we will carefully consider the influence of groundwater during the development of a recovery plan for the Salt Creek tiger beetle. Federal actions that are proposed to occur outside of the boundaries of critical habitat, but could still adversely affect critical habitat through groundwater impacts, can still be considered a component of the effects analysis when we conduct a review of a proposed Federal action to determine whether the proposed action would destroy or adversely modify critical habitat.

(8) *Comment:* One commenter stated that maps showing critical habitat are unclear and acreage stated in the proposed rule is inconsistent with that stated in the press release.

Our Response: The maps shown in the proposed rule lacked readily identifiable landmarks making identification of critical habitat difficult. In response to this, we prepared maps showing individual property parcels and the proposed critical habitat boundaries and made several sets of these maps available for public review at the public open house and hearing. The area in the proposed rule 1,795 ac

(727 ha) is correct, whereas the area reported in the press release was in error. In recognition of this, we provided the correct acreage during media interviews and during a presentation and informal discussions at the public open house and hearing on July 1, 2008, in Lincoln, Nebraska. This final rule contains the correct area for the designation.

(9) Comment: A commenter suggested we recognize that local government agencies, including the City of Lincoln and the Lower Platte South Natural Resource District, as part of the Saline Wetland Conservation Partnership, own or control 221 ac (89 ha) of proposed critical habitat.

Our Response: We appreciate the suggestion and have made the appropriate addition to Table 1 of this rule.

(10) Comment: One commenter inquired if other areas in Kansas and Oklahoma were available where the Salt Creek tiger beetle could be introduced.

Our Response: The Salt Creek tiger beetle is endemic to the eastern saline wetland complex of Nebraska and survives under a narrow set of habitat characteristics that must include saline and stream habitats, appropriate hydrology, a prey base for adults and larvae, and movement corridors. We are considering possible future reintroductions of the Salt Creek tiger beetle at other saline wetlands in the eastern saline wetland complex of Nebraska. However, we are not considering other States because suitable habitat is not available and they are not known to be part of the historic range of the subspecies.

(11) Comment: One commenter stated the proposed critical habitat does not provide the primary constituent elements (PCEs) needed to support existing populations.

Our Response: In delineating critical habitat, we included areas either known to be occupied and containing the features essential to the conservation of the subspecies, or believed to be unoccupied but determined to be essential to conservation of the subspecies. The critical habitat designation provides the essential features identified as the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the subspecies. We discuss the PCEs for the Salt Creek tiger beetle in the “Physical and Biological Features” section below.

(12) Comment: A commenter requested that we provide written assurances that their private business would not be affected by the critical habitat designation.

Our Response: We cannot provide written assurances that the designation of critical habitat will not affect privately owned businesses because privately owned businesses can receive a Federal permit, funding, or authorization in the future. Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. The designation of critical habitat does not allow the government or public to access private lands, nor does it require implementation of restoration, recovery, or enhancement measures by private landowners.

Comments related to the economic analysis (EA)

(13) Comment: One peer reviewer stated that the estimated economic impacts of the critical habitat designation are unrealistically high given the lack of actual land sale transaction data used in the evaluation and failure to consider whether the land included in the proposed designation is developable. Additionally, the peer reviewer and two public commenters recommended consideration of environmental amenities in the Draft EA, including flood control and conveyance, benefits to other wildlife species, protection of green space, the development of public recreation areas, the increase in real estate values resulting from proximity to green space, increased revenues to the city in terms of visits by the public for wildlife viewing and outdoor recreation, generally increased recreational and amenity values, and increases in commodity prices.

Our Response: We disagree with the peer reviewer’s assertion that the estimated economic impacts of the critical habitat designation are unrealistically high. The Final EA relies upon land value data provided by the Lancaster County Assessor Department. These values are based on parcel market value assessments on comparable sales and its “special value” (i.e., agricultural value) assessments are based on soil types and production capabilities. Therefore, the land values used take into account all characteristics of the land, including any development restrictions.

In regard to accrued environmental amenities or benefits, where sufficient information is available, the Final EA attempts to measure costs imposed on landowners or other users of the resource, less any offsetting gains experienced by these individuals associated with these conservation efforts.

The analysis does not attempt to incorporate broader social and economic net benefits that may result incidentally from species conservation. The primary purpose of the rulemaking is the potential to enhance conservation of the species. As stated in the Draft EA, “[r]ather than rely on economic measures, the Service believes that the direct benefits of the proposed rule are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking.” Thus, the Service utilizes cost estimates from the economic analysis as one factor against which biological benefits are compared during the weighing process under section 4(b)(2) of the Act. The Service agrees that, to the extent that additional economic and social benefits such as protection of green space and development of public recreation areas, improvement of flood control, and enhanced quality of life, result from conservation measures for the beetle, such improvements could also benefit human communities.

(14) Comment: One commenter stated that the Draft EA assumes critical habitat designation will include a 500-foot wide buffer, and all cropland included in critical habitat will be converted to pasture following critical habitat designation. The commenter pointed out that this assumption is incorrect, because the 500-foot buffer was put into place by the Lincoln-Lancaster County Planning Department, and is not required by the critical habitat designation. Further, the conversion of cropland to pasture is not a requirement of critical habitat, so this land use conversion assumption is not supported. The commenter also suggested the economic analysis should consider existing development restrictions, given that most of the proposed critical habitat is located within the 100- to 500-year floodplain.

Our Response: The Final EA acknowledges some measures that protect the Salt Creek tiger beetle from development impacts, such as the 500-foot wide buffer, were in place prior to the designation of critical habitat, and are not solely for conservation of the subspecies (ENTRIX 2008a, p. 16). The Final EA clearly distinguishes between the “without critical habitat” and “with critical habitat” scenarios in Appendix

F. The “without critical habitat” scenario represents the baseline for the analysis, considering protections already accorded the subspecies, such as those under the Federal listing and other Federal, State, and local regulations. The “with critical habitat” scenario describes the incremental impacts associated specifically with the designation of critical habitat for the subspecies. The incremental conservation efforts and associated impacts are only those expected to occur from the designation of critical habitat for the subspecies. The costs associated with the protection of the saline wetlands, including the 500-foot buffer, are considered baseline impacts (ENTRIX 2008a, p. 21).

Given the federally listed status of the Salt Creek tiger beetle, landowners are likely to take necessary steps to avoid take of the species, to be in compliance with the Act. While all levels of crop cultivation may result in take of the beetle, grazing on pasture lands may result in take only if carried out beyond a certain threshold (i.e., overgrazing) (70 FR 58335, October 6, 2005). Given that the critical habitat mostly consists of saline wetlands and is not considered productive agricultural land, most landowners are likely to use their lands as pasture rather than cropland. Therefore, the Final EA’s consideration of this land-use conversion in the economic analysis is reasonable.

In response to the commenter’s assertion on development restrictions, the economic analysis relies upon land value data provided by the Lancaster County Assessor Department. These values are based on parcel market value assessments on comparable sales, and the County’s “special value” (i.e., agriculture value) assessments are based on soil types and production capabilities (ENTRIX 2008a, p. 19). Therefore, the land values used take into account all characteristics of the land, including any development restrictions.

(15) *Comment:* One commenter stated that the public was unable to access the draft environmental assessment and Draft EA for review and comment.

Our Response: The proposed rule (72 FR 70716) and the two documents that reopened the comment period (73 FR 31665; 74 FR 19167) indicated that the documentation for the proposed rule, including the Draft EA and draft environmental assessment, was available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at our Nebraska Ecological Services Field Office. We included a mailing address and phone number for

the office for anyone seeking further information.

Summary of Changes from the Proposed Rule

We added another 138 ac (56 ha) of habitat to the original proposal, increasing the final critical habitat from 1,795 to 1,933 ac (727 to 782 ha). This additional area has been determined to contain features essential to the conservation of the subspecies along Little Salt Creek in Units 1, 2, and 3, and includes important saline seep and movement corridor habitats for the subspecies along Little Salt Creek. We are finalizing the following final critical habitat designation in accordance with section 4(b)(2) of the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) essential to the conservation of the species and

(b) which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing activities that result in the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect 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 the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner seeks or requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the Federal action agency’s and applicant’s obligation under section 7(a)(2) of the Act is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

To be included in a critical habitat designation, habitat within the geographical area occupied by the species at the time it was listed must contain the physical and biological features that are essential to the conservation of the species, and will be included only if those features may require special management considerations or protection. Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the physical and biological features laid out in the appropriate quantity and spatial arrangement for the conservation of the species). Under the Act and regulations at 50 CFR 424.12, we can designate critical habitat in areas outside the geographical area occupied by the species at the time of listing as critical habitat only when we determine that the best available scientific data demonstrate that the designation of those areas is essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data

available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that are important to the conservation of the species, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented by the Service and other Federal agencies under section 7(a)(1) of the Act. They may also be subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency 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 (HCPs), or other species conservation planning efforts if new information available at the time these planning efforts calls for a different outcome.

Physical and Biological Features

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and the regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features essential to the conservation of the species that

may require special management considerations or protection. We consider the essential physical or biological features to be the primary constituent elements (PCEs) laid out in the appropriate quantity and spatial arrangement for the conservation of the species. These include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing (or development) of offspring; and
- (5) Habitats that are protected from disturbance or are representative of the historic, geographical, and ecological distributions of a species.

We derive the PCEs required for the Salt Creek tiger beetle from its biological needs as described below and in the proposed rule to designate critical habitat published in the **Federal Register** on December 12, 2007 (70 FR 70716). Additional information can also be found in the final listing rule published in the **Federal Register** on October 6, 2005 (70 FR 58335).

Space for Individual and Population Growth and for Normal Behavior

Space and Dispersal Requirements

Salt Creek tiger beetles require non-vegetated stream banks and mid-channel areas, located adjacent to and between saline stream edges and barren salt flats in saline and freshwater wetlands, to allow movement for thermoregulation, hunting, and dispersal. Salt Creek tiger beetles move between habitats consisting of saline wetlands and streams (Allgeier *et al.* 2003, pp. 6-7), but open salt flats must be separated by a reasonable dispersal distance for the subspecies (Gowan and Knisley 2005, p. 9). Two Salt Creek tiger beetles were documented moving distances of 1,509 and 1,198 feet (ft) (460 and 365 meters (m)), respectively, between a saline stream and saline wetland, through a small assemblage of saline banks, presumably to meet the life requirements described above (Allgeier *et al.* 2003, pp. 6-7). Salt Creek tiger beetles also have been observed moving among salt flats and seeps along saline stream edges, using barren mid-channel and scoured bank habitats (Spomer 2005, pers. comm.; Harms 2003, pers. comm.). Mid-channel habitats and scoured bank lines are created through natural hydrological processes in streams with sufficient

flow to cause sediment scour, transport, and redeposition. Salt Creek tiger beetles can disperse from one mid-channel bar to the next, which enables them to move up and down stream courses in response to habitat changes. These short-range movement corridors are necessary to repopulate areas extirpated due to habitat loss or extreme weather events (Murphy *et al.* 1990, pp. 41-51; Fahrig and Merriam 1994, pp. 50-59; Ruggiero *et al.* 1994, pp. 364-372; Noss 2002, pp. 10-19).

The Salt Creek tiger beetle probably has some long-range dispersal capability, an adaptation that has been documented in other tiger beetle species and is thought to enable colonization of transient or well-separated habitat that may be important for long-term species survival (USFWS 1994, p. 15). Although we have no data on long-range dispersal distances, the approximately 14-mi (22-km) separation between previously occupied habitats on Oak and Rock Creeks suggests that the Salt Creek tiger beetle may be capable of some level of aerial dispersal. Other tiger beetle species are capable of long-range dispersal. For example, mark-recapture studies completed for the Northeastern beach tiger beetle (*Cicindela dorsalis*) resulted in the recovery of marked tiger beetles 5 to 12 mi (8 to 19 km) from sites where they were marked (USFWS 1994, p. 15). Puritan tiger beetles (*C. puritana*) are known to have dispersed distances of 25 to 30 mi (40 to 48 km) from known populations (USFWS 1993, p. 12). A population viability analysis for the Puritan tiger beetle in the Chesapeake Bay region also supports the theory that tiger beetles are capable of aerial dispersal (Gowan and Knisley 2005, pp. 8-22). In that analysis, the authors modeled beetle dispersal among subpopulations using data from the Northeastern beach tiger beetle (*C. dorsalis*). They concluded that populations less than 4 mi (6 km) apart tended to exchange individuals, which decreases the risk of extinction by allowing extant subpopulations to repopulate nearby extirpated areas (Gowan and Knisley 2005, p. 11).

We consider both short-range and long-range dispersal distances to be important factors in identifying features and habitats essential for the conservation of the Salt Creek tiger beetle. However, because specific data are not available to precisely define either short-range or long-range dispersal distances for this subspecies, we find that the best available science is Gowan and Knisley's (2005, pp. 8-22) study results, which indicate that Puritan tiger beetle populations separated by less than 4 mi (6 km) can

exchange individuals. We conclude that areas providing suitable habitat, located on more than a single stream, and separated by a maximum of 4 mi (6 km), should be maintained for the subspecies in order to decrease the risk of extinction by allowing extant subpopulations to exchange individuals and to repopulate nearby extirpated areas.

Based on the information above, we identify non-vegetated streambanks and mid-channel areas, located adjacent to and between saline stream edges and barren salt flats in saline and freshwater wetlands, in assemblages that are within 4 mi (6 km) of one another as a PCE for this subspecies.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Moist, Barren Salt Flats

Salt Creek tiger beetles require moist, barren salt flats for thermoregulation, reproduction, and foraging. Tiger beetle species are generally habitat-specific because of oviposition (the act of laying eggs) and larval sensitivities to soil moisture, salinity (measured by electroconductivity), composition, and temperature (Pearson 1988, pp. 136-137; Pearson and Cassola 1992, p. 380). In field measurements, Salt Creek tiger beetles were found using areas with a mean soil electroconductivity of 2,504.1 conductivity per meter (mS/m), with a lower confidence limit of 2,016.0 mS/m and an upper confidence limit of 2,992.2 mS/m (Allgeier 2005, p. 72). Field measurements also demonstrate that Salt Creek tiger beetles prefer mean soil moistures of 47.6 percent, with a lower confidence limit of 43.5 percent and an upper confidence limit of 51.7 percent (Allgeier 2005, p. 72). The ability to occupy areas with specific habitat requirements (such as soil salinities and moisture levels) enables Salt Creek tiger beetles to coexist among conspecific or congeneric tiger beetles that have different specific habitat requirements.

