

contents of each petition can be accessed and reviewed. The FeP can be accessed 24 hours a day, seven days a week, via the Internet at the docket's Web site at <http://www.regulations.gov>. All documents in the FeP are available for inspection and copying on the Web site or are available for examination at the DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, during regular business hours (9 a.m.–5 p.m.).

(d) *Comment.* Not later than 60 days from the date of publication of the notice in the **Federal Register** concerning a petition for modification under paragraph (a) of this section, any person may comment on the petition. Any such comment shall:

(1) Set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding; and

(2) Be submitted by mail or hand-delivery to the Docket Clerk, DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or electronically via the Internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA will be immediately provided to the DOT FeP for inclusion in the public docket related to the petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

(e) *FRA Review.* During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided within this 60-day period to the party requesting the modification detailing FRA's objection.

(f) *Disposition of petitions for modification.*

(1) If no comment objecting to the requested modification is received during the 60-day comment period, provided by paragraph (d) of this section, or if FRA does not issue a written objection to the requested modification, the modification will become effective fifteen (15) days after the close of the 60-day comment period.

(2) If an objection is raised by an interested party, during the 60-day comment period, or if FRA issues a written objection to the requested modification, the requested modification will be treated as a petition for special approval of an existing industry safety appliance standard and handled in accordance with the procedures provided in § 231.33(f).

(3) A petition for modification, once approved, may be re-opened upon good cause shown. Good cause exists where subsequent evidence demonstrates that an approved petition does not comply with the requirements of this section; that the existing industry safety appliance standard does not provide at least an equivalent level of safety as the corresponding FRA regulation for the nearest car type(s); or that further information is required to make such a determination. When a petition is re-opened for good cause shown, it shall return to pending status and shall not be considered approved or denied.

(g) *Enforcement.* Any modification of an industry standard approved pursuant to this section will be enforced against any person, as defined at 49 CFR 209.3, who violates any provision of the approved standard or causes the violation of any such provision. Civil penalties will be assessed under this part by using the applicable defect code contained in appendix A to this part.

Issued in Washington, DC, on June 29, 2010.

**Joseph C. Szabo,**  
*Administrator, Federal Railroad Administration.*

[FR Doc. 2010-16153 Filed 7-1-10; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2009-0072]  
[92210-1117-0000-B4]

RIN 1018-AW23

#### Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for Santa Ana Sucker

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are reopening the comment period on our December 9, 2009, proposed revised designation of critical habitat for Santa Ana sucker (*Catostomus santaanae*) under the Endangered Species Act of 1973, as amended (Act). We are reopening the comment period for an additional 30 days to allow all interested parties an opportunity to comment simultaneously on the proposed revised critical habitat designation, the draft economic analysis (DEA) associated with the proposed critical habitat designation, proposed

revisions to one subunit, and the amended Required Determinations section of the preamble. We are also announcing the location and time of a public hearing to receive public comments on the proposal. If you submitted comments previously, you do not need to resubmit them because we have already incorporated them into the public record and will fully consider them in preparation of the final rule.

**DATES:** *Written comments:* You may submit comments by one of the following methods: We will consider comments that we receive on or before August 2, 2010.

*Public hearing:* We will hold a public hearing on this proposed rule on July 21, 2010, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m.

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

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R8-ES-2009-0072.

• U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R8-ES-2009-0072; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

*Public hearing:* We will hold a public hearing at Ayres Suites Corona West, 1900 W Frontage Road, Corona, CA 92882.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011; telephone (760) 431-9440; facsimile (760) 431-5901. If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments

We intend that any final action resulting from the proposed rule will be based on the best scientific data available and will be as accurate and effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, and other interested parties during this reopened comment period on the proposed rule to revise critical habitat

for Santa Ana sucker that was published in the **Federal Register** on December 9, 2009 (74 FR 65056), including the DEA of the proposed revised critical habitat designation, the changes to proposed critical habitat in Subunit 1A, the considered exclusion of critical habitat in Subunits 1B and 1C, and the amended required determinations section provided in this document. We are particularly interested in comments concerning:

(1) The reasons we should or should not revise the designation of habitat as "critical habitat" for Santa Ana sucker under section 4 of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh any threats to the species caused by the designation, such that the designation of critical habitat is prudent.

(2) Specific information on:

- Areas that provide habitat for Santa Ana sucker that we did not discuss in the proposed revised critical habitat rule;
- 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 which may require special management considerations or protection, that we should include in the revised designation and reason(s) why (see the **Physical and Biological Features** section of the revised proposed rule published December 9, 2009 (74 FR 65056), for further discussion);
- Areas outside the geographical area occupied by the species at the time of listing that are essential for the conservation of the species and why; and
- Special management considerations or protections that may be required for the features essential to the conservation of the Santa Ana Sucker identified in the proposed revised rule, including managing for the potential effects of climate change.

(3) Information on the projected and reasonably likely impacts of climate change on this species and the critical habitat areas we are proposing.

(4) How the proposed revised critical habitat boundaries could be refined to more closely circumscribe the areas identified as containing the features essential to the species' conservation.

(5) Specific information on our proposed designation of City Creek, Plunge Creek, and the Santa Ana River above Seven Oaks Dam to provide habitat for future reintroduction of

Santa Ana sucker to augment the Santa Ana sucker population in the Santa Ana River. See **Critical Habitat Units** section of the revised proposed rule (74 FR 65056), for further discussion.

(6) Specific information on Santa Ana sucker, habitat conditions, and the presence of physical and biological features essential to the conservation of the species in Subunit 1B below Prado Dam.

(7) Specific information on the sediment contribution from tributaries to the Santa Ana River below Prado Dam (Subunit 1B).