These reported soil salinity and moisture preferences are available within saline wetland and stream habitats in the Salt Creek basin. The following discussion provides specific details about saline soils, evaporative processes, and recharge zones required to create and maintain moist, barren salt flats within saline wetlands and streams.

(a) Saline soils—Salmo and Saltillo soils or Lamo, Gibbon-Saltine, Obert, and Zoe soils with Salmo and Saltillo inclusions provide salt in sufficient content to result in the creation of salt

barrens (U.S. Department of Agriculture 1980, p. 93). The Salt Creek tiger beetle is found in association with Salmo soils (Allgeier 2005, p. 18), and probably is also found in association with Saltillo soils when barren salt flats are present. Although Salmo and Saltillo soils are known to contain sufficient salt to result in the creation of salt barrens, Salmo soils tend to be better drained than Saltillo soils (NRCS 2009, pp. 3, 6). However, for the purpose of this rule, we will consider both of these classes of soils to be used by the Salt Creek tiger beetle. Soils in stream channels are not mapped because they can take on saline characteristics as they pass through areas with the saline soils described above, or through areas that may have historically contained saline soils (e.g., urban areas where the saline soils were covered over by fill materials and thus not mapped).

(b) Evaporation—The soils identified above must have electroconductivity within the range of 2,016.0 mS/m to 2,992.2 mS/m to be used by the Salt Creek tiger beetle. In addition, the process of evaporation also must occur to create exposed salt on the soil surface, resulting in the formation of barren salt flats. Specifically, evaporation of groundwater (through differential hydraulic pressures) and surface water from the soils listed above results in the creation of a thin salt crust on the soil surface (Schainost 2005, pers. comm.).

(c) Recharge Zone—Freshwater and saline wetlands contiguous with Salt Creek tiger beetle habitat function as a recharge zone for barren salt flats and stream banks by regulating surface water flows that are often charged with sediment and freshwater. Without recharge zones, barren salt flats and stream banks required by Salt Creek tiger beetles do not persist (LaGrange 2005, pers. comm.; Stutheit 2005, pers. comm.). A reduction in salinity concentration can result in the germination of aggressive invasive species such as cattail (*Typha angustifolia*) and reed canarygrass (*Phalaris arundinacea*), which are tolerant of a somewhat reduced salt content. These plant species shade previously open, sunny areas (i.e., barren salt flats and stream banks) required by Salt Creek tiger beetles for thermoregulating, foraging, and ovipositing (Fritz 2001, pers. comm.). Changes in salinity and hydrology may alter the abundance of prey and cause the loss of suitable larval habitat for saline wetland/stream-dependent tiger beetles, including the Salt Creek tiger beetle (Hoback *et al.* 2000, pp. 184-186). Increased vegetative encroachment is

the primary factor attributed to the extirpation of several populations of other *Cicindela* species (e.g., *C. abdominalis* and *C. debilis*) (Knisley and Hill 1992, pp. 135-142), and is one of the main threats to the endangered Ohlone tiger beetle (*C. ohlone*) (66 FR 0340).

Based on the information above, we identify moist, barren salt flats with appropriate soil characteristics to be a PCE for this subspecies.

Water Availability and Hydrologic Regime

Salt Creek tiger beetles require water to prevent larval desiccation, to maintain moist conditions at larval burrows for breeding and foraging activities, and for drinking (Spomer and Higley 1993, p. 396). Adult Salt Creek tiger beetles are confined to moist, muddy areas within a few meters of wetlands and stream edges, and larval burrows are only found in association with hydrated salt flats located along saline stream edges and saline wetlands (Spomer 2005, pers. comm.). A natural hydrologic regime resulting in annual high flows in saline streams in the early spring and summer is essential to maintain these areas, and to provide groundwater or surface water sources for the Salt Creek tiger beetle. Further, natural elevation changes in groundwater levels are important to hydrate saline wetlands located on the floodplain.

Larvae of the Salt Creek tiger beetle have adapted to elevated flows, inundation, and anaerobic conditions resulting from precipitation events that can occur during the summer (e.g., localized thunderstorms). This adaptation is thought to provide access to limited prey resources in areas where other predacious insects cannot compete; in addition, it may help the Salt Creek tiger beetle avoid parasites and other insect predators (e.g., robberflies) after flows recede (Hoback 2005, pers. comm.). Salt Creek tiger beetle larvae likely plug their burrows and switch from aerobic to anaerobic respiration to avoid short-duration inundation by floods (Spomer 2005, pers. comm.). Although no studies have confirmed these hypotheses, Hoback *et al.* (1998, p. 31) found that larvae of *Cicindela togata*, a tiger beetle found in close association with the Salt Creek tiger beetle, were able to survive without oxygen for an average of 6 days at 25 °C (57 °F). An adaptation to survive without oxygen during floods may allow the Salt Creek tiger beetle to persist along stream systems subject to regular flooding cycles. Brust *et al.* (2005, pp. 11-16) concluded that *C.*

hirticollis is able to survive along river systems subject to regular flooding cycles because its larvae could survive several days of hypoxia, although extended inundation results in decline of the species.

Based on the information above, we identify a natural hydrologic regime resulting in annual high flows in saline streams in the early spring and summer, and natural elevation changes in groundwater levels to hydrate saline wetlands located on the floodplain as a PCE for this subspecies.

Prey Availability

Salt Creek tiger beetles require an abundant and diverse prey base consisting of flying and non-flying invertebrates. Tiger beetles have been observed to eat insects from many orders and families (Larochelle 1974, pp. 21-43). Most common are prey belonging to the orders Coleoptera, Orthoptera, Hemiptera, Hymenoptera, Odonata, Diptera, and Lepidoptera. Ants (Formicidae) are the most commonly observed prey of adult Salt Creek tiger beetles in the field (Allgeier 2005, p. 5). Although adults can prey on a greater diversity of available prey than larvae, both adults and larvae are predators of similar-sized insects. Adults can capture flying insects; larval prey consists only of insects and arthropods living on the soil surface that wander within striking distance of their burrows (Allgeier 2005, p. 5; Spomer 2005, pers. comm.). Typical prey of larval tiger beetles includes dragonflies (Shelford 1908, pp. 157-184; McNamara 1922, pp. 241-246; Smith 1971, p. 80), millipedes (Labonte and Johnson 1988, pp. 53-54), earthworms, and amphibians (Larochelle and Lariviere 2001, pp. 41-122).

Based on the information above, we identify the presence of abundant and diverse flying and non-flying invertebrate prey species as a PCE for this subspecies.

Primary Constituent Elements (PCEs) for the Salt Creek Tiger Beetle

Under the Act and its implementing regulations, we are required to identify the physical and biological features within the geographical area occupied by the Salt Creek tiger beetle at the time of listing, that are essential to the conservation of the subspecies, and which may require special management considerations or protection. The physical and biological features are those PCEs laid out in a specific spatial arrangement and quantity determined to be essential to the conservation of the subspecies. We are designating critical habitat in areas within the geographical

area occupied by the subspecies at the time of listing, and continue to be occupied today, and that contain the PCEs in the quantity and spatial arrangement to support life history functions essential for the conservation of the subspecies. We are designating areas outside the geographical area occupied by the subspecies at the time of listing that are not occupied, but are essential to the conservation of the subspecies.

We believe conservation of the Salt Creek tiger beetle is dependent upon multiple factors, including the conservation and management of areas to maintain "normal" ecological functions where existing populations survive and reproduce. The areas designated as critical habitat provide all of the physical or biological features essential for the conservation of the subspecies. Based on the above needs and our current knowledge of the life history, biology, and ecology of the subspecies and the habitat requirements for sustaining the essential life history functions of the subspecies, we have determined the PCEs for the Salt Creek tiger beetle are:

(1) Non-vegetated streambanks and mid-channel areas, located adjacent to and between saline stream edges and barren salt flats in saline and freshwater wetlands, in assemblages that are within 4 mi (6 km) of one another.

(2) Moist, barren salt flats with:

(a) Salmo and Saltillo soils or Lamo, Gibbon-Saltine, Obert, and Zoe soils with Salmo and Saltillo inclusions;

(b) Soil electroconductivity ranging from 2,016.0 mS/m to 2,992.2 mS/m;

(c) Soil moisture ranging from 43.5 percent to 51.7 percent; and

(d) Differential hydraulic pressures that create evaporation and result in exposed salt on soil surfaces.

(3) A natural hydrologic regime resulting in annual high flows in saline streams in the early spring and summer, and natural elevation changes in groundwater levels to hydrate saline wetlands located on the floodplain.

(4) The presence of abundant and diverse flying and non-flying invertebrate prey species belonging to the orders Coleoptera, Orthoptera, Hemiptera, Hymenoptera, Odonata, Diptera, or Lepidoptera.

With this designation of critical habitat, we intend to conserve the physical and biological features that are essential to the conservation of the subspecies, through the identification of the appropriate quantity and spatial arrangement of the PCEs sufficient to support the life history functions of the subspecies. All occupied units designated as critical habitat contain the

PCEs in the appropriate quantity and spatial arrangement essential to the conservation of this subspecies and support multiple life processes for the Salt Creek tiger beetle.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing that contain the physical and biological features essential to the conservation of the species may require special management considerations or protection. Special management is required in these areas to reduce threats. Threats common to all four critical habitat units for the Salt Creek tiger beetle include: (a) Stream channelization and bank armoring; (b) wetland draining and filling (including excessive sedimentation); (c) excessive freshwater input; and (d) overgrazing (70 FR 58335, October 6, 2005). The first three of the above threats are caused primarily by urban development and agricultural practices in the watershed.

Stream channelization and bank armoring projects in the area of all four critical habitat units have resulted in headcutting (a sharp break in the profile of a stream which forms an in-channel scarp called a headcut) and entrenchment (lowering of the stream bed into a restricted channel) of Little Salt and Rock Creeks. These impacts have the effect of lowering the water table in the local area, resulting in the drainage of adjacent saline and freshwater wetlands. The ultimate effect has been the gradual lowering of the water table and subsequent loss of evaporation processes essential for the development of moist, barren salt flats. Stream entrenchment, a direct consequence of stream channelization and bank armoring projects, has resulted in bank sloughing along saline streams. Bank sloughing, in turn, smothers saline seeps and salt flats used by Salt Creek tiger beetles. Bank armoring projects in all four units have resulted in smothered barren salt flats and seeps along saline streams. Stream channelization and bank armoring continue to be significant threats to Salt Creek tiger beetles in all four critical habitat units.

Wetland draining and filling projects, including ditch excavation and drainage tile installation, substantially affect Salt Creek tiger beetle habitat, rendering formerly occupied habitat unusable. In addition, these projects often lead to the conversion of wetlands to other land uses (e.g., hay production or pasture, and urban development), thereby

limiting restoration potential. Saline and freshwater wetlands have been filled as a result of sediment deposits from local runoff events. These deposits contain excessive nutrients, encouraging colonization by aggressive, invasive vegetation that is tolerant of saline conditions (i.e., cattail or reed canarygrass).

Excessive surface water runoff from nearby development has resulted in the dilution of saline wetlands, loss of barren salt flats, and modifications to site hydrological characteristics. Excessive sediment or freshwater runoff can encourage vegetation encroachment on barren salt flats, reducing the long-term viability of the area for Salt Creek tiger beetle use. These impacts have occurred on all four critical habitat units.

Livestock with access to saline streams trample larvae and larval habitat on salt-encrusted soil surfaces associated with barren salt flats and seeps. Livestock continue to pose a significant threat to Salt Creek tiger beetles, primarily because too many animals are often grazed in a given area, and they are not prevented from lingering in stream habitat.

Additionally, overgrazing can encourage soil erosion and smothering of larval habitat in saline wetland and saline stream edges. Adverse impacts from excessive livestock grazing have occurred at the Upper Little Salt Creek North and Little Salt Creek—Arbor Lake Units.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific and commercial data available in determining within the geographical area occupied at the time of listing the specific areas on which are found the features essential to the conservation of the Salt Creek tiger beetle which may require special management considerations or protection, as well as determining if any specific areas outside the geographical area occupied by the subspecies are essential for the conservation of the Salt Creek tiger beetle. Important sources of information included the available literature and information from biologists with the NGPC and University of Nebraska at Lincoln.

We also have reviewed available information that pertains to the habitat requirements of this subspecies, including material and data from reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; research published in peer-reviewed

articles and presented in academic theses and agency reports; and regional Geographic Information System coverages.

The Salt Creek tiger beetle has one of the most restricted ranges of any insect in the United States (Spomer and Higley 1993, p. 392), and the habitat currently occupied by the subspecies is highly limited and isolated. Surveys conducted over a 15-year period establish that the Salt Creek tiger beetle is extremely rare, numbering only in the low hundreds, and confined to three small populations along a single drainage (Little Salt Creek) in eastern Nebraska (see the October 6, 2005, final listing rule for more information on population status of the Salt Creek tiger beetle (70 FR 58335)). Because of low population numbers and the limited number of populations, both of which place the subspecies at a high risk of extinction and make it highly susceptible to stochastic events, designated critical habitat includes all three extant populations. The close proximity of the three currently occupied areas on Little Salt Creek (within 4 mi (6.4 km) of each other) increases the risk of extinction of the subspecies due to a single human or natural event. Therefore, it is essential to the conservation of the subspecies to ensure the existence of a potential refugium in a different watershed than the three currently occupied units, should an event or series of events threaten the existence of the remaining three populations.

We have identified a currently unoccupied area on Rock Creek (associated with the Jack Sinn Wildlife Management Area of the NGPC) as an additional unit for critical habitat designation. This area was known to be occupied as recently as 1998, and contains all the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the subspecies. The Jack Sinn—Rock Creek Unit (Unit 4) is a location where the subspecies can be reintroduced, and where it would not be susceptible to human or natural events that occur on Little Salt Creek. We include this one unoccupied unit per section 3(5)(A)(ii) of the Act, which states that critical habitat means “specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.” We have determined that the Jack Sinn-Rock Creek Unit is essential for the conservation of the subspecies (see the *Unit 4 - Jack Sinn—Rock Creek* description below for

discussion of why we find this area to be essential). We did not designate any other unoccupied areas because there are no other unoccupied areas that we have determined to be essential to the conservation of the subspecies.