(8) Specific information on the Santa Ana sucker, habitat conditions, and the presence of potential permanent barriers to movement in Big Tujunga Wash (Subunit 3A), particularly between the Big Tujunga Canyon Road Bridge and the Big Tujunga Dam. See **Critical Habitat Units** section of the December 9, 2009, revised proposed rule (74 FR 65056), for further discussion.

(9) Land-use designations and current or planned activities in the areas proposed as critical habitat, as well as their possible effects on the proposed critical habitat.

(10) Information that may assist us in identifying or clarifying the PCEs. See the **Primary Constituent Elements (PCEs)** section of the revised proposed rule (74 FR 65056), for further discussion.

(11) Specific information on instream gradient (slope) limitations of the species. In the proposed rule, we assume that Santa Ana suckers are unable to occupy stream sections where the instream slope exceeds 7 degrees. See the **PCEs** section of the December 9, 2009, proposed rule (74 FR 65056), for further discussion.

(12) Any probable economic, national security, or other impacts of designating particular areas as critical habitat, and, in particular, any impacts on small entities (e.g., small businesses or small governments), and the benefits of including or excluding areas that exhibit these impacts.

(13) Whether any specific areas being proposed as critical habitat should be excluded under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any particular area outweigh the benefits of including that area under section 4(b)(2) of the Act. See the **Exclusions** section of the December 9, 2009, the revised proposed rule (74 FR 65056), and the *Additional Areas Currently Considered for Exclusion Under Section 4(b)(2) of the Act* section of this document for further discussion.

(14) The potential exclusion of Subunits 1B and 1C under section

4(b)(2) of the Act based on the benefits to the species provided by implementation of the Western Riverside County Multiple Species Habitat Conservation Plan and Santa Ana Sucker Conservation Program and, whether the benefits of exclusion of these areas outweigh the benefits of including this area as critical habitat, and why. See *Additional Areas Currently Considered for Exclusion Under Section 4(b)(2) of the Act* section below and **Exclusions** section of the December 9, 2009, revised proposed rule (74 FR 65056) for further discussion.

(15) Specific conservation that has been achieved for Santa Ana sucker or its habitat as a result of the Santa Ana Sucker Conservation Program, Western Riverside County Multiple Species Habitat Conservation Plan, or other conservation or management programs within proposed revised critical habitat.

(16) Information on any quantifiable economic costs or benefits of the proposed revised designation of critical habitat.

(17) Information on the extent to which the description of potential economic impacts in the DEA is complete and accurate.

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

If you submitted comments or information on the proposed rule (74 FR 65056) during the initial comment period from December 9, 2009, to February 8, 2010, please do not resubmit them. These comments are included in the public record for this rulemaking, and we will fully consider them in the preparation of our final determination. Our final determination concerning the revised critical habitat for Santa Ana sucker will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas within the proposed revised critical habitat designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

You may submit your comments and materials concerning our proposed revised rule, the associated DEA, and our amended required determinations

by one of the methods listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hard copy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hard copy comments on <http://www.regulations.gov>. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used to prepare this notice, will be available for public inspection at <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service's Carlsbad Fish and Wildlife Office (see the **FOR FURTHER INFORMATION CONTACT** section). You may obtain copies of the proposed revised critical habitat (74 FR 65056) and the DEA on the Internet at <http://www.regulations.gov> at Docket No. FWS-R8-ES-2009-0072, or by mail from the Carlsbad Fish and Wildlife Office (see the **FOR FURTHER INFORMATION CONTACT** section).

#### Public Hearings

The public hearings will take place on July 21, 2010, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. at Ayres Suites Corona West, 1900 W. Frontage Road, Corona, CA 92882. The public hearing location is wheelchair-accessible. If you plan to attend the public hearing and need special assistance such as sign language interpretation or other reasonable accommodation, please notify the US FWS (see **FOR FURTHER INFORMATION CONTACT**) at least 3 business days in advance. Include your contact information as well as information about your specific needs.

#### Background

It is our intent to discuss only those topics directly relevant to the proposed revised designation of critical habitat for Santa Ana sucker in this document. For more detailed information on the taxonomy, biology, and ecology of Santa Ana sucker, please refer to the final listing rule published in the **Federal Register** on April 12, 2000 (65 FR 19686); the designation and revision of critical habitat for Santa Ana sucker published in the **Federal Register** on February 26, 2004 (69 FR 8839); and on

January 4, 2005 (70 FR 426); respectively; and the second proposed revision of critical habitat for Santa Ana sucker published in the **Federal Register** on December 9, 2009 (74 FR 65056), or the Carlsbad Fish and Wildlife Office (see the **FOR FURTHER INFORMATION CONTACT** section).

California Trout, Inc., et al. filed suit against the Service on November 15, 2007, alleging that the January 4, 2005, final designation of critical habitat violated provisions of the Act and Administrative Procedure Act [(California Trout, Inc., et al., v. United States Fish and Wildlife, et al., Case No. 07-CV-05798 (N.D. Cal.) transferred Case No. CV 08-4811 (C.D. Cal.)]. The plaintiffs alleged that our January 4, 2005, revised critical habitat designation for Santa Ana sucker was insufficient for various reasons and should include the Santa Clara River population. We entered into a stipulated settlement agreement with plaintiffs that was approved by the District Court on January 21, 2009. Pursuant to the District Court Order, we committed to submit a proposed revised critical habitat designation for Santa Ana sucker to the **Federal Register** by December 1, 2009, and submit a revised critical habitat designation to the **Federal Register** by December 1, 2010. We published the proposed revised critical habitat designation in the **Federal Register** on December 9, 2009 (74 FR 65056).

Section 3 of the Act defines critical habitat as "(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with [the Act], on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with [the Act], upon a determination by the Secretary that such areas are essential for the conservation of the species" (16 U.S.C. 1532(5)(A)(i) and (ii)). If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions that may affect critical habitat must consult with us on the effects of their proposed actions under section 7(a)(2) of the Act.