In determining boundaries of critical habitat units, we applied the following deductive rule set to identify four specific complexes of saline wetlands and streams that provide the features essential to the conservation of the Salt Creek tiger beetle:

(1) As a first step, we used the Resource Categorization Study (RCS), depicted as a Geographic Information System data layer by Gilbert and Stutheit (1994, pp. 1-24), to identify saline wetland complexes within the Salt Creek tiger beetle’s historic range. The boundaries of the RCS encompass the Eastern Nebraska Saline Wetland Complex, which is the beetle’s historic range.

(2) Within the RCS boundaries, we then identified existing saline wetlands containing the features essential to the conservation of the Salt Creek tiger beetle. This was done by conducting site reconnaissance and reviewing aerial photography.

(3) We also identified saline stream segments flowing through the saline wetlands, as represented by National Hydrography Data and further refined with aerial photography.

(4) We then identified areas currently or recently occupied by the Salt Creek tiger beetle within saline wetland and stream complexes.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as buildings, paved areas, and other structures that lack features essential to the conservation of the Salt Creek tiger beetle. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in this final rule and are not designated as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation with respect to critical habitat and the requirement of no destruction or adverse modification, unless they may affect the subspecies or features essential to the conservation of the subspecies in adjacent critical habitat. In the future, we will be able to distinguish structures that existed at the time of this critical habitat designation

from structures created since designation by using detailed aerial imagery maps. Detailed aerial imagery maps from the time of critical habitat designation can be compared to future aerial imagery maps or on-the-ground observations to determine structures created since the designation.

Our final designation of critical habitat includes four units—three occupied by the subspecies at the time of listing in 2005 (and currently occupied) and that contain the PCEs in the appropriate quantity and spatial

arrangement essential to the conservation of the subspecies, and one area outside of the geographical area occupied at the time of listing (but known to be occupied as recently as 1998) that we have determined to be essential for the conservation of the subspecies.

Final Critical Habitat Designation

We are designating four units as critical habitat for the Salt Creek tiger beetle. The critical habitat areas described below constitute our current

and best assessment of areas that meet the definition of critical habitat for the Salt Creek tiger beetle. The four areas designated as critical habitat are: (1) Upper Little Salt Creek North, (2) Little Salt Creek—Arbor Lake, (3) Little Salt Creek—Roper, and (4) Jack Sinn—Rock Creek. Table 1 provides approximate areas (ac/ha), land ownership, and occupancy status of these units determined to meet the definition of critical habitat for the Salt Creek tiger beetle.

TABLE 1. CRITICAL HABITAT UNITS FOR THE SALT CREEK TIGER BEETLE.

Critical Habitat Unit	State Ownership (ac/ha)	Private Ownership (ac/ha)*	Total (ac/ha)	Current Population Status
1. Upper Little Salt Creek North	74/30	253/102	327/132	Occupied at time of listing and currently occupied
2. Little Salt Creek—Arbor Lake	0/0	232/94	232/94	Occupied at time of listing and currently occupied
3. Little Salt Creek—Roper	11/4	335/136	346/140	Occupied at time of listing and currently occupied
4. Jack Sinn—Rock Creek	629/255	399/161	1,028/416	Unoccupied at time of listing and currently unoccupied
TOTAL	714/289	1,219/493	1,933/782	

* This category includes lands owned by the City of Lincoln, Lower Platte South Natural Resources District, and individual private property owners.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the Salt Creek tiger beetle, below.

Unit 1 - Upper Little Salt Creek North, Lancaster County, Nebraska

Unit 1 consists of 327 ac (132 ha) of occupied Salt Creek tiger beetle habitat located approximately 5.5 mi (8.8 km) north of the Interstate 80 and North 27th Street interchange in Lincoln, Nebraska. It is 4.5 mi (7.2 km) upstream from Unit 2 (Little Salt Creek—Arbor Lake). The unit includes 3.1 mi (4.9 km) of Little Salt Creek, and consists of a saline stream and wetland complex extending along the floodplain of Little Salt Creek. The final acreage has increased by 20 ac (8 ha) since the December 12, 2007, proposed critical habitat rule (72 FR 70716), to ensure all areas that are occupied by the Salt Creek tiger beetle are included as critical habitat, and to ensure the inclusion of saline seep and movement corridor habitats along Little Salt Creek. The additional 20 ac (8 ha) were included in the April 28, 2009, revised proposed rule, to include an additional total of 138 ac (56 ha) as critical habitat (74 FR 19167). The unit provides habitat for the third largest existing population of the subspecies. This unit was occupied at the time of listing and contains all of the PCEs in the appropriate quantity and spatial

arrangement essential to the conservation of the subspecies. The area is located away from commercial and residential developments associated with the City of Lincoln, Nebraska. Recently, a large parcel of land was acquired in this area by the NGPC. Other large parcels of land within this unit consist of saline wetland and stream complex habitats located along Little Salt Creek, and owned by The Nature Conservancy. Special management is required to address impacts from livestock overgrazing, stream entrenchment resulting from downstream channelization of Little Salt Creek, and ditching used to drain adjacent saline wetlands (70 FR 58335). Bank sloughing in response to stream entrenchment has likely covered over saline habitats located along the banks of Little Salt Creek.

Unit 2 - Little Salt Creek—Arbor Lake, Lancaster County, Nebraska

Unit 2 consists of 232 ac (94 ha) of occupied Salt Creek tiger beetle habitat located approximately 1 mi (1.6 km) north of the Interstate 80 and North 27th Street interchange on the northern city limits of Lincoln, Nebraska. The unit includes 1.53 mi (2.5 km) of Little Salt Creek, and has a large, relatively intact saline wetland and stream complex located within the Little Salt Creek floodplain. The final area has increased

by 61 ac (25 ha) since the December 12, 2007, proposed critical habitat rule (72 FR 70716) to ensure all areas that are occupied by the Salt Creek tiger beetle are included as final critical habitat and to ensure the inclusion of saline seep and movement corridor habitats along Little Salt Creek. The additional 61 ac (25 ha) were included in the April 28, 2009, revised proposed rule, to include an additional total of 138 ac (56 ha) as critical habitat (74 FR 19167). This unit provides habitat for the largest population of Salt Creek tiger beetles and contains all of the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the subspecies. It was occupied at the time of listing. The abundance of Salt Creek tiger beetles in this unit is supported by the large saline wetland and stream complex within the Little Salt Creek floodplain. As such, this unit contains features that are essential to the conservation of the subspecies. Special management is required to reduce surface runoff and sedimentation from adjacent development activities, to reduce bank sloughing, and to address severe channel entrenchment of Little Salt Creek in adjacent saline wetlands (70 FR 58335). Excess freshwater and sediment has smothered saline habitats to the detriment of the Salt Creek tiger beetle. Other threats to the Little Salt Creek—

Arbor Lake Unit include livestock trampling and row crop agriculture (70 FR 58335). Little Salt Creek is severely entrenched in this area, resulting in the loss of several saline wetlands located along the floodplain.

Unit 3 - Little Salt Creek—Roper, Lancaster County, Nebraska

Unit 3 consists of 346 ac (140 ha) of occupied Salt Creek tiger beetle habitat located immediately south of the Interstate 80 and North 27th Street Interchange, north of the confluence of Little Salt and Salt Creeks, and approximately 1 mi (1.6 km) downstream of Unit 2 (Little Salt Creek—Arbor Lake). The unit includes 2.8 mi (4.5 km) of Little Salt Creek, and consists of a saline stream and wetland complex along the floodplain of Little Salt Creek. The final area has increased by 57 ac (23 ha) since the December 12, 2007, proposed critical habitat rule (72 FR 70716), to ensure all areas that are occupied by the Salt Creek tiger beetle are included as final critical habitat, and to ensure the inclusion of saline seep and movement corridor habitats along Little Salt Creek. The additional 57 ac (23 ha) were included in the April 28, 2009, revised proposed rule, to include an additional total of 138 ac (56 ha) as critical habitat (74 FR 19167). Unit 3 contains all of the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the subspecies and supports the second largest population of Salt Creek tiger beetles. This unit contains features that are essential to the conservation of the subspecies and was occupied at the time of listing. Special management is required to reduce surface water runoff and sediment transport from adjacent development activities, and to reduce channelization, stream entrenchment, and bank sloughing (70 FR 58335).

Unit 4 - Jack Sinn—Rock Creek, Lancaster and Saunders Counties, Nebraska

To reduce the risk of extinction of the Salt Creek tiger beetle, we included an additional critical habitat area along Rock Creek, an area where the Salt Creek tiger beetle has been extirpated. Unit 4 consists of 1,028 ac (416 ha) of unoccupied Salt Creek tiger beetle habitat located approximately 3 mi (5 km) southeast of the City of Ceresco, Nebraska, and east of Highway 77. It is 8.5 mi (13.7 km) upstream from the confluence of Rock and Salt Creeks. Unit 4 includes 10.62 mi (17.1 km) of Rock Creek, and consists of a saline stream and wetland complex along the floodplain of Rock Creek and has been

determined to be essential to the conservation of the subspecies. The final area figure for Rock Creek remains a total of 1,028 ac (416 ha).

Because Units 1, 2, and 3 (currently occupied) are all on the same stream, and within close proximity of each other (Units 2 and 3 are separated by less than 1 mi (1.6 km)), the threat of the subspecies' extinction is greatly increased as a result of a natural or manmade event such as a chemical spill, drought, flood, or other event that would affect all three units at the same time. Such an event could cause the loss of remaining populations and render the habitat unsuitable. Local extinctions caused by habitat deterioration and stochastic weather events are frequent for insects, such as the Salt Creek tiger beetle, whose life histories are characterized by short generation time, small body size, high rates of population increase, and high habitat specificity (Murphy *et al.* 1990, pp. 41-51; Ruggerio *et al.* 1994, pp. 364-372). When developing conservation strategies for such species, the scientific community has stressed that greater emphasis should be placed on the maintenance of multiple populations as opposed to just protecting single reservoir populations (Murphy *et al.* 1990, pp. 41-51; Howe *et al.* 1991, pp. 251-253). For example, the recovery plan for the Puritan tiger beetle (*Cicindela puritana*), a species with a life cycle similar to the Salt Creek tiger beetle, states that multiple metapopulations (consisting of several subpopulations) need to be protected to sustain the species (USFWS 1993, p. 21).

In the case of the Salt Creek tiger beetle, we have determined that establishment of multiple populations on different stream systems would lower overall extinction risk by lowering the risk from catastrophic events on a single stream, and by enabling repopulation following localized extinctions, which is comparable to conservation strategies used for other listed invertebrate species (Murphy *et al.* 1990, pp. 41-51). Our conclusion that populations should be distributed among separate stream systems addresses risks of adverse habitat impacts and weather events on a few populations located in close proximity to each other. Therefore, we have determined that an additional population located on a separate stream is essential to the conservation of the Salt Creek tiger beetle. We further conclude that the currently unoccupied Jack Sinn—Rock Creek Unit is essential for the conservation of the Salt Creek tiger beetle, because it is the site where a reintroduced population would have

the best opportunity to survive and grow. The unit is large and contains the PCEs in the appropriate quantity and spatial arrangement essential to the conservation of the subspecies. Furthermore, unlike other areas with extirpated Salt Creek tiger beetle populations, such as those in the Oak Creek drainage where residential and commercial development have made reintroduction of the Salt Creek tiger beetle infeasible, this unit is associated with the Jack Sinn Wildlife Management Area of the NGPC, is located in an area of primarily agricultural activity, and therefore faces fewer threats.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat. Decisions by the court of appeals for the Fifth and Ninth Circuits have invalidated our definition of "destruction or adverse modification" (50 CFR 402.02) (see *Gifford Pinchot Task Force v. U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club v. U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain those PCEs that relate to the ability of the area to periodically support the species) to serve its intended conservation role for the species.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. We define "Reasonable and prudent alternatives" at 50 CFR 402.02 as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying 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 a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action (such as discretionary involvement or control over the action is authorized by law). Consequently, Federal agencies may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect the Salt Creek tiger beetle or its designated critical habitat require section 7 consultation under the Act. Activities on State, Tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from us under section 10 of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are

subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species, or retain those PCEs that relate to the ability of the area to support the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that appreciably reduces the conservation value of critical habitat for the Salt Creek tiger beetle. As discussed above, the role of critical habitat is to support the life history needs of the species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and, therefore, should result in consultation for the Salt Creek tiger beetle include, but are not limited to:

(1) Actions that would result in stream channelization and bank armoring. Such activities could include, but would not be limited to, stream channelization and bank armoring projects located in Little Salt and Rock Creeks and their associated tributaries. These activities could result in the loss of moist, barren salt flats through physical smothering, bank sloughing, or hydrological modification along Little Salt and Rock Creeks. Such activities could result in lowering of the water table and the gradual drainage of floodplain saline wetlands. Further, these types of activities could result in modification of the prey base for adult and larval forms of the Salt Creek tiger beetle and elimination of movement corridors necessary to complete life history requirements and to repopulate extirpated areas.

(2) Actions that would result in input of excessive freshwater runoff and sediment into saline streams and wetlands. Such activities could include, but would not be limited to, adjacent

commercial, industrial, and residential developments and associated infrastructure, and construction or upgrade of utilities, including storm sewers. Such activities could result in the transport of sediment and freshwater into saline habitats that are required by the Salt Creek tiger beetle. Excessive freshwater and sediment could smother moist, barren salt flats and encourage vegetation growth. Excessive freshwater runoff and sediment could result in the loss of larval habitat through physical scouring or flooding, smothering with sediment, and conversion to a vegetated state.

(3) Actions that would result in wetland drainage and filling. Such activities could include agricultural, commercial, industrial, and residential land uses and infrastructure to support them. The effects of wetland loss would include the loss of: (a) Moist, barren salt flats; (b) the prey base for larval and adults forms of the Salt Creek tiger beetle; (c) the recharge capacity of adjacent wetlands that function to meter surface flows and capture sediment and freshwater runoff; and (d) the ability of the Salt Creek tiger beetle to move among saline streams and wetlands to meet life history requirements.