#### Draft Economic Analysis

Section 4(b)(2) of the Act requires that we designate critical habitat based upon the best scientific data available after

taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat.

We prepared a DEA (Industrial Economics, Inc. (IEC) 2010) that identifies and analyzes the potential impacts associated with the proposed revised critical habitat designation for Santa Ana sucker published in the **Federal Register** on December 9, 2009 (74 FR 65056). The DEA looks retrospectively at costs incurred since the April 12, 2000 (65 FR 19686), listing of Santa Ana sucker as a threatened species. The DEA quantifies the economic impacts of all potential conservation efforts for Santa Ana sucker. However, some of these costs will likely be incurred regardless of whether or not we finalize the revised critical habitat. The economic impact of the proposed revised critical habitat designation is analyzed by comparing scenarios both "with critical habitat" and "without critical habitat." The "without critical habitat" scenario represents the baseline for the analysis, considering protections that are already in place for the species (such as protections under the Act and other Federal, State, and local regulations). The baseline, therefore, represents costs incurred regardless of whether critical habitat is designated. The "with critical habitat" scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. Incremental conservation efforts and associated impacts are those not expected to occur absent the critical habitat designation for Santa Ana sucker. In other words, incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs. The DEA also qualitatively discusses the potential incremental economic benefits associated with the designation of critical habitat. The incremental impacts are the impacts we may consider in the revised designation of critical habitat relative to areas that may be excluded under section 4(b)(2) of the Act. The analysis forecasts both baseline and incremental impacts likely to occur if we finalize the proposed revised critical habitat designation.

The revised DEA (made available with the publication of this notice and referred to throughout this document unless otherwise noted) estimates the foreseeable economic impacts of the proposed revised critical habitat designation for Santa Ana sucker. The DEA describes economic impacts of Santa Ana sucker conservation efforts associated with the following categories

of activities: (1) Water management; (2) residential and commercial development; (3) transportation-related projects; (4) point sources of pollution including the Santa Ana Regional Interceptor line; (5) recreational activities; and (6) commercial and recreational mining.

Baseline economic impacts are those impacts that result from listing and other conservation efforts for Santa Ana sucker. Conservation efforts related to water management, transportation, and development activities constitute the majority of total baseline costs (approximately 90 percent of post-designation upper-bound baseline impacts when a 7 percent discount rate is used) in areas of proposed revised critical habitat. Conservation efforts related to point source pollution and off-highway vehicle recreation comprise the remaining approximate 10 percent of post-designation upper-bound baseline impacts when a 7 percent discount rate is used. Total future baseline impacts are estimated to be \$22.6 to \$29.8 million (\$1.99 to \$2.62 million annualized) in present value terms using a 7 percent discount rate over the next 20 years (2011 to 2030) in areas proposed as revised critical habitat (IEC 2010, p. ES-3).

Conservation efforts related to water management activities, transportation projects, and residential and commercial development projects comprise most (90 percent) of the quantified incremental impacts for the proposed revised critical habitat rule. Impacts associated with transportation projects make up the largest portion of post-designation upper-bound incremental impacts, accounting for 38 to 53 percent of the forecast incremental

impacts when a 7 percent discount rate is used. The DEA estimates total potential incremental economic impacts in areas proposed as revised critical habitat over the next 20 years (2011 to 2030) to be \$6.87 million to \$9.45 million (\$606,000 to \$834,000 annualized) in present value terms applying a 7 percent discount rate (IEC 2010, p. ES-2).

The DEA considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the “opportunity costs” associated with the commitment of resources to comply with habitat protection measures (such as lost economic opportunities associated with restrictions on land use). The DEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. The DEA measures lost economic efficiency associated with residential and commercial development and public projects and activities, such as economic impacts on water management and transportation projects, Federal lands, small entities, and the energy industry. Decision makers can use this information to assess whether the effects of the revised critical habitat designation might unduly burden a particular group or economic sector.

**Changes to Proposed Revised Critical Habitat**

In this document, we are proposing revisions to Subunit 1A as identified

and described in the proposed revised critical habitat designation that published in the **Federal Register** on December 9, 2009 (74 FR 65056). We received a public comment that identified specific areas outside the geographical area occupied by the species at the time it was listed that may be essential for the conservation of Santa Ana sucker. The purpose of the revision described below is to ensure that all areas are evaluated uniformly and equally to determine the areas that meet the definition of critical habitat for Santa Ana sucker. The area we are proposing to add to Subunit 1A contains the physical and biological features essential for the conservation of the species. The change we propose to Subunit 1A does not alter the description of this subunit (see “Critical Habitat Units” section in the proposed revised rule (74 FR 65070)); however, a revised map including this new area is included in this document. We briefly describe the change made for Subunit 1A below. As a result of this revision, the overall area proposed for critical habitat, including all units and subunits, is approximately 9,643 acres (ac) (3,902 hectares (ha)), an increase of approximately 38 ac (15 ha) from the 9,605 ac (3,887 ha) that we proposed as critical habitat in the December 9, 2009, proposed revised critical habitat designation (74 FR 65056). A summary of the total area of each proposed subunit is presented in Table 1. Additionally, we are considering for exclusion lands covered by the Western Riverside County Multiple Species Habitat Conservation Plan (Western Riverside County MSHCP), described below in detail.

TABLE 1. Summary of subunits proposed as critical habitat. Area estimates and land ownership for Santa Ana sucker proposed revised critical habitat.

Unit	Counties	Ownership			Total Area <sup>2</sup>
		Federal	State or Local Government	Private	
Unit 1: Santa Ana River					
Subunit 1A: Upper Santa Ana River	San Bernardino	284 ac (115 ha)	95 ac (38 ha)	1559 ac (631 ha)	1,938 ac (784 ha)
Subunit 1B: Santa Ana River	San Bernardino and Riverside	13 ac (5 ha)	2,390 ac (967 ha)	2,301 ac (931 ha)	4,704 ac <sup>1</sup> (1,903 ha)
Subunit 1C: Lower Santa Ana River	Riverside and Orange	0 ac (0 ha)	56 ac (23 ha)	711 ac (288 ac)	767 ac <sup>1</sup> (311 ha)
	<i>Unit 1 Total</i>	287 ac (116 ha)	2,541 ac (1,028 ha)	4,570 ac (1,849 ha)	7,409 ac (2,998 ha)
Unit 2: San Gabriel River					

TABLE 1. Summary of subunits proposed as critical habitat. Area estimates and land ownership for Santa Ana sucker proposed revised critical habitat.—Continued

Unit	Counties	Ownership			Total Area <sup>2</sup>
		Federal	State or Local Government	Private	
Unit 2: San Gabriel River	Los Angeles	917 ac (371 ha)	0 ac (0 ha)	83 ac (34 ha)	1,000 ac (405 ha)
Unit 3: Big Tujunga Creek					
Subunit 3A: Big Tujunga and Haines Creeks	Los Angeles	242 ac (98 ha)	0 ac (0 ha)	947 ac (383 ha)	1,189 ac (481 ha)
Subunit 3B: Gold, Delta, and Stone Creeks	Los Angeles	44 ac (18 ha)	0 ac (0 ha)	0 ac (0 ha)	44 ac (18 ha)
	<i>Unit 3 Total</i>	286 ac (116 ha)	0 ac (0 ha)	947 ac (383 ha)	1,233 ac (499 ha)
	<b>Total</b>	<b>1,490 ac (603 ha)</b>	<b>2,541 ac (1,028 ha)</b>	<b>5,600 ac (2,266 ha)</b>	<b>9,643 ac (3,902 ha)</b>

<sup>1</sup> Contains areas being considered for exclusion in the final critical habitat rule under section 4(b)(2) of the Act.

<sup>2</sup> Values in this table may not sum due to rounding.

### Subunit 1A: Upper Santa Ana River

We received a comment indicating that we did not include in the proposed revised critical habitat designation a portion of the upper Santa Ana River watershed that meets the definition of critical habitat, is essential for the conservation of the species, and is a site for possible reintroduction or refugia (i.e., area that provides for establishment of populations with minimal to no threats) for Santa Ana sucker. We reviewed aerial imagery, topographic maps, and information in our files for this area and verified that a portion of Plunge Creek meets the definition of critical habitat for Santa Ana sucker. Plunge Creek, a tributary of the Santa Ana River, is located in San Bernardino County upstream of the Santa Ana River's confluence with City Creek. Plunge Creek above Greenspot Road and north into the foothills of the San Bernardino Mountains is relatively unmodified, as are the other areas proposed for critical habitat designation in Subunit 1A. The approximate 3-mi (4.83-km) section of Plunge Creek that we are now proposing as critical habitat encompasses 11.1 ac (4.5 ha) of land owned by the U.S. Forest Service and 26.6 ac (10.7 ha) of privately owned land.

We determined that this area contains PCEs 1–7 and is essential for the conservation of the species. While we do not have information indicating this creek is currently occupied, we believe it is reasonable to assume that Santa Ana sucker could have inhabited these waters before the existing barriers to dispersal were present. The area that we

are proposing for critical habitat designation maintains a perennial flow of cool and clear (not turbid) water, has a diverse composition of substrates, and a complex system of riffles, runs, pools, and shallow marginal areas covered with native riparian vegetation that would provide highly suitable habitat for reintroduction or establishment of a refugia population of Santa Ana sucker (OCWD 2009, pp. 5-66–69, 6-2, 6-6).

In addition to including the Plunge Creek area as proposed revised critical habitat, we are clarifying the description of Subunit 1A, (Upper Santa Ana River). The area proposed for critical habitat designation (74 FR 65056) in the upper Santa Ana River includes approximately 0.2 mi (0.32 km) of Bear Creek (identified as the Santa Ana River in the December 9, 2009, proposed rule) above its confluence with the Santa Ana River.

As stated in the December 9, 2009, proposed revised critical habitat designation (74 FR 65056), it is essential to maintain areas of suitable habitat in the Santa Ana River watershed where Santa Ana suckers could be reintroduced or areas that provide refugia necessary to decrease the risk of extirpation in the Santa Ana River or extinction due to stochastic events and provide for species' recovery. Like other areas proposed for designation as critical habitat for the purpose of reintroduction or establishment of a refugia population of Santa Ana sucker, Plunge Creek is also likely to require active management to transport individuals back to the upstream areas if they were flushed downstream during a flood event (74 FR 65071). We encourage public comment regarding

the addition of the Plunge Creek area as proposed critical habitat in Subunit 1A (see **Public Comments** section above).

### *Additional Areas Currently Considered For Exclusion Under Section 4(b)(2) of the Act*

#### **Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)**

The Western Riverside County MSHCP is a regional, multi-jurisdictional HCP encompassing about 1.26 million ac (510,000 ha) in western Riverside County. The Western Riverside County MSHCP addresses 146 listed and unlisted "covered species," including the Santa Ana sucker. Participants in the Western Riverside County MSHCP include 16 cities; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency (County Flood Control), Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department; California Department of Parks and Recreation; and the California Department of Transportation. The Western Riverside County MSHCP was designed to establish a multi-species conservation program that minimizes and mitigates the effects of expected habitat loss and associated incidental take of covered species. The Service issued a single incidental take permit on June 22, 2004 (Service 2004), under section 10(a)(1)(B) of the Act, to 22 permittees under the Western Riverside County MSHCP for a period of 75 years.