(4) Actions that would result in trampling and overgrazing by livestock. Such activities could occur as a result of agricultural land uses. Livestock trample moist, barren salt flats, resulting in the destruction of larvae and larval burrows.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

- An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;
- A statement of goals and priorities;
- A detailed description of management actions to be implemented to provide for these ecological needs; and
- A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and

applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: "The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

There are no Department of Defense (DOD) lands with a completed INRMP within the critical habitat designation. Therefore, no lands have been exempted from this critical habitat designation under section 4(a)(3) of the Act.

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, we may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and determine whether the

benefits of exclusion outweigh the benefits of inclusion. If based on this analysis, we make this determination, then we can exclude the area only if such exclusion would not result in the extinction of the species.

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the DOD where a national security impact might exist. Lands within the designation of critical habitat for Salt Creek tiger beetle are not owned or managed by the DOD and, therefore, anticipate no impact to national security. There are no areas excluded from critical habitat based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors including whether the landowners have developed any HCPs or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any Tribal issues, and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this rule, we have determined that there are currently no completed HCPs or other management plans for the Salt Creek tiger beetle, and the designation does not include any Tribal lands or trust resources. We anticipate no impact to Tribal lands, partnerships, or completed HCPs from this critical habitat designation. There are no areas excluded from this designation based on other relevant impacts.

Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft analysis of the economic impacts of the critical habitat designation and related factors. The draft analysis (dated July 17, 2007) was made available for public review between December 12, 2007, and February 11, 2008 (72 FR 70716). We reopened the comment period and provided a second opportunity for public review of the economic analysis between June 3, 2008, and July 11, 2008

(73 FR 31665). We received public comments related to the draft economic analysis. A final analysis (dated October 31, 2008) of the potential economic effects of the designation was then prepared taking into consideration any relevant new information (ENTRIX 2008a, entire). A memorandum was later prepared (dated November 19, 2008; ENTRIX 2008b, entire) that reported the economic impacts associated with the revised proposed critical habitat designation that included an additional 138 ac (56 ha) as critical habitat for the Salt Creek tiger beetle.

The economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. The economic analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land-use activities can exist in the absence of critical habitat. These impacts may result from, for example, section 7 consultations under the jeopardy standard, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies.

Of all the activities, development is expected to be impacted the most by the designation of critical habitat through development restrictions in the area in and around Lincoln, Nebraska. Conservation activities implemented for the benefit of the Salt Creek tiger beetle also are expected to have an economic impact through anticipated land acquisition, compensation for conservation easements, habitat management, and restoration projects. Preparation of an HCP for the beetle, impacts to transportation and public works projects, and agricultural impacts are also anticipated, but these anticipated impacts are relatively small.

The total potential post-designation economic impacts of species conservation efforts (costs attributable to both species listing and the critical habitat designation, estimated from 2008-2027) in the areas designated as critical habitat for the Salt Creek tiger beetle are estimated at \$20.5 to \$22.6 million assuming a 7 percent discount rate (ENTRIX 2008b, p. 2). In annualized terms, potential costs are estimated to range between \$1.6 and \$1.8 million per year employing a 7 percent discount rate (ENTRIX 2008b, p. 2).

The total incremental impacts of the critical habitat designation (costs

attributable to the designation alone, estimated from 2008-2027) are estimated at \$254,000 to \$256,000 using a 7 percent discount rate (ENTRIX 2008b, p. 2). In annualized terms, potential incremental costs of the designation are estimated to be \$23,000 per year at a 7 percent discount rate (ENTRIX 2008b, p. 2).

The total baseline impacts (costs attributable to listing alone, estimated from 2008-2027) are anticipated to occur absent any critical habitat designation for the species. The baseline costs of species conservation efforts in areas designated as critical habitat are estimated to range between \$20.1 and \$22.1 million assuming a 7 percent discount rate (ENTRIX 2008b, p. 2). In annualized terms, potential baseline costs are estimated to range between \$1.6 and \$1.8 million per year at a 7 percent discount rate (ENTRIX 2008b, p. 2).

After consideration of the impacts under section 4(b)(2) of the Act, the Secretary has determined not to exercise his discretion to exclude any areas from the final critical habitat designation based on the identified economic impacts, which showed that no group was unduly impacted. The final economic analysis is available for downloading from the Internet at <http://www.regulations.gov>, or <http://www.fws.gov/mountain-prairie/species/invertebrates/saltcreektiger/index.htm>, or upon request from the Nebraska Ecological Services Field Office (see ADDRESSES section).

Required Determinations

Regulatory Planning and Review—Executive Order 12866

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

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

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

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

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

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

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must 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 (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 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. In this final rule, we are certifying that the critical habitat designation for the Salt Creek tiger beetle will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

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

To determine if the designation of critical habitat for the Salt Creek tiger beetle could significantly affect a substantial number of small entities, we consider the number of small entities

affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting). We consider each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the subspecies is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the Salt Creek tiger beetle (see Section 7 Consultation section). Federal agencies also must consult with us if their activities may affect critical habitat. Therefore, designation of critical habitat could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see Application of the "Adverse Modification" Standard section).

The economic analysis for the Salt Creek tiger beetle evaluates the potential for economic impacts related to several categories, including: (1) Land development; (2) development of the Salt Creek tiger beetle HCP; (3) public and non-governmental organization conservation and restoration; (4) agriculture; and (5) transportation and public works projects (ENTRIX 2007). Based on our analysis, only small agricultural entities are expected to be affected by conservation efforts for the Salt Creek tiger beetle. Land development, including conversion of cropland to pasture, is expected to be primarily carried out by private landowners. These landowners are likely to include small farmers. Therefore, the screening analysis focused on economic impacts resulting from loss of agriculture land values and modifications to farming activities. The small farmers expected to be affected are forecast to experience an impact equivalent to less than 0.08 percent of estimated annual sales (less than 0.1 of 1 percent), and therefore Salt Creek tiger beetle conservation activities are not expected to impact the annual profitability of small ranching and

farming operations (ENTRIX 2007, pp. 63-69).

In summary, we have considered whether this designation of critical habitat would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons and based on currently available information, that it is not likely to affect a substantial number of small entities. Therefore, we certify that this regulation will not result in a significant economic impact on a substantial number of small business entities. Please refer to our final economic analysis of this designation for a more detailed discussion of potential economic impacts.

Energy Supply, Distribution, or Use—Executive Order 13211

On May 18, 2001, the President issued E.O. 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this E.O. that outlines nine outcomes that may constitute “a significant adverse effect” when compared without the regulatory action under consideration. The final economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with Salt Creek tiger beetle conservation activities within the critical habitat designation are not expected. 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 et seq.), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)-(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or [T]ribal 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 [T]ribal 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 onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating approximately 1,933 ac (782 ha) of lands in Lancaster and Saunders Counties, Nebraska, as critical habitat for the Salt Creek tiger beetle in a takings implications assessment. The takings implications assessment concludes that this final designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this critical habitat designation with appropriate State resource agencies in Nebraska. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) will be required. 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.

Civil Justice Reform—Executive Order 12988

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2)

of the Order. We are designating critical habitat in accordance with the provisions of the Act. This final rule uses standard property descriptions and identifies the features essential to the conservation of the subspecies within the designated areas to assist the public in understanding the habitat needs of the Salt Creek tiger beetle.

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 of 1995 (44 U.S.C. 3501 et seq.). 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 (42 U.S.C. 4321 et seq.)

We have prepared an environmental assessment dated March 11, 2010, and made a finding of no significant impacts dated March 11, 2010. These documents are available on the Internet at <http://www.regulations.gov> and <http://www.fws.gov/mountain-prairie/species/invertebrates/saltcreektiger/index.htm>.

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), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. There are no Tribal lands that meet the definition of critical habitat for the Salt Creek tiger beetle. Therefore, we are not designating critical habitat for the Salt Creek tiger beetle on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Acting Field Supervisor, Nebraska Ecological

Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author(s)

The primary authors of this package are staff members of the Nebraska Ecological Services Field Office, Grand Island, Nebraska.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

■ 2. In § 17.11(h), revise the entry for "Beetle, Salt Creek tiger" under "INSECTS" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
INSECTS							
*	*	*	*	*	*	*	*
Beetle, Salt Creek tiger	<i>Cicindela nevadica lincolniana</i>	U.S.A. (NE)	Entire	E	754	17.95(i)	NA
*	*	*	*	*	*	*	*

■ 3. In § 17.95(i), add an entry for "Salt Creek Tiger Beetle (*Cicindela nevadica lincolniana*)" in the same alphabetical order in which this subspecies appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) Insects.

* * * * *

Salt Creek Tiger Beetle (Cicindela nevadica lincolniana)

(1) Critical habitat units are depicted for Lancaster and Saunders Counties, Nebraska, on the maps below.

(2) The primary constituent elements of critical habitat for the Salt Creek tiger beetle are the following habitat components:

(i) Non-vegetated streambanks and mid-channel areas, located adjacent to and between saline stream edges and barren salt flats in saline and freshwater

wetlands, in assemblages that are within 4 miles (6 kilometers) of one another;

(ii) Moist, barren salt flats with:

(A) Salmo and Saltillo soils or Lamo, Gibbon-Saltine, Obert, and Zoe soils with Salmo and Saltillo inclusions;

(B) Soil electroconductivity ranging from 2,016.0 mS/m to 2,992.2 mS/m;

(C) Soil moisture ranging from 43.5 percent to 51.7 percent; and

(D) Differential hydraulic pressures that create evaporation and result in exposed salt on soil surfaces;

(iii) A natural hydrologic regime resulting in annual high flows in saline streams in the early spring and summer, and natural elevation changes in groundwater levels to hydrate saline wetlands located on the floodplain; and

(iv) The presence of abundant and diverse flying and non-flying invertebrate prey species belonging to the orders Coleoptera, Orthoptera, Hemiptera, Hymenoptera, Odonata, Diptera, or Lepidoptera.

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

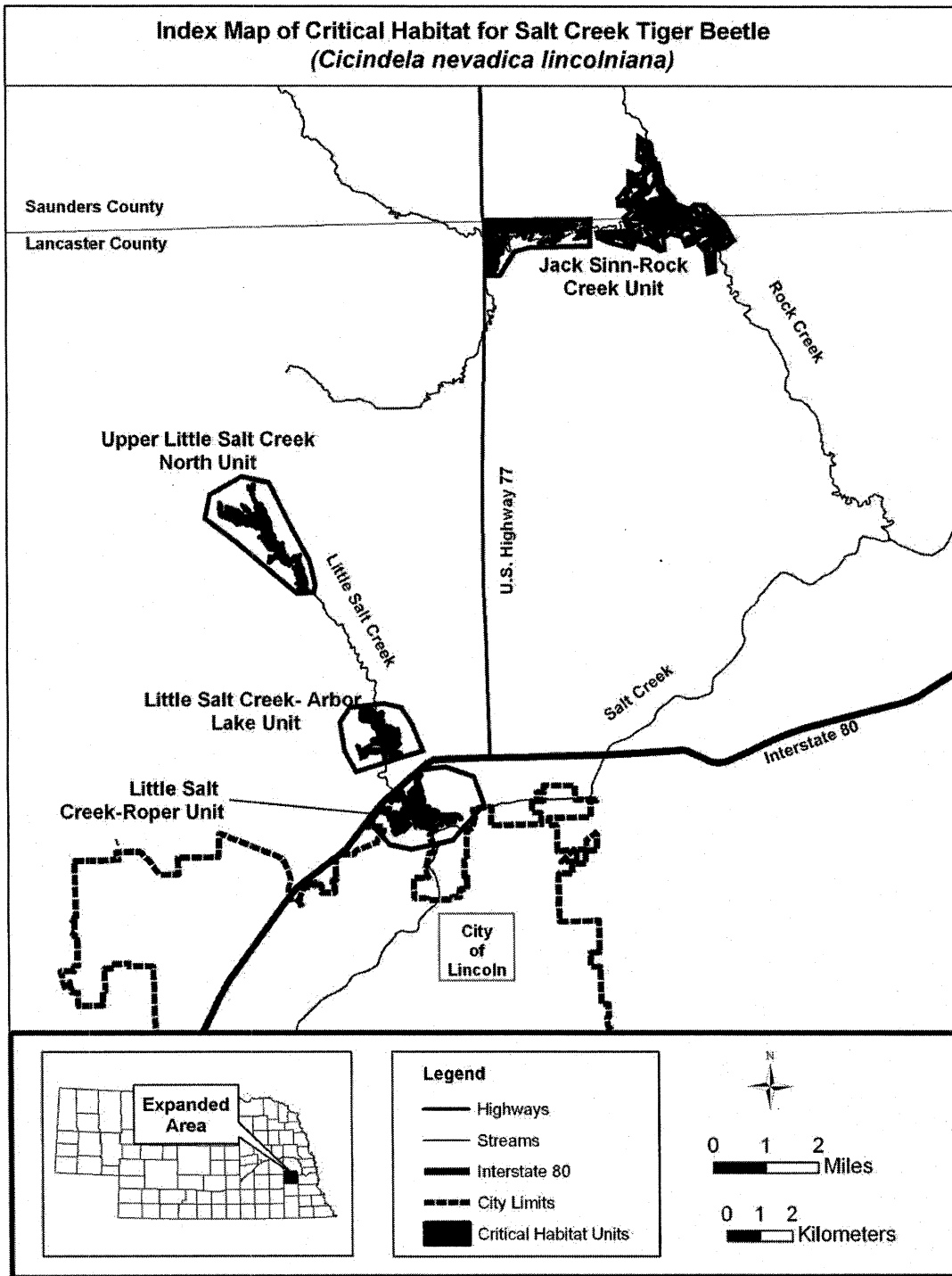
are located existing on the effective date of this rule. In the future, we will be able to distinguish structures that existed at the time of critical habitat designation from structures created since critical habitat designation by using dated detailed aerial imagery maps.