Specifically, the Secretary is considering whether to exercise his discretion to exclude 3,048 ac (1,234 ha) in Unit 1 (portions of Subunits 1B and 1C) within the Western Riverside County MSHCP plan area (see table 2 for the acreage of land being considered for

exclusion in each subunit). We are considering the exclusion of non-Federal lands that are either owned by or under the jurisdiction of permittees under the Western Riverside County MSHCP. There are approximately 1,036 ac (420 ha) in Subunit 1B and 23 ac (10

ha) in Subunit 1C that are within the plan boundary of Western Riverside County MSHCP but are not being considered for exclusion because they are owned by non-permittees of the Western Riverside County MSHCP or are federally owned.

TABLE 2. *Santa Ana sucker proposed critical habitat areas considered for exclusion under section 4(b)(2) of the Act under the Western Riverside County MSHCP, presented per land ownership.*

Permittees under the Western Riverside County MSHCP	Subunit 1B	Subunit 1C
County of Riverside	428 ac (173 ha)	19 ac (8 ha)
City of Norco	234 ac (95 ha)	
City of Riverside	52 ac (21 ha)	
Riverside County Flood Control and Water Conservation Agency (County Flood Control)	324 ac (131 ha)	13 ac (5 ha)
Riverside County Parks and Open Space District	215 ac (87 ha)	
California Department of Parks and Recreation		54 ac (22 ha)
California Department of Transportation	3 ac (1 ha)	
State of California (Wildlife Conservation Board in collaboration with California Department of Fish and Game and Riverside County Parks and Open Space District)	1,125 ac (455 ha)	
Private	577 ac (234 ha)	6 ac (2 ha)
<b>Total land considered for exclusion*</b>	<b>2,957 ac (1,197 ha)</b>	<b>91 ac (37 ha)</b>

\* Values in this table may not sum due to rounding.

The Western Riverside County MSHCP will establish approximately 153,000 ac (61,917 ha) of new conservation lands (Additional Reserve Lands) to complement the approximately 347,000 ac (140,426 ha) of pre-existing natural and open space areas (Public/Quasi-Public (PQP) lands). These PQP lands include those under ownership of public or quasi-public agencies, and also permittee-owned or controlled open-space areas. Collectively, the Additional Reserve Lands and PQP lands form the overall Western Riverside County MSHCP Conservation Area. The configuration of the 153,000 acres (61,916 ha) of Additional Reserve Lands is based on textual descriptions of habitat conservation necessary to meet the conservation goals for all covered species within the bounds of the approximately 310,000-ac (125,453-ha) Criteria Area and is determined as implementation of the Western Riverside County MSHCP takes place.

The Western Riverside County MSHCP identifies five conservation objectives that will be implemented to provide long-term conservation of the Santa Ana sucker:

(1) Include within the Western Riverside County MSHCP Conservation Area 3,480 ac (1,408 ha) of habitat for the Santa Ana sucker, including the

Santa Ana River within the natural river bottom and banks;

(2) Include within the MSHCP Conservation Area the following areas (known as core areas for this species in the Western Riverside County MSHCP): Upstream of River Road, between River Road and Prado Dam, and downstream of Prado Dam; the known spawning areas at Sunnyslope Creek and within the area just below Mission Boulevard upstream to the Rialto Drain; and refugia and dispersal areas including the Market Street Seep, Mount Rubidoux Creek, Anza Park Drain, Arroyo Tequesquite, Hidden Valley Drain, and Evans Lake Drain;

(3) Include within the MSHCP Conservation Area the natural river bottom and banks of the Santa Ana River from the Orange County and Riverside County line to the upstream boundary of the Western Riverside County MSHCP plan area, including the adjacent upland habitat, where available, to provide shade and suitable microclimate conditions (such as alluvial terraces and riparian vegetation);

(4) Within the MSHCP Conservation Area, the Reserve Managers responsible for the areas identified in Objectives 2 and 3 will assess barriers to sucker movement and the need for connectivity and identify measures to restore

connectivity to be implemented as feasible; and

(5) Within the MSHCP Conservation Area, the Reserve Managers responsible for the areas identified in Objectives 2 and 3 will assess threats to the sucker from degraded habitat (such as reduced water quality, loss of habitat, presence of nonnative predators and vegetation), identify areas of the watershed that are necessary for successful sucker spawning, identify areas for creation of stream meanders, and pool riffle complexes and reestablishment of native riparian vegetation as appropriate and feasible, and identify and implement management measures to address threats and protect critical areas (Dudek and Associates, Inc. 2003, pp. F-19–20; Service 2004, p. 258).

Additionally, riparian and riverine areas located within and outside of the Western Riverside County MSHCP Conservation Area are subject to the "Protection of Species Associated with Riparian/Riverine Areas and Vernal Pools" policy presented in Section 6.1.2 of the Western Riverside County MSHCP, Volume I. This policy provides for the avoidance and minimization of impacts to riparian and riverine habitats, if feasible. According to the plan, unavoidable impacts will be mitigated such that the lost habitat functions and values related to covered

species will be replaced (Dudek and Associates, Inc. 2003, pp. 6-24).

The goal of conserving 3,480 ac (1,408 ha) of habitat for the Santa Ana sucker in the Western Riverside County MSHCP Conservation Area relies primarily on coordinated management of existing PQP lands and to a lesser extent on acquisition or other dedications of land assembled from within the Criteria Area (i.e., the Additional Reserve Lands). We internally mapped a "Conceptual Reserve Design," which illustrates existing PQP lands and predicts the geographic distribution of the Additional Reserve Lands based on our interpretation of the textual descriptions of habitat conservation necessary to meet conservation goals. Our Conceptual Reserve Design is intended to predict one possible future configuration of the eventual approximately 153,000 ac (61,916 ha) of Additional Reserve Lands in conjunction with the existing PQP lands, including the approximate 3,480 ac (1,408 ha) of Santa Ana sucker habitat, intended to be conserved to meet the goals and objectives of the plan (Service 2004, pp. 257–258). In our analysis of conservation for the Santa Ana sucker under the Western Riverside County MSHCP, we anticipate that, over the term of the permit, up to 443 ac (179 ha) of Santa Ana sucker habitat will be impacted within the plan area (Service 2004, p. 260).

The preservation and management of approximately 3,480 ac (1,408 ha) of Santa Ana sucker habitat under the Western Riverside County MSHCP is intended to contribute to the conservation and ultimate recovery of this species. The Santa Ana sucker is at risk due to its small population sizes and specifically threatened by habitat destruction, degradation, and fragmentation; dewatering; reductions in water quality; fire; recreational activities; and competition and predation from nonnative species within the plan area (Service 2004, pp. 254–255). The Western Riverside County MSHCP is intended to reduce threats to this species and the physical and biological features essential to its conservation as the plan is implemented by placing large blocks of habitat into preservation throughout the Conservation Area. The plan also generates funding for long-term management of conserved lands for the benefit of the species it protects. Core Areas identified for preservation and conservation include upstream of River Road, between River Road and Prado Dam, and downstream of Prado Dam; the known spawning areas at

Sunnyslope Creek and within the area just below Mission Boulevard upstream to the Rialto Drain; and refugia and dispersal areas including the Market Street Seep, Mount Rubidoux Creek, Anza Park Drain, Arroyo Tequesquite, Hidden Valley Drain, and Evans Lake Drain (Dudek and Associates, Inc. 2003, p. F-20; Service 2004, p. 258).

The Western Riverside County MSHCP has several measures in place intended to ensure the plan is implemented in a way that conserves Santa Ana sucker in accordance with the species-specific criteria and objectives for this species. Permittee-owned PQP lands are to be managed in a manner that contributes to the conservation of the covered species. In the event that a permittee elects to alter their PQP lands such that they would not contribute to the conservation of covered species, lands would need to be replaced at a minimum 1:1 ratio. The proposed critical habitat designation includes lands owned by non-permittees of the Western Riverside County MSHCP in Subunit 1B and portions of Subunit 1C. The Western Riverside County MSHCP states that non-permittee-owned lands will be managed through Memorandums of Understanding or other appropriate agreements (MSHCP Implementation Agreement 2003, p. 60). Additional Reserve Lands would be acquired consistent with the plan criteria and conserved. The collective management of PQP and Additional Reserve Lands in accordance with the plan is intended to contribute to conservation of Santa Ana sucker.

The Western Riverside County MSHCP permittees are required to implement management and monitoring activities within the Additional Reserve Lands and PQP-owned lands. They must conduct baseline surveys at known occupied locations within the first 5 years of the plan and conduct additional surveys every 8 years to verify occupancy at a minimum of 75 percent of the MSHCP Conservation Area the Core Areas (listed above). Additionally, permittees and Reserve Managers must work cooperatively with Federal, State, and local agencies on conservation measures addressing connectivity and movement, nonnative predator removals, and riparian and instream vegetation maintenance or enhancement (Dudek and Associates, Inc. 2003, pp. F-23–25; Service 2004, p. 259).

The Western Riverside County MSHCP incorporates several processes that allow for Service oversight and participation in program implementation. These processes include: (1) Consultation with the

Service on development of a long-term management and monitoring plan that addresses covered species; (2) submission of annual monitoring reports; (3) annual status meetings with the Service; and (4) submission of annual implementation reports to the Service (Service 2004, pp. 9–10).

The majority of the lands that are being considered for exclusion within the Western Riverside County MSHCP are PQP lands that could be conserved through the implementation of the plan. Lands within Subunit 1B that are being considered for exclusion (2,957 ac (1,197 ha)) are owned by the County of Riverside, the cities of Norco and Riverside, the Riverside County Open Space and Parks, the Riverside County Flood Control District, the California Department of Parks and Recreation, the California Department of Transportation, the State of California Wildlife Conservation Board (which manages the area known as the Hidden Valley Wildlife Area and is comprised of the California Department of Fish and Game and Riverside County Open Space and Parks) and private land owners (see Table 2). Lands (91 ac (37 ha)) within Subunit 1C that are being considered for exclusion are owned by the County of Riverside, the Riverside County Flood Control District, the California Department of Parks and Recreation, and private land owners (see Table 2). Within the proposed revised critical habitat designation, no Additional Reserve Lands have been secured since the time of the approval of the Western Riverside County MSHCP. Under the incidental take permit for the Western Riverside County MSHCP (Service 2004, pp. 253-261), impacts to Santa Ana sucker habitat within the plan area are limited to a total of 443 acres (179 ha). In summary, the Secretary is considering exercising his discretion under section 4(b)(2) of the Act to exclude 3,048 ac (1,234 ha) of proposed critical habitat for the Santa Ana sucker within Western Riverside County MSHCP permittee-owned or controlled lands in Subunits 1B and 1C.

The 2000 final listing rule for the Santa Ana sucker identified the following primary threats to the Santa Ana sucker: Habitat destruction, natural and human-induced changes in streamflows, urban development and related land-use practices, intensive recreation, introduction of nonnative competitors and predators, and demographics associated with small populations (65 FR 19686; April 12, 2000). Implementation of the Western Riverside County MSHCP is intended to help alleviate these threats through a regional planning effort rather than

through a project-by-project approach, and outlines species-specific objectives and criteria for the conservation of the Santa Ana sucker. In the final revised critical habitat rule for the Santa Ana sucker, we will analyze the benefits of inclusion and exclusion of this area from critical habitat under section 4(b)(2) of the Act. We encourage public comment regarding our consideration of areas in Subunits 1B and 1C for exclusion (see **Public Comments** section above).