(4) Critical habitat map units. Data layers defining map units were created using GIS software. We defined critical habitat boundaries as follows. We utilized the Resource Categorization Study (RCS) (Gilbert and Stutheit 1994) to define boundaries of the Salt Creek tiger beetle's historic range. Within the

RCS boundaries, we then identified existing saline wetlands containing the features essential to the conservation of the Salt Creek tiger beetle; we also identified saline stream segments flowing through the saline wetlands, as represented by National Hydrography Data and further refined with aerial photography. Coordinate points defining critical habitat unit boundaries were created through an automated GIS process using Universal Transverse Mercator as the reference coordinate system.

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

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(6) Unit 1: Upper Little Salt Creek North, Lancaster County, Nebraska.

(i) Tract 1a. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 692489, 4536054; 692486, 4536053; 692479, 4536054; 692476, 4536059; 692474, 4536062; 692471, 4536063; 692466, 4536064; 692464, 4536067; 692463, 4536072; 692464, 4536076; 692465, 4536079; 692468, 4536080; 692471, 4536081; 692475, 4536082; 692485, 4536083; 692494, 4536069; 692495, 4536064; 692495, 4536062; 692493, 4536057; 692489, 4536054.

(ii) Tract 1b. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 691216, 4538366; 691216, 4538366; 691216, 4538366; 691217, 4538375; 691222, 4538376; 691225, 4538377; 691229, 4538381; 691230, 4538384; 691232, 4538389; 691231, 4538394; 691231, 4538399; 691230, 4538404; 691229, 4538408; 691226, 4538412; 691224, 4538415; 691221, 4538418; 691216, 4538420; 691214, 4538420; 691212, 4538419; 691209, 4538418; 691201, 4538419; 691204, 4538432; 691205, 4538438; 691206, 4538444; 691207, 4538449; 691210, 4538460; 691213, 4538465; 691220, 4538467; 691224, 4538466; 691227, 4538461; 691229, 4538455; 691234, 4538451; 691241, 4538452; 691248, 4538455; 691255, 4538458; 691262, 4538458; 691264, 4538451; 691265, 4538442; 691262, 4538431; 691257, 4538418; 691256, 4538405; 691257, 4538394; 691258, 4538384; 691256, 4538379; 691251, 4538371; 691244, 4538366; 691236, 4538364; 691229, 4538364; 691219, 4538366; 691217, 4538364; 691231, 4538347; 691235, 4538342; 691241, 4538334; 691244, 4538328; 691246, 4538323; 691248, 4538317; 691250, 4538311; 691252, 4538306; 691253, 4538302; 691255, 4538297; 691255, 4538294; 691264, 4538279; 691262, 4538279; 691188, 4538214; 691189, 4538210; 691194, 4538199; 691201, 4538189; 691208, 4538181; 691215, 4538174; 691221, 4538167; 691226, 4538162; 691231, 4538154; 691237, 4538147; 691240, 4538143; 691242, 4538138; 691244, 4538135; 691243, 4538122; 691242, 4538107; 691240, 4538097; 691236, 4538087; 691234, 4538081; 691234, 4538075; 691236, 4538061; 691240, 4538050; 691245, 4538042; 691253, 4538029; 691259, 4538018; 691268, 4538007; 691276, 4537998; 691281, 4537992; 691288, 4537983; 691291, 4537975; 691295, 4537967; 691297, 4537958;

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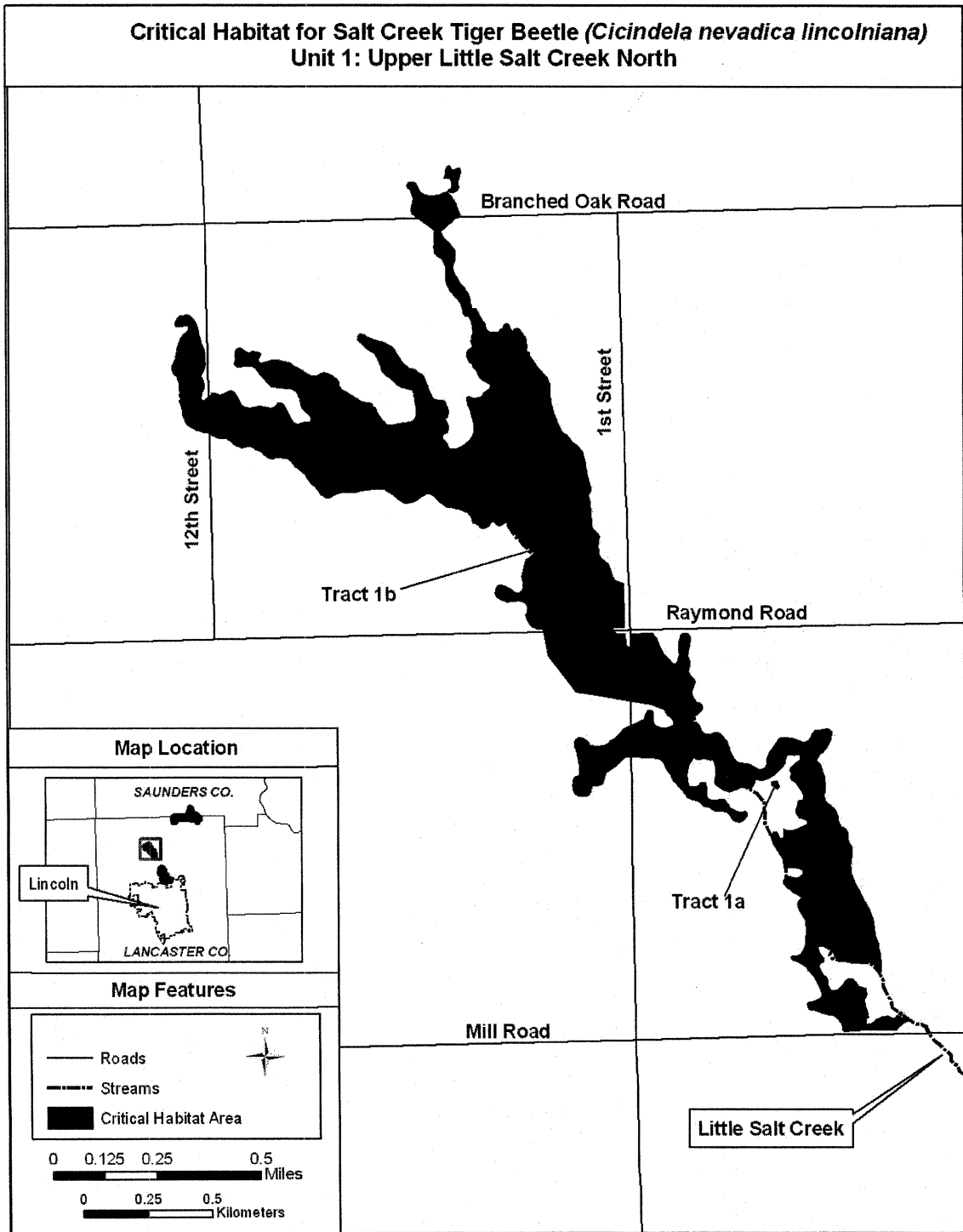
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(iii) Note: Map of Unit 1, Upper Little Salt Creek North (Map 2), follows:

BILLING CODE 4310-55-S



(7) Unit 2: Little Salt Creek—Arbor Lake, Lancaster County, Nebraska.

(i) Tract 2a. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 695582, 4530097; 695584, 4530093; 695585, 4530092; 695590, 4530091; 695596, 4530091; 695600, 4530088; 695602, 4530085; 695602, 4530078; 695598, 4530070; 695591, 4530064; 695583, 4530058; 695572, 4530054; 695561, 4530051; 695555, 4530050; 695547, 4530048; 695541, 4530045; 695538, 4530043; 695530, 4530040; 695515, 4530031; 695496, 4530025; 695488, 4530021; 695482, 4530016; 695476, 4530013; 695471, 4530009; 695465, 4530008; 695457, 4530008; 695450, 4530009; 695444, 4530012; 695439, 4530017; 695434, 4530023; 695432, 4530031; 695428, 4530042; 695426, 4530044; 695422, 4530044; 695418, 4530043; 695413, 4530044; 695411, 4530046; 695409, 4530050; 695409, 4530056; 695411, 4530061; 695417, 4530065; 695427, 4530068; 695434, 4530074; 695438, 4530080; 695439, 4530087; 695439, 4530092; 695439, 4530098; 695441, 4530104; 695443, 4530106; 695450, 4530107; 695458, 4530105; 695467, 4530103; 695478, 4530101; 695488, 4530099; 695496, 4530097; 695506, 4530099; 695513, 4530102; 695522, 4530107; 695528, 4530111; 695534, 4530116; 695540, 4530120; 695548, 4530122; 695558, 4530122; 695565, 4530124; 695571, 4530123; 695576, 4530122; 695580, 4530116; 695581, 4530109; 695582, 4530104; 695582, 4530097.

(ii) Tract 2b. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 695752, 4530111; 695749, 4530108; 695745, 4530108; 695738, 4530109; 695729, 4530109; 695722, 4530108; 695716, 4530106; 695708, 4530104; 695701, 4530104; 695694, 4530104; 695689, 4530105; 695683, 4530106; 695671, 4530106; 695669, 4530107; 695664, 4530110; 695662, 4530115; 695659, 4530124; 695658, 4530135; 695659, 4530146; 695661, 4530154; 695665, 4530165; 695670, 4530172; 695677, 4530181; 695681, 4530185; 695689, 4530190; 695695, 4530195; 695704, 4530200; 695710, 4530203; 695715, 4530205; 695721, 4530206; 695731, 4530204; 695738, 4530200; 695743, 4530198; 695748, 4530194; 695752, 4530190; 695755, 4530184; 695758, 4530177; 695761, 4530171; 695763, 4530163; 695764, 4530155; 695764, 4530146; 695762, 4530136; 695760, 4530128;

695758, 4530122; 695756, 4530117; 695752, 4530111.

(iii) Tract 2c. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 694865, 4531575; 694912, 4531436; 694913, 4531436; 694921, 4531431; 694932, 4531426; 694944, 4531421; 694955, 4531418; 694964, 4531416; 694970, 4531412; 694975, 4531403; 694979, 4531392; 694982, 4531380; 694987, 4531366; 694993, 4531353; 695000, 4531342; 695007, 4531330; 695014, 4531318; 695021, 4531310; 695028, 4531306; 695034, 4531309; 695037, 4531312; 695041, 4531317; 695045, 4531325; 695048, 4531333; 695050, 4531344; 695056, 4531359; 695061, 4531374; 695067, 4531381; 695076, 4531387; 695085, 4531390; 695095, 4531394; 695102, 4531397; 695106, 4531402; 695104, 4531408; 695103, 4531413; 695102, 4531419; 695105, 4531424; 695111, 4531427; 695119, 4531430; 695126, 4531435; 695130, 4531439; 695133, 4531441; 695139, 4531441; 695148, 4531441; 695155, 4531442; 695163, 4531445; 695170, 4531447; 695174, 4531447; 695177, 4531446; 695180, 4531441; 695182, 4531436; 695184, 4531433; 695188, 4531427; 695193, 4531418; 695198, 4531408; 695203, 4531398; 695206, 4531388; 695209, 4531375; 695210, 4531361; 695209, 4531348; 695206, 4531336; 695202, 4531326; 695197, 4531314; 695191, 4531307; 695186, 4531301; 695179, 4531294; 695173, 4531284; 695169, 4531276; 695164, 4531266; 695161, 4531256; 695159, 4531246; 695160, 4531234; 695160, 4531221; 695167, 4531206; 695178, 4531196; 695185, 4531193; 695195, 4531190; 695206, 4531187; 695213, 4531183; 695219, 4531174; 695222, 4531165; 695224, 4531154; 695225, 4531141; 695225, 4531132; 695224, 4531122; 695223, 4531116; 695222, 4531114; 695220, 4531104; 695219, 4531097; 695220, 4531087; 695222, 4531077; 695227, 4531064; 695230, 4531058; 695232, 4531050; 695235, 4531044; 695237, 4531037; 695238, 4531027; 695239, 4531024; 695238, 4531017; 695236, 4531013; 695235, 4531012; 695260, 4530964; 695263, 4530964; 695267, 4530964; 695271, 4530963; 695275, 4530961; 695278, 4530958; 695284, 4530953; 695288, 4530951; 695293, 4530948; 695311, 4530942; 695321, 4530947; 695323, 4530952; 695325, 4530958; 695324, 4530964; 695321, 4530968; 695318, 4530972; 695315, 4530974; 695308, 4530977; 695302, 4530980; 695295, 4530982; 695287, 4530985; 695282, 4530987;

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(iv) Tract 2d. Land bounded by the
following Universal Transverse
Mercator (UTM) Zone 14N, North
American Datum of 1983 (NAD83)
coordinates (E, N): 694708, 4530350;
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694708, 4530271; 694705, 4530263;
694703, 4530258; 694702, 4530255;
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694601, 4530288; 694602, 4530292;
694604, 4530296; 694608, 4530301;
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694649, 4530299; 694656, 4530298;
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694670, 4530298; 694673, 4530302;
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694697, 4530372; 694700, 4530370;
694703, 4530367; 694705, 4530363;
694706, 4530358; 694708, 4530350.