#### Required Determinations—Amended

In our proposed revised rule published in the **Federal Register** on December 9, 2009 (74 FR 65056), we indicated that we would defer our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the DEA. We have now made use of the DEA to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (*Regulatory Planning and Review*), E.O. 13132 (*Federalism*), E.O. 12988 (*Civil Justice Reform*), E.O. 12630 (*Takings*), the Paperwork Reduction Act, the National Environmental Policy Act, and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). However, based on the DEA data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), E.O. 13211 (*Energy Supply, Distribution, or Use*), and the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

#### *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) (5 U.S.C. 802(2)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions), as described below. However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Our analysis for determining

whether the proposed designation would result in a significant economic impact on a substantial number of small entities follows. Based on comments we receive, we may revise this determination as part of a final rulemaking.

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

To determine if the proposed revised designation of critical habitat for Santa Ana sucker would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities, such as residential and commercial development. In order to determine whether it is appropriate for our agency to certify that this rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. If we finalize this proposed revised critical habitat designation, Federal agencies must consult with us under section 7 of the Act if their activities may affect designated critical habitat. Incremental impacts to small entities may occur as a result of a required consultation under section 7 of the Act. Additionally, even in the absence of a Federal nexus, incremental impacts may still result because, for example, a city may request project modifications due to the designation of critical habitat via its review under the California Environmental Quality Act (CEQA). Consultations to avoid the destruction or adverse modification of critical

habitat would be incorporated into the existing consultation process due to the current status of Santa Ana sucker under the Act as a threatened species.

In the DEA, we evaluate the potential economic effects on small business entities resulting from implementation of conservation actions related to the proposed revision to critical habitat for Santa Ana sucker. The DEA is based on the estimated incremental impacts associated with the proposed rulemaking as described in Chapters 3 through 7 of the DEA. The SBREFA analysis evaluates the potential for economic impacts related to several categories, including: (1) Water management, (2) residential and commercial development, and (3) transportation activities (IEC 2010, p. A-7). On the basis of our draft analysis, we have determined that no incremental impacts attributed to water management or transportation activities are expected to be borne by entities that meet the definition of small entities (IEC 2010, p. A-7–8). Potential impact in these sectors are expected to be borne by water management agencies, States, Federal agencies and other governmental non-governmental agencies that are not considered to be small business entities. However, the DEA concludes that the proposed rulemaking potentially may affect small entities in the residential and commercial development sector (IEC 2010, p. A-8). There are 25,300 businesses involved in development activities within San Bernardino, Riverside, Orange, and Los Angeles Counties and, of these, 24,800 are considered small. The DEA estimates that 67 small entities may be affected, with estimated revenues of \$2.8 million per entity. Assuming impacts are shared equally among entities, the analysis concludes that the annualized impacts may represent approximately 0.16 percent of annual revenues. However, this assumption is likely to overstate the actual impacts to small development firms because some or all of the costs of Santa Ana sucker conservation efforts to development activities may ultimately be borne by current landowners in the form of reduced land values. Many of these landowners may be individuals or families that are not legally considered to be businesses. No NAICS code exists for landowners, and the SBA does not provide a definition of a small landowner.

To evaluate whether this proposed rule will result in a significant effect on a substantial number of small business entities, we first determined whether the proposed regulation will likely affect a substantial number of entities. Guidance from the Small Business



Administration (SBA) indicates that if “more than just a few” small business entities in a given sector are affected by a proposed regulation, then a substantial number of entities may be affected. “More than just a few” is not defined, and SBA suggests that a case-by-case evaluation be done. The DEA prepared for the proposed designation of critical habitat for the Santa Ana sucker predicts that 67 out of 24,800 small business entities in the residential and commercial development sector may be affected by the rule. Adopting a conservative approach in our analysis, we conclude that 67 entities equate to “more than just a few” small entities and, therefore, a substantial number of small business entities may be affected by the rule.

Next, we determined if the proposed revised designation of critical habitat would result in a significant economic effect on those 67 small business entities. There is no specific guidance under the RFA as to what constitutes a significant effect or at what scale the effect is measured – nationally or regionally. In implementing the RFA, the Service evaluates potential effects on a regional or local scale which, in most instances, results in a more conservative analysis. For the proposed revised critical habitat rule the Service relied on a threshold of three percent of annual revenues to evaluate whether the potential economic impacts of the designation on small business entities in the residential and commercial development sector may be significant. The DEA estimates that the annualized impacts of the proposed revised rule on the 67 potentially affected entities would be of 0.16 percent of their annual sales revenue. We have determined that a potential economic impact of a fraction of one percent of annual revenues is not significant.

In summary, we considered whether the proposed revised critical habitat designation would result in a significant economic impact on a substantial number of small entities. On the basis of our draft economic analysis, we determined that there would be a substantial number of small business entities potential affected by the proposed designation (67 entities), but that the estimated economic effect of less than one percent of annual revenues is not significant. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed revised critical habitat for Santa Ana sucker would not have a significant economic impact on a substantial number of small entities.

#### *Executive Order 13211—Energy Supply, Distribution, and Use*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The OMB’s guidance for implementing this Executive Order outlines nine outcomes that may constitute “a significant adverse effect” when compared to no regulatory action. Based on an analysis conducted for this designation, we determined that the final designation of critical habitat for Santa Ana Sucker is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

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

In accordance with the Unfunded Mandates Reform Act, the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)-(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or Tribal governments,” with two exceptions. First, it excludes “a condition of federal assistance.” Second, it also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding” and the State, local, or Tribal governments “lack authority” to adjust accordingly. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.”

Critical habitat designation does not impose a legally binding duty on non-

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

(b) As discussed in the DEA of the proposed revised designation of critical habitat for Santa Ana sucker, we do not believe that this rule would significantly or uniquely affect small governments because it would not produce a Federal mandate of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The DEA concludes incremental impacts may occur due to administrative costs of section 7 consultations for development, transportation, and flood control projects activities; however, these are not expected to affect small governments. Incremental impacts stemming from various species conservation and development control activities are expected to be borne by the Federal Government, California Department of Transportation, California Department of Fish and Game, Riverside County, Riverside County Flood Control and Water Conservation District, and City of Perris, which are not considered small governments. Consequently, we do not believe that the revised critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

#### **References Cited**

A complete list of all references we cited in the proposed rule and in this document is available on the Internet at <http://www.regulations.gov> or by contacting the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

**Author**

The primary authors of this notice are the staff members of the Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

**List of Subjects in 50 CFR Part 17**

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

**Proposed Regulation Promulgation**

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended

at 74 FR 65056, December 9, 2009, as follows:

**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. Critical habitat for the Santa Ana sucker (*Catostomus santaanae*) in § 17.95(e), which was proposed to be revised on December 9, 2009, at 74 FR 65056, is proposed to be further amended by revising paragraph (e)(6)(i)(B) as follows:

a. By revising the introductory text of paragraph (e)(6)(i)(B);

- b. By removing the map of subunit 1A; and
- c. By adding a new map of subunit 1A in its place, as set forth below.

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*

(e) *Fishes.*

\* \* \* \* \*

Santa Ana sucker (*Catostomus santaanae*)

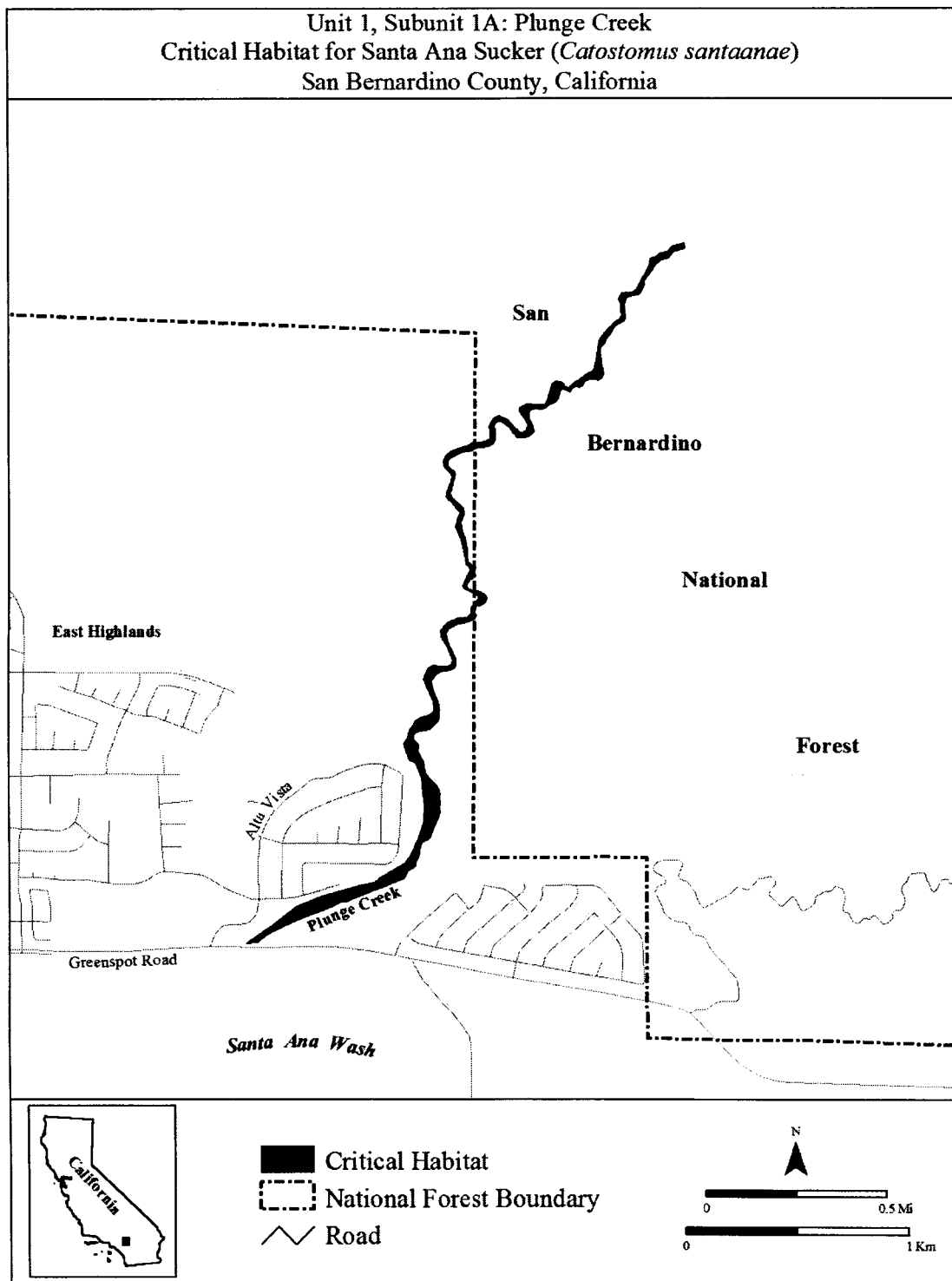
\* \* \* \* \*

(6) \* \* \*

(i) \* \* \*

(B) Map of Subunit 1A (Plunge Creek) follows:

**BILLING CODE 4310–55–S**



\* \* \* \* \*

Dated: June 18, 2010

**Will Shafroth,**

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

[FR Doc. 2010-15953 Filed 7-1-10; 8:45 am]

**BILLING CODE 4310-55-C**