(v) Tract 2e. Land bounded by the
following Universal Transverse
Mercator (UTM) Zone 14N, North
American Datum of 1983 (NAD83)
coordinates (E, N): 694483, 4530368;

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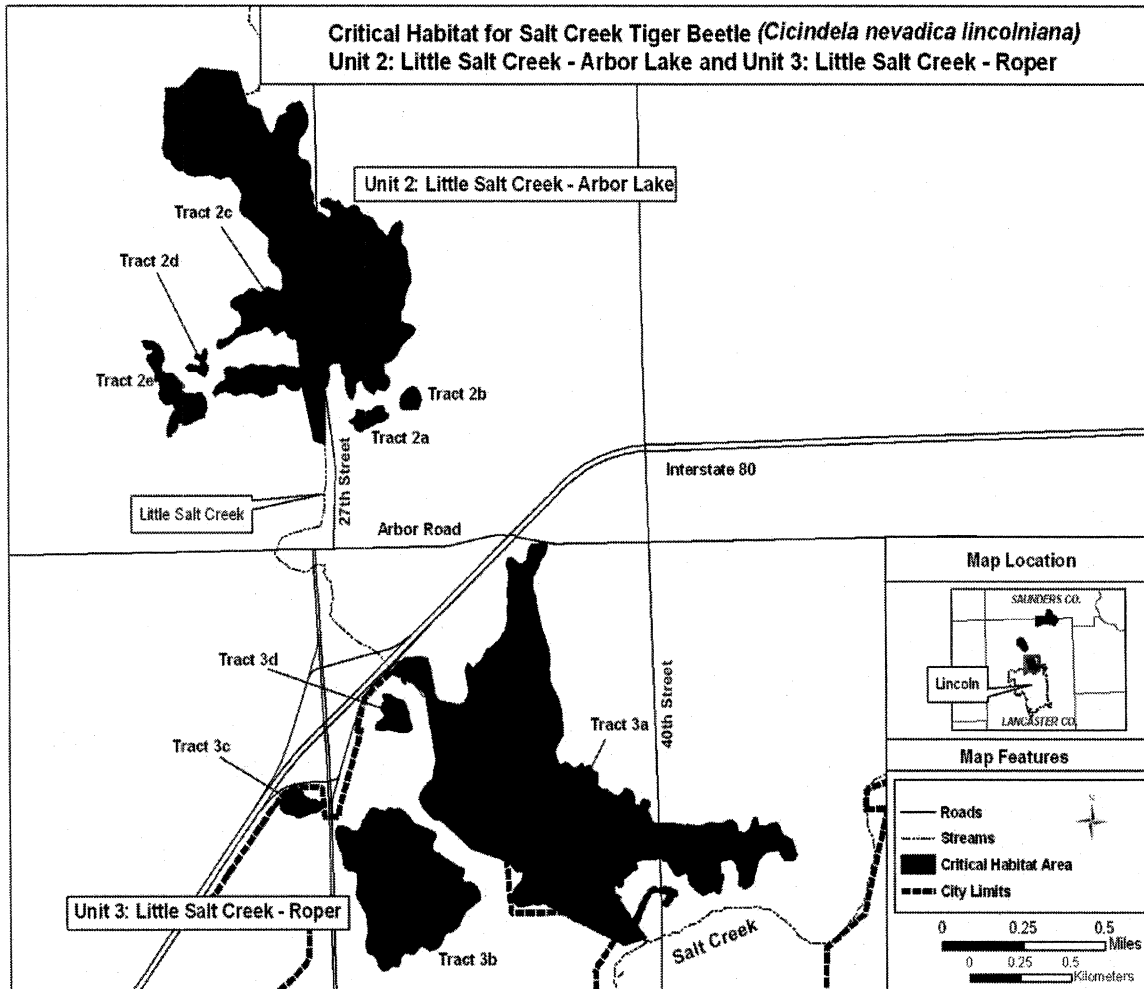
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 694387, 4530395;
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 694408, 4530409; 694420, 4530406;
 694432, 4530403; 694444, 4530400;

694452, 4530396; 694458, 4530394;
 694463, 4530391; 694468, 4530387;
 694472, 4530382; 694476, 4530378;
 694480, 4530372; 694483, 4530368.

(vi) Note: Map of Units 2 and 3, Little Salt Creek—Arbor Lake and Little Salt Creek—Roper (Map 3), follows:

BILLING CODE 4310-55-S



BILLING CODE 4310-55-C

(8) Unit 3: Little Salt Creek—Roper, Lancaster County, Nebraska.

(i) Tract 3a. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 696382, 4529523; 696387, 4529519; 696387, 4529517; 696387, 4529512; 696385, 4529506; 696384, 4529499; 696383, 4529491; 696379, 4529481; 696372, 4529468; 696364, 4529460; 696359, 4529455; 696352, 4529446; 696347, 4529433; 696344, 4529427; 696339, 4529417; 696336, 4529410; 696333, 4529405; 696328, 4529398; 696326, 4529392; 696324, 4529388; 696323, 4529385; 696322, 4529384; 696316, 4529376; 696316, 4529374; 696315, 4529371; 696316, 4529356; 696313, 4529341; 696314, 4529331; 696317, 4529323; 696320, 4529310; 696325, 4529295; 696329, 4529281; 696332, 4529264; 696335, 4529246; 696338, 4529232; 696342, 4529218; 696345, 4529201; 696349, 4529187; 696353, 4529172; 696357, 4529157; 696361, 4529143; 696366, 4529132; 696370, 4529123; 696372, 4529113; 696376, 4529101; 696380, 4529089; 696385, 4529082; 696389, 4529074; 696392, 4529064; 696394, 4529053; 696394, 4529034; 696396, 4529008; 696395, 4528995; 696393, 4528975; 696394, 4528956; 696395, 4528938; 696397, 4528925; 696401, 4528909; 696406, 4528898; 696416, 4528883; 696424, 4528870; 696430, 4528860; 696436, 4528851; 696440, 4528843; 696443, 4528830; 696446, 4528817; 696450, 4528806; 696454, 4528795; 696457, 4528780; 696457, 4528766; 696458, 4528751; 696460, 4528731; 696461, 4528714; 696461, 4528701; 696460, 4528687; 696458, 4528674; 696454, 4528669; 696447, 4528661; 696440, 4528652; 696435, 4528644; 696428, 4528632; 696424, 4528620; 696422, 4528607; 696425, 4528596; 696427, 4528584; 696431, 4528575; 696434, 4528565; 696437, 4528560; 696442, 4528557; 696450, 4528555; 696456, 4528558; 696464, 4528561; 696471, 4528564; 696477, 4528564; 696487, 4528559; 696499, 4528551; 696507, 4528544; 696513, 4528542; 696523, 4528540; 696530, 4528543; 696535, 4528547; 696539, 4528552; 696543, 4528555; 696547, 4528559; 696551, 4528561; 696556, 4528560; 696560, 4528556; 696564, 4528551; 696566, 4528544; 696567, 4528542; 696569, 4528539; 696577, 4528546; 696582, 4528548; 696587, 4528549; 696589, 4528550; 696594, 4528550; 696598, 4528548; 696600, 4528545; 696603, 4528540; 696605, 4528536; 696606, 4528533; 696610, 4528529; 696615, 4528526;

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(ii) Tract 3b. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 695565, 4528354; 695574, 4528353; 695580, 4528356; 695586, 4528359; 695593, 4528366; 695599, 4528367; 695606, 4528366; 695613, 4528361; 695619, 4528360; 695624, 4528359; 695632, 4528361; 695636, 4528361; 695641, 4528362; 695644, 4528361; 695663, 4528357; 695667, 4528353; 695675, 4528347; 695683, 4528338; 695693, 4528329; 695700, 4528322; 695707, 4528313; 695714, 4528306; 695722, 4528289; 695730, 4528293; 695741, 4528299; 695752, 4528286; 695763, 4528282; 695774, 4528277; 695782, 4528275; 695793, 4528271; 695802, 4528268; 695811, 4528263; 695814, 4528261; 695818, 4528260; 695822, 4528258; 695824, 4528256; 695826, 4528253; 695828, 4528245; 695826, 4528238; 695823, 4528232; 695822, 4528228; 695816, 4528219; 695813, 4528210; 695812, 4528203; 695811, 4528197; 695812, 4528189; 695814, 4528184; 695816, 4528179; 695821, 4528175; 695827, 4528170; 695832, 4528167; 695837, 4528167; 695842, 4528167; 695846, 4528165; 695846, 4528165; 695848, 4528159; 695942, 4528107; 695946, 4528107; 695954, 4528106; 695962, 4528102; 695966, 4528098; 695966, 4528094; 695966, 4528088; 695965, 4528083; 695963, 4528079; 695960, 4528069; 695958, 4528060; 695960, 4528050; 695963, 4528045; 695973, 4528042; 695981, 4528040; 695995, 4528039; 696008, 4528037; 696014, 4528033; 696021, 4528028; 696028, 4528022; 696037, 4528007; 696043, 4527992; 696046, 4527985; 696047, 4527977; 696047, 4527969; 696043, 4527964; 696034, 4527955; 696024, 4527948; 696014, 4527941; 696003, 4527934; 695996, 4527928; 695987, 4527924; 695979, 4527917; 695972, 4527911; 695966, 4527904; 695960, 4527891; 695954, 4527881; 695947, 4527866; 695939, 4527854; 695928, 4527841; 695919, 4527832; 695909, 4527827; 695899, 4527824; 695887, 4527822; 695876, 4527818; 695868, 4527809; 695864, 4527799; 695859, 4527786; 695854, 4527776; 695845, 4527766; 695836, 4527757; 695826, 4527751; 695811, 4527746; 695795, 4527744; 695783, 4527747; 695774, 4527753; 695768, 4527757; 695761, 4527761; 695751, 4527760;

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(iii) Tract 3c. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 695160, 4528323; 695149, 4528321; 695141, 4528322; 695137, 4528325; 695132, 4528330; 695129, 4528332; 695119, 4528334; 695103, 4528336; 695093, 4528337; 695084, 4528340; 695076, 4528344; 695070, 4528348; 695064, 4528355; 695060, 4528363; 695058, 4528370; 695056, 4528380; 695055, 4528388; 695057, 4528396; 695062, 4528410; 695066, 4528420; 695072, 4528429; 695077, 4528435; 695083, 4528441; 695091, 4528446; 695098, 4528450; 695107, 4528452; 695115, 4528454; 695120, 4528455; 695127, 4528456; 695131, 4528455; 695139, 4528455; 695146, 4528453; 695150, 4528451; 695155, 4528448; 695167, 4528438; 695175, 4528426; 695180, 4528420; 695184, 4528417; 695187, 4528416; 695194, 4528412; 695204, 4528405; 695209, 4528403; 695218, 4528401; 695227, 4528401; 695236, 4528401; 695243, 4528400; 695252, 4528397; 695259, 4528393; 695264, 4528388; 695268, 4528381; 695269, 4528370; 695265, 4528362; 695260, 4528356; 695247, 4528349; 695237, 4528345; 695223, 4528343; 695209, 4528340; 695200, 4528337; 695190, 4528334; 695180, 4528330; 695169, 4528326; 695160, 4528323.

(iv) Tract 3d. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 695576, 4528864; 695583, 4528864; 695587, 4528864; 695595, 4528864; 695602, 4528863; 695606, 4528862; 695608, 4528861; 695613, 4528857; 695628, 4528846; 695637, 4528842; 695645, 4528841; 695652, 4528840; 695660, 4528839; 695666, 4528838; 695673, 4528832; 695677, 4528826; 695681, 4528818; 695686, 4528807; 695690, 4528798; 695693, 4528790; 695696, 4528781; 695698, 4528771; 695698, 4528763; 695700, 4528752; 695703, 4528743; 695706, 4528737; 695710, 4528728; 695711, 4528721; 695710, 4528712; 695706, 4528705; 695697, 4528698; 695688, 4528695; 695675, 4528694; 695662, 4528694; 695648, 4528697; 695633, 4528700; 695616, 4528704; 695601, 4528706; 695588, 4528707; 695576, 4528704; 695562, 4528703; 695551, 4528704; 695541, 4528705; 695535, 4528708; 695531, 4528714; 695530, 4528725; 695533, 4528735; 695537, 4528741; 695545, 4528748; 695553, 4528751; 695563, 4528754; 695567, 4528757; 695571, 4528763; 695572.

(v) Note: Map of Unit 3 is provided at paragraph (7)(vi) of this entry.

(9) Unit 4: Jack Sinn—Rock Creek, Lancaster and Saunders Counties, Nebraska.

(i) Tract 4a. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 698696, 4546073; 698716, 4546073; 698725, 4546074; 698733, 4546072; 698745, 4546068; 698753, 4546065; 698769, 4546054; 698781, 4546042; 698795, 4546021; 698802, 4546011; 698806, 4546005; 698811, 4546003; 698816, 4546001; 698820, 4546002; 698827, 4546004; 698832, 4546006; 698836, 4546006; 698844, 4546005; 698850, 4546004; 698855, 4546005; 698862, 4546007; 698866, 4546009; 698869, 4546012; 698874, 4546020; 698877, 4546027; 698883, 4546036; 698887, 4546039; 698893, 4546042; 698899, 4546045; 698902, 4546045; 698909, 4546044; 698919, 4546038; 698929, 4546024; 698941, 4546017; 698948, 4546013; 698955, 4546010; 698960, 4546009; 698966, 4546008; 698969, 4546007; 698978, 4546005; 698985, 4546009; 698993, 4546013; 699000, 4546017; 699008, 4546019; 699018, 4546023; 699030, 4546027; 699039, 4546027; 699046, 4546027; 699053, 4546025; 699061, 4546021; 699072, 4546017; 699083, 4546016; 699089, 4546012; 699093, 4546007; 699096, 4546002; 699097, 4545995; 699097, 4545991; 699094, 4545986; 699090, 4545982; 699086, 4545978; 699080, 4545975; 699072, 4545974; 699068, 4545973; 699060, 4545971; 699054, 4545968; 699049, 4545965; 699045, 4545959; 699040, 4545952; 699037, 4545945; 699032, 4545935; 699026, 4545928; 699020, 4545925; 699011, 4545921; 699001, 4545916; 698995, 4545914; 698988, 4545914; 698979, 4545913; 698973, 4545909; 698967, 4545906; 698958, 4545901; 698948, 4545885; 698943, 4545878; 698936, 4545861; 698934, 4545838; 698946, 4545838; 698961, 4545838; 698970, 4545841; 698982, 4545846; 698997, 4545852; 699012, 4545860; 699031, 4545867; 699038, 4545858; 699044, 4545846; 699046, 4545839; 699047, 4545831; 699047, 4545823; 699045, 4545820; 699042, 4545816; 699039, 4545814; 699030, 4545812; 699023, 4545807; 699013, 4545806; 699003, 4545806; 698983, 4545797; 698975, 4545798; 698967, 4545796; 698961, 4545793; 698954, 4545788; 698951, 4545785; 698944, 4545778; 698934, 4545764; 698912, 4545736; 698906, 4545722; 698899, 4545717; 698898, 4545710; 698897, 4545701; 698898, 4545694; 698898, 4545690; 698900, 4545682;

698900, 4545672; 698901, 4545661; 698902, 4545653; 698903, 4545648; 698903, 4545648; 698907, 4545646; 698914, 4545647; 698926, 4545651; 698935, 4545654; 698953, 4545653; 698950, 4545640; 698949, 4545625; 698946, 4545603; 698943, 4545580; 698939, 4545557; 698934, 4545540; 698926, 4545524; 698921, 4545512; 698913, 4545507; 698901, 4545503; 698888, 4545503; 698874, 4545504; 698866, 4545489; 698863, 4545484; 698859, 4545479; 698854, 4545474; 698850, 4545474; 698845, 4545472; 698838, 4545471; 698831, 4545469; 698813, 4545460; 698795, 4545444; 698787, 4545439; 698780, 4545428; 698775, 4545420; 698772, 4545414; 698770, 4545406; 698770, 4545397; 698771, 4545387; 698774, 4545362; 698779, 4545340; 698780, 4545335; 698781, 4545329; 698781, 4545321; 698782, 4545310; 698782, 4545299; 698781, 4545289; 698780, 4545274; 698780, 4545260; 698782, 4545250; 698784, 4545236; 698785, 4545228; 698783, 4545215; 698782, 4545207; 698780, 4545191; 698776, 4545175; 698768, 4545149; 698765, 4545139; 698762, 4545130; 698761, 4545119; 698761, 4545109; 698762, 4545086; 698763, 4545077; 698764, 4545065; 698763, 4545058; 698760, 4545049; 698757, 4545044; 698744, 4545028; 698724, 4545013; 698713, 4545003; 698709, 4544998; 698705, 4544992; 698701, 4544985; 698699, 4544978; 698697, 4544972; 698697, 4544964; 698694, 4544959; 698692, 4544956; 698686, 4544953; 698676, 4544946; 698669, 4544942; 698662, 4544939; 698654, 4544933; 698646, 4544928; 698639, 4544920; 698634, 4544910; 698628, 4544890; 698620, 4544868; 698628, 4544864; 698632, 4544860; 698635, 4544852; 698636, 4544846; 698636, 4544841; 698632, 4544838; 698629, 4544836; 698626, 4544836; 698619, 4544837; 698610, 4544849; 698516, 4544847; 698412, 4544848; 698414, 4544857; 698415, 4544870; 698416, 4544873; 698421, 4544895; 698411, 4544904; 698404, 4544909; 698402, 4544924; 698401, 4545010; 698401, 4545076; 698400, 4545183; 698403, 4545252; 698403, 4545337; 698403, 4545408; 698401, 4545495; 698402, 4545558; 698406, 4545612; 698403, 4545663; 698402, 4545729; 698404, 4545810; 698406, 4545866; 698406, 4545890; 698406, 4545932; 698405, 4545976; 698407, 4546025; 698419, 4546030; 698426, 4546032; 698430, 4546034; 698444, 4546040; 698453, 4546042; 698466, 4546043; 698478, 4546040; 698495, 4546033; 698504, 4546029; 698509, 4546030; 698517, 4546031;

698523, 4546035; 698528, 4546037; 698533, 4546043; 698538, 4546048; 698542, 4546053; 698549, 4546060; 698556, 4546069; 698562, 4546076; 698573, 4546086; 698586, 4546095; 698602, 4546098; 698615, 4546101; 698625, 4546104; 698634, 4546102; 698640, 4546101; 698650, 4546097; 698658, 4546092; 698667, 4546086; 698674, 4546080; 698684, 4546075; 698696, 4546073.

(ii) Tract 4b. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 700784, 4546113; 700789, 4546099; 700792, 4546088; 700794, 4546075; 700791, 4546060; 700787, 4546048; 700783, 4546038; 700774, 4546032; 700758, 4546027; 700740, 4546022; 700727, 4546015; 700715, 4546004; 700704, 4545992; 700695, 4545976; 700689, 4545963; 700682, 4545950; 700674, 4545938; 700660, 4545924; 700646, 4545915; 700632, 4545907; 700612, 4545902; 700591, 4545899; 700573, 4545895; 700557, 4545890; 700547, 4545880; 700540, 4545867; 700538, 4545853; 700537, 4545839; 700531, 4545824; 700524, 4545818; 700506, 4545810; 700493, 4545806; 700478, 4545806; 700466, 4545808; 700459, 4545814; 700452, 4545822; 700445, 4545832; 700439, 4545839; 700429, 4545843; 700415, 4545844; 700402, 4545842; 700390, 4545844; 700380, 4545850; 700373, 4545858; 700366, 4545865; 700359, 4545872; 700352, 4545874; 700342, 4545877; 700318, 4545875; 700307, 4545871; 700293, 4545865; 700281, 4545861; 700268, 4545856; 700256, 4545856; 700244, 4545860; 700237, 4545861; 700215, 4545858; 700200, 4545855; 700179, 4545843; 700165, 4545836; 700153, 4545832; 700142, 4545833; 700129, 4545831; 700116, 4545825; 700109, 4545819; 700094, 4545809; 700081, 4545806; 700066, 4545809; 700049, 4545807; 700038, 4545805; 700027, 4545805; 700018, 4545808; 700016, 4545813; 700015, 4545822; 700017, 4545841; 700023, 4545855; 700027, 4545866; 700034, 4545874; 700045, 4545879; 700059, 4545879; 700069, 4545881; 700083, 4545887; 700097, 4545894; 700112, 4545899; 700126, 4545902; 700144, 4545905; 700163, 4545906; 700189, 4545903; 700209, 4545901; 700229, 4545900; 700249, 4545902; 700264, 4545908; 700278, 4545915; 700288, 4545922; 700300, 4545928; 700317, 4545936; 700361, 4545952; 700384, 4545961; 700398, 4545968; 700411, 4545974; 700422, 4545982; 700433, 4545989; 700443, 4545994; 700454, 4545994; 700466, 4545993;

700481, 4545994; 700490, 4545996;
700497, 4546000; 700500, 4546008;
700500, 4546018; 700499, 4546028;
700496, 4546037; 700491, 4546044;
700481, 4546050; 700468, 4546052;
700458, 4546055; 700449, 4546060;
700445, 4546067; 700442, 4546077;
700443, 4546089; 700444, 4546095;
700450, 4546102; 700468, 4546109;
700477, 4546113; 700486, 4546115;
700495, 4546115; 700508, 4546116;
700519, 4546118; 700531, 4546120;
700545, 4546123; 700559, 4546125;
700572, 4546123; 700581, 4546122;
700591, 4546124; 700598, 4546126;
700605, 4546128; 700615, 4546132;
700637, 4546116; 700652, 4546111;
700668, 4546112; 700677, 4546114;
700688, 4546118; 700694, 4546123;
700699, 4546129; 700704, 4546132;
700713, 4546135; 700727, 4546136;
700740, 4546133; 700752, 4546131;
700763, 4546129; 700773, 4546127;
700779, 4546122; 700784, 4546113.

(iii) Tract 4c. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 699777, 4546178; 699783, 4546168; 699790, 4546156; 699798, 4546147; 699810, 4546141; 699822, 4546136; 699830, 4546132; 699841, 4546126; 699849, 4546120; 699855, 4546111; 699857, 4546100; 699858, 4546088; 699853, 4546074; 699845, 4546058; 699834, 4546045; 699826, 4546036; 699816, 4546025; 699803, 4546014; 699794, 4546005; 699784, 4545993; 699776, 4545979; 699775, 4545968; 699772, 4545962; 699775, 4545951; 699779, 4545946; 699787, 4545940; 699795, 4545937; 699798, 4545937; 699801, 4545934; 699805, 4545929; 699784, 4545920; 699778, 4545920; 699770, 4545918; 699766, 4545914; 699762, 4545911; 699746, 4545927; 699744, 4545930; 699740, 4545939; 699739, 4545947; 699742, 4545963; 699748, 4545977; 699754, 4545988; 699763, 4545998; 699775, 4546009; 699785, 4546019; 699793, 4546026; 699801, 4546036; 699807, 4546044; 699811, 4546050; 699815, 4546060; 699821, 4546068; 699825, 4546078; 699826, 4546083; 699826, 4546090; 699825, 4546097; 699820, 4546103; 699809, 4546109; 699797, 4546110; 699788, 4546113; 699782, 4546122; 699779, 4546133; 699775, 4546138; 699768, 4546140; 699760, 4546144; 699756, 4546150; 699754, 4546158; 699754, 4546165; 699753, 4546170; 699752, 4546170; 699744, 4546172; 699733, 4546169; 699724, 4546161; 699717, 4546154; 699709, 4546149; 699696, 4546145; 699684, 4546142; 699671, 4546139; 699661, 4546135; 699655, 4546129;

699646, 4546118; 699639, 4546105;
699639, 4546098; 699643, 4546081;
699644, 4546073; 699642, 4546065;
699641, 4546059; 699634, 4546045;
699627, 4546029; 699623, 4546017;
699621, 4546002; 699618, 4545991;
699616, 4545983; 699615, 4545977;
699611, 4545972; 699608, 4545968;
699602, 4545963; 699600, 4545963;
699594, 4545963; 699588, 4545962;
699583, 4545964; 699577, 4545965;
699571, 4545968; 699565, 4545972;
699560, 4545978; 699555, 4545986;
699552, 4545991; 699546, 4546008;
699542, 4546024; 699540, 4546038;
699536, 4546055; 699527, 4546075;
699521, 4546089; 699511, 4546100;
699504, 4546107; 699497, 4546111;
699484, 4546114; 699457, 4546112;
699449, 4546112; 699439, 4546109;
699428, 4546104; 699423, 4546100;
699418, 4546095; 699414, 4546089;
699409, 4546081; 699406, 4546066;
699404, 4546061; 699402, 4546059;
699399, 4546060; 699395, 4546062;
699392, 4546063; 699390, 4546068;
699387, 4546076; 699386, 4546084;
699386, 4546094; 699386, 4546102;
699388, 4546113; 699395, 4546124;
699399, 4546131; 699403, 4546136;
699410, 4546142; 699433, 4546149;
699455, 4546150; 699467, 4546154;
699481, 4546152; 699499, 4546146;
699506, 4546143; 699513, 4546138;
699523, 4546129; 699532, 4546120;
699537, 4546115; 699542, 4546104;
699547, 4546095; 699550, 4546082;
699555, 4546069; 699561, 4546052;
699572, 4546024; 699579, 4546008;
699584, 4546003; 699588, 4546000;
699601, 4546001; 699601, 4546029;
699604, 4546036;
699606, 4546041; 699611, 4546053;
699615, 4546065; 699616, 4546080;
699616, 4546097; 699617, 4546110;
699619, 4546121; 699625, 4546131;
699632, 4546141; 699643, 4546150;
699658, 4546154; 699667, 4546158;
699681, 4546165; 699691, 4546174;
699700, 4546182; 699712, 4546189;
699722, 4546195; 699731, 4546198;
699742, 4546199; 699753, 4546199;
699760, 4546194; 699767, 4546186;
699777, 4546178.

(iv) Tract 4d. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 701389, 4546232; 701381, 4546222; 701438, 4546226; 701441, 4546228; 701446, 4546228; 701448, 4546228; 701457, 4546225; 701461, 4546231; 701468, 4546239; 701472, 4546242; 701474, 4546244; 701479, 4546248; 701482, 4546249; 701488, 4546249; 701492, 4546248; 701495, 4546249; 701495, 4546249; 701505, 4546261; 701511, 4546263;

701518, 4546264; 701525, 4546264;
701533, 4546261; 701539, 4546255;
701544, 4546245; 701548, 4546238;
701555, 4546233; 701565, 4546229;
701573, 4546227; 701580, 4546223;
701586, 4546218; 701589, 4546212;
701589, 4546206; 701582, 4546198;
701583, 4546185; 701583, 4546184;
701596, 4546181; 701599, 4546177;
701600, 4546158; 701598, 4546144;
701597, 4546134; 701594, 4546123;
701591, 4546115; 701586, 4546108;
701579, 4546104; 701567, 4546101;
701551, 4546099; 701537, 4546098;
701521, 4546092; 701511, 4546082;
701503, 4546070; 701493, 4546055;
701489, 4546048; 701481, 4546038;
701474, 4546028; 701467, 4546018;
701460, 4546009; 701452, 4546001;
701447, 4545998; 701444, 4545995;
701439, 4545995; 701435, 4545999;
701432, 4546005; 701429, 4546010;
701427, 4546018; 701425, 4546023;
701427, 4546031; 701431, 4546039;
701436, 4546047; 701440, 4546055;
701443, 4546062; 701444, 4546070;
701444, 4546081; 701443, 4546084;
701436, 4546089; 701429, 4546092;
701422, 4546097; 701418, 4546104;
701414, 4546116; 701413, 4546124;
701414, 4546135; 701418, 4546148;
701421, 4546155; 701425, 4546164;
701428, 4546171; 701431, 4546176;
701432, 4546180; 701432, 4546188;
701432, 4546189; 701369, 4546194;
701369, 4546194; 701357, 4546193;
701343, 4546193; 701331, 4546194;
701322, 4546195; 701275, 4546175;
701283, 4546167; 701290, 4546157;
701299, 4546147; 701308, 4546138;
701315, 4546130; 701320, 4546123;
701323, 4546119; 701326, 4546110;
701329, 4546098; 701329, 4546091;
701340, 4546095; 701342, 4546094;
701345, 4546092; 701347, 4546090;
701349, 4546085; 701352, 4546079;
701353, 4546068; 701351, 4546056;
701348, 4546043; 701342, 4546027;
701333, 4546014; 701322, 4546003;
701306, 4545995; 701291, 4545988;
701270, 4545982; 701250, 4545977;
701228, 4545972; 701208, 4545967;
701185, 4545960; 701165, 4545955;
701148, 4545951; 701139, 4545948;
701132, 4545947; 701126, 4545949;
701122, 4545951; 701120, 4545954;
701119, 4545958; 701119, 4545963;
701131, 4545970; 701145, 4545976;
701159, 4545982; 701169, 4545990;
701174, 4545996; 701177, 4546003;
701181, 4546010; 701191, 4546014;
701207, 4546018; 701216, 4546022;
701223, 4546028; 701226, 4546034;
701224, 4546042; 701219, 4546046;
701209, 4546051; 701207, 4546055;
701206, 4546061; 701211, 4546069;
701221, 4546072; 701231, 4546073;
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701248, 4546092; 701248, 4546100;
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(v) Tract 4e. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 703097, 4546215; 703095, 4546208; 703095, 4546196; 703096, 4546183; 703098, 4546171; 703101, 4546160; 703107, 4546150; 703112, 4546145; 703122, 4546142; 703130, 4546142; 703136, 4546143; 703153, 4546145; 703164, 4546146; 703171, 4546147; 703179, 4546148; 703189, 4546150; 703194, 4546149; 703198, 4546146; 703200, 4546143; 703202, 4546138; 703204, 4546131; 703204, 4546124; 703203, 4546118; 703201, 4546112; 703199, 4546106; 703198, 4546100; 703202, 4546086; 703205, 4546074; 703205, 4546074; 703161, 4546071; 703137, 4546072; 703137, 4546043; 703157, 4546008; 703170, 4545997; 703168, 4545988; 703169, 4545981; 703175, 4545979; 703181, 4545977; 703189, 4545974; 703197, 4545969; 703198, 4545963; 703201, 4545949; 703208, 4545936; 703213, 4545921; 703212, 4545906; 703208, 4545899; 703199, 4545894; 703191, 4545893; 703185, 4545895; 703132, 4545967; 703084, 4546028; 703072, 4546066; 703041, 4546051; 703009, 4546024; 702961, 4545994; 702924, 4545972; 702914, 4545880; 702925, 4545838; 702923, 4545836; 702921, 4545825; 702920, 4545812; 702922, 4545794; 702928, 4545784; 702930, 4545777; 702929, 4545769; 702925, 4545763; 702921, 4545757; 702915, 4545754; 702908, 4545750;

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703104, 4546223; 703097, 4546215.

(vi) Tract 4f. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 701018, 4546521; 701025, 4546516; 701031, 4546509; 701035, 4546497; 701036, 4546487; 701039, 4546475; 701045, 4546464; 701054, 4546454; 701069, 4546442; 701085, 4546431; 701121, 4546421; 701139, 4546419; 701158, 4546417; 701174, 4546416; 701187, 4546415; 701198, 4546413; 701208, 4546412; 701217, 4546408; 701220, 4546405; 701222, 4546401; 701223, 4546396; 701223, 4546392; 701223, 4546388; 701223, 4546384; 701223, 4546382;

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(vii) Tract 4g. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 701602, 4546442; 701600, 4546428; 701597, 4546415; 701592, 4546405; 701586, 4546395; 701578, 4546386; 701567, 4546378; 701556, 4546373; 701547, 4546372; 701534, 4546374; 701521, 4546377; 701505, 4546383; 701494, 4546389; 701484, 4546395; 701473, 4546402; 701460, 4546408; 701445, 4546411; 701431, 4546414; 701415, 4546414; 701401, 4546414; 701391, 4546415; 701384, 4546416; 701377, 4546418; 701372, 4546421; 701369, 4546424; 701367, 4546428; 701367, 4546432; 701371, 4546435; 701379, 4546437; 701389, 4546437; 701398, 4546437; 701410, 4546437; 701422, 4546436; 701429, 4546435; 701437, 4546433; 701447, 4546432; 701456, 4546432; 701475, 4546434; 701493, 4546438; 701512, 4546444; 701527, 4546451; 701539, 4546460; 701547, 4546468; 701553, 4546478; 701558, 4546489; 701561, 4546500; 701563, 4546510; 701565, 4546519; 701568, 4546525; 701570, 4546531; 701573, 4546535; 701578, 4546539; 701583, 4546539; 701588, 4546539; 701595, 4546534; 701598, 4546528; 701599, 4546518; 701600, 4546507; 701598, 4546493; 701596, 4546482; 701595, 4546472; 701597, 4546460; 701600, 4546452; 701602, 4546442.

(viii) Tract 4h. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 703217, 4546589; 703217, 4546586; 703217, 4546579; 703049, 4546561; 702942, 4546563; 702869, 4546558; 702844, 4546498; 702818, 4546496; 702872, 4546437; 702928, 4546418; 702978, 4546411; 703039, 4546410; 703095, 4546436;

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(ix) Tract 4i. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 704760, 4546632; 704759, 4546528; 704759, 4546503; 704757, 4546504; 704757, 4546463; 704759, 4546463; 704759, 4546435; 704751, 4546435; 704745, 4546436;

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(x) Tract 4j. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North

American Datum of 1983 (NAD83)
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(xi) Tract 4k. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 705162, 4546811; 705173, 4546744; 705106, 4546730; 705075, 4546704; 705137, 4546704; 705207, 4546698; 705306, 4546696; 705306, 4546696; 705308, 4546688; 705311, 4546678; 705000, 4546667; 704931, 4546687; 704873, 4546735; 704855, 4546781; 704812, 4546813; 704812, 4546814; 704812, 4546820; 704811, 4546826; 704808, 4546830; 704802, 4546831; 704793, 4546827; 704791, 4546825; 704750, 4546834; 704750, 4546838; 704748, 4546849; 704747, 4546861; 704748, 4546874; 704752, 4546882; 704762, 4546890; 704773, 4546896; 704782, 4546898; 704788, 4546902; 704796, 4546906; 704803, 4546913; 704807, 4546923; 704807, 4546936; 704807, 4546946; 704870, 4546886; 704920, 4546847; 704958, 4546774; 705006, 4546748; 705048, 4546766; 705076, 4546799; 705084, 4546840; 705084, 4546893; 705062, 4546927; 705046, 4546957; 705056, 4546960; 705070, 4546959; 705080, 4546953; 705087, 4546947; 705095, 4546942; 705103, 4546941; 705112, 4546940; 705122, 4546937; 705132, 4546930; 705140, 4546923; 705149, 4546917; 705156, 4546913;

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(xii) Tract 41. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 02925, 4547900; 702933, 4547900; 702939, 4547902; 702948, 4547887; 702968, 4547865; 703001, 4547844; 703038, 4547835; 703043, 4547832; 703049, 4547829; 703054, 4547824; 703066, 4547809; 703087, 4547807; 703094, 4547806; 703100, 4547805; 703102, 4547805; 703103, 4547598; 703106, 4547564; 703105, 4547558; 703104, 4547555; 703099, 4547554; 703093, 4547555; 703086, 4547558; 703078, 4547562; 703069, 4547567; 703061, 4547572; 703045, 4547581; 703030, 4547586; 703016, 4547588; 703001, 4547587; 702990, 4547582; 702980, 4547578; 702953, 4547563; 702940, 4547560; 702927, 4547563; 702923, 4547568; 702922, 4547572; 702924, 4547584; 702926, 4547593; 702928, 4547599; 702935, 4547608; 702954, 4547624; 702961, 4547647; 702928, 4547653; 702897, 4547665; 702859, 4547666; 702857, 4547669; 702851, 4547678; 702847, 4547690; 702845, 4547700; 702846, 4547713; 702849, 4547727; 702849, 4547727; 702874, 4547742; 702907, 4547765; 702913, 4547822; 702912, 4547846; 702882, 4547872; 702874, 4547884; 702876, 4547891; 702880, 4547899; 702884, 4547906; 702893, 4547910; 702901, 4547911; 702911, 4547909; 702917, 4547907; 702921, 4547904; 702925, 4547900.

(xiii) Tract 4m. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 703489, 4548057; 703478, 4548055; 703470, 4548054; 703464, 4548053; 703456, 4548057; 703453, 4548053; 703450, 4548052; 703444, 4548048; 703440, 4548044; 703432, 4548039; 703423, 4548034; 703411, 4548027; 703401, 4548021; 703388, 4548016; 703383, 4548016; 703381, 4548020; 703369, 4548005; 703365, 4547997; 703360, 4547989; 703355, 4547980; 703352, 4547973; 703353, 4547966; 703355, 4547961; 703357, 4547956; 703358, 4547949; 703335, 4547941; 703324, 4547935; 703316, 4547924; 703311, 4547910; 703309, 4547893; 703309, 4547877; 703312, 4547860; 703316, 4547842; 703320, 4547824; 703322, 4547808; 703319, 4547790; 703314, 4547773; 703308, 4547760; 703307, 4547744; 703308, 4547727; 703305, 4547714; 703302, 4547696; 703299, 4547677;

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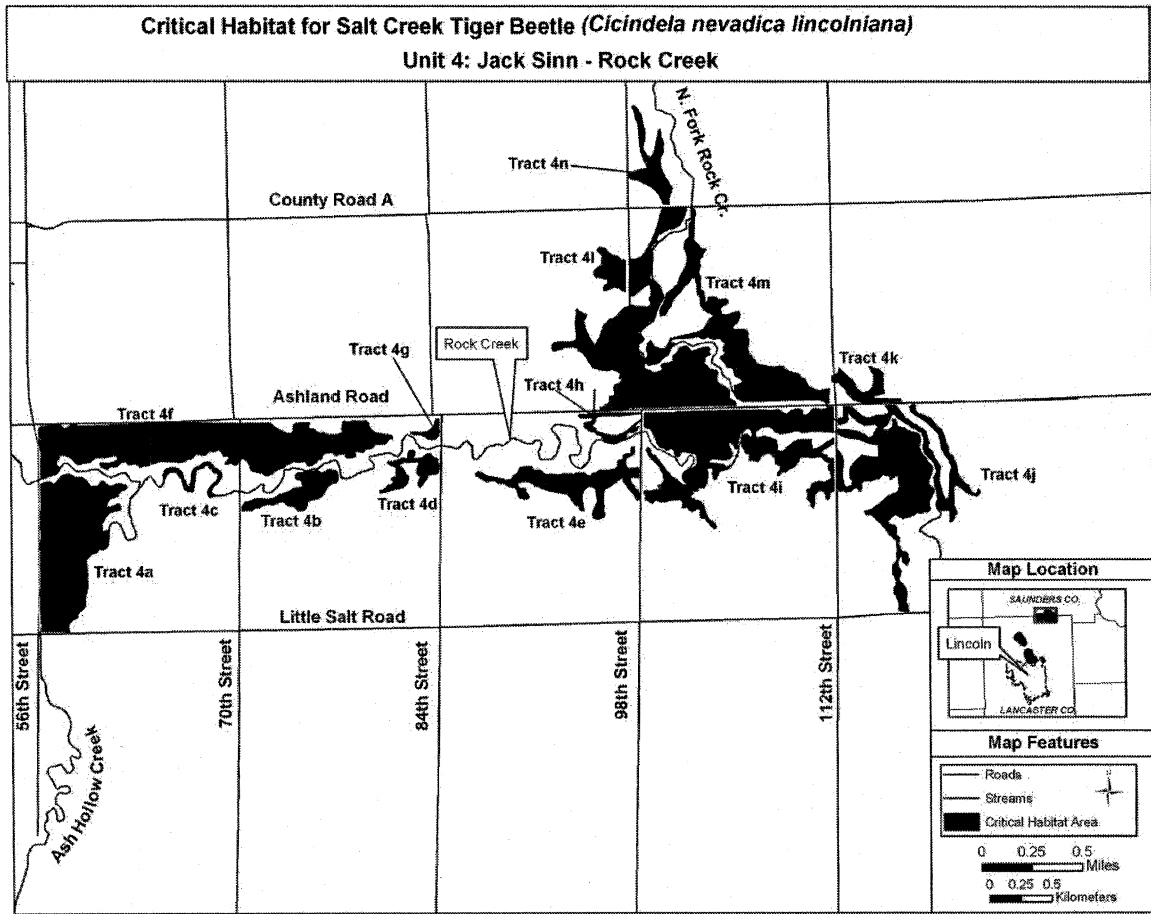
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(xiv) Tract 4n. Land bounded by the following Universal Transverse Mercator (UTM) Zone 14N, North American Datum of 1983 (NAD83) coordinates (E, N): 703213, 4548983; 703212, 4548980; 703214, 4548981; 703216, 4548980; 703224, 4548972; 703227, 4548972; 703247, 4548891; 703261, 4548823; 703258, 4548757; 703244, 4548695; 703279, 4548634; 703314, 4548625; 703333, 4548677; 703347, 4548724; 703374, 4548847; 703375, 4548847; 703379, 4548849; 703382, 4548846; 703387, 4548837; 703389, 4548824; 703388, 4548810; 703388, 4548793; 703394, 4548778; 703398, 4548770; 703404, 4548759; 703406, 4548742; 703405, 4548728; 703403, 4548717; 703402, 4548703; 703408, 4548686; 703410, 4548670; 703410, 4548669; 703383, 4548606; 703387, 4548541; 703416, 4548480; 703482, 4548378; 703456, 4548298; 703458, 4548249; 703407, 4548248; 703379, 4548312; 703344, 4548357; 703290, 4548395; 703205, 4548437; 703135, 4548453; 703132, 4548456; 703126, 4548466; 703122, 4548472; 703120, 4548476; 703118, 4548481; 703117, 4548485; 703116, 4548490; 703116, 4548494; 703117, 4548499; 703119, 4548502; 703127, 4548503; 703137, 4548501; 703147, 4548500; 703157, 4548497; 703165, 4548496; 703171, 4548497; 703173, 4548501; 703179, 4548508; 703174, 4548519; 703184, 4548518; 703236, 4548529; 703279, 4548537; 703254, 4548586; 703225, 4548663; 703217, 4548736; 703208, 4548835; 703200, 4548891; 703182, 4548942; 703181, 4548946; 703180, 4548961; 703176, 4548977; 703173, 4548986; 703168, 4548996; 703164, 4549006; 703161, 4549012; 703159, 4549017; 703158, 4549021; 703157, 4549026; 703159, 4549030; 703165, 4549034; 703171, 4549034; 703179, 4549030; 703191, 4549020; 703200, 4549009; 703206, 4549000; 703210, 4548992; 703213, 4548983.

(xv) Note: Map of Unit 4, Jack Sinn – Rock Creek (Map 4), follows:

BILLING CODE 4310-55-S



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Dated: March 12, 2010
 Signed: Will Shafroth,
 Acting Assistant Secretary for Fish and
 Wildlife and Parks.
 [FR Doc. 2010-7121 Filed 4-5-10; 8:45 am]
 BILLING CODE 4310-55-C