

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

[Docket No. FWS-R8-ES-2023-0157;  
FXES1111090FEDR-256-FF09E21000]

RIN 1018-BH11

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Four Distinct Population Segments of the Foothill Yellow-Legged Frog**

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

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for four distinct population segments (DPSs) of the foothill yellow-legged frog (*Rana boylei*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 760,071 acres (307,590 hectares) in California fall within the boundaries of the proposed critical habitat designation. We also announce the availability of an economic analysis of the proposed designation of critical habitat for four DPSs.

**DATES:** We will accept comments received or postmarked on or before March 17, 2025. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by February 28, 2025.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2023-0157, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2023-0157, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally

means that we will post any personal information you provide us (see Information Requested, below, for more information).

*Availability of supporting materials:* Supporting materials, such as the species status assessment report, are available at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157. If we finalize the critical habitat designation, we will make the coordinates or plot points or both from which the maps are generated available at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157.

**FOR FURTHER INFORMATION CONTACT:** Michael Fris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, CA 95825; telephone 916-414-6700. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-R8-ES-2023-0157 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Under the Act, any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

*What this document does.* We propose the designation of critical habitat for four DPSs of the foothill yellow-legged frog, which are listed as endangered or threatened (see 88 FR 59698; August 29, 2023).

*The basis for our action.* Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, to designate critical habitat concurrent with listing. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, 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 protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

**Information Requested**

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

- (1) Specific information on:
  - (a) Biological or ecological requirements of the species, including habitat requirements for life-history functions including but not limited to feeding, breeding, and sheltering;
  - (b) The amount and distribution of the four DPSs' habitat;
  - (c) Any additional areas occurring within the range of the four DPSs in California that should be included in the designation because they (i) are occupied at the time of listing and contain the physical or biological features that are essential to the conservation of the four DPSs and that may require special management considerations or protection, or (ii) are unoccupied at the time of listing and are essential for the conservation of the four DPSs;

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(e) Whether occupied areas are adequate for the conservation of the four DPSs, as this will help us evaluate the potential to include areas not occupied at the time of listing. Additionally, please provide specific information regarding whether or not unoccupied areas would, with reasonable certainty, contribute to the conservation of the four DPSs and contain at least one physical or biological feature essential to the conservation of the DPSs. We also seek comments or information regarding whether areas not occupied at the time

of listing qualify as habitat for the four DPSs.

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

(3) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(4) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts and any additional information regarding probable economic impacts that we should consider.

(5) Ongoing conservation measures being implemented by landowners or land managers to conserve the four DPSs' habitat.

(6) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act, in particular for those areas associated with the joint Federal and State permitted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP) that can be obtained from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** above). If you think we should exclude any additional areas, please provide information supporting a benefit of exclusion.

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(2) of the Act directs that the Secretary shall designate critical habitat on the basis of the best scientific data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send

comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy 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 hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), our final designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, or may exclude some areas if we find the benefits of exclusion outweigh the benefits of inclusion and exclusion will not result in the extinction of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

#### Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

#### Previous Federal Actions

On July 11, 2012, we received a petition from the Center for Biological Diversity to list 53 species of reptiles and amphibians, including the foothill

yellow-legged frog, as endangered or threatened under the Act. On July 1, 2015, we published our 90-day finding in the **Federal Register** (80 FR 37568) that found that listing the foothill yellow-legged frog may be warranted. On December 28, 2021, we published in the **Federal Register** (86 FR 73914) a combined 12-month finding and proposed rule to list the North Feather and Central Coast DPSs of the foothill yellow-legged frog as threatened and the South Sierra and South Coast DPSs of the foothill yellow-legged frog as endangered under the Act. On August 29, 2023, we published in the **Federal Register** (88 FR 59698) the final rule to list the North Feather and Central Coast DPSs of the foothill yellow-legged frog as threatened and the South Sierra and South Coast DPSs of the foothill yellow-legged frog as endangered under the Act. The proposed and final rules listing the North Feather and Central Coast DPSs included a rule issued under section 4(d) of the Act (“a 4(d) rule”) for each of these two DPSs.

#### Peer Review

A species status assessment (SSA) team prepared an SSA report for the foothill yellow-legged frog (Service 2023b, entire). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The SSA report also contains a compilation of the most current habitat needs and requirements for the species and forms the basis for our determination of critical habitat for the four DPSs.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific review of the information contained in the foothill yellow-legged frog's SSA report. We received peer review from three appropriate specialists regarding the SSA report. Results of this structured peer review process can be found at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157. In preparing this proposed critical habitat rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

### Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the contents of the SSA report. The peer reviewers generally concurred with our information, methods, and conclusions, and they provided additional information, clarifications, and suggestions to improve the SSA report, including information related to the habitat needs of the foothill yellow-legged frog.

### Critical Habitat

#### Background

##### *Regulatory Framework*

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3(5)(A) 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.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely, by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and

the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to 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 requirement that each Federal action agency ensures, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated 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 also 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. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are

essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in 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.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific 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 from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; 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; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. 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 needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act for endangered species or the 4(d) rule for threatened species. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. 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 of those planning efforts calls for a different outcome.

#### **Physical or Biological Features Essential to the Conservation of the Species**

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

may require special management considerations or protection. The regulations at 50 CFR 424.02 define “physical or biological features essential to the conservation of the species” as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions.

Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-

history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

#### *Foothill Yellow-Legged Frog Description, Distribution, and Habitat Requirements*

Below is a summary of the distribution and habitat requirements of the foothill yellow-legged frog. For a more thorough discussion of this information as well as information on the ecology and life history of the species, please see the SSA report (Service 2023b, chapter 2, pp. 15–34, and chapter 4, pp. 52–66).

The foothill yellow-legged frog is a small- to medium-sized stream-dwelling frog approximately 1.5 to 3.2 inches (in.) (37 to 82 millimeters (mm)) in length. Colorization is highly variable but is usually light and dark mottled gray, olive, or brown, with variable amounts of brick red. The undersurfaces of the lower abdomen and inside surfaces of the rear legs are varying shades of yellow. The range of the four DPSs of the foothill yellow-legged frog is entirely in California and includes areas within the North Feather River watershed (North Feather DPS), areas in the Sierra Nevada Mountains south of Placer County to Kern County (South Sierra DPS), areas in the California Coast Range from Contra Costa to western Fresno County (Central Coast DPS), and areas of western Monterey County to northern Los Angeles County (South Coast DPS) (see figure below).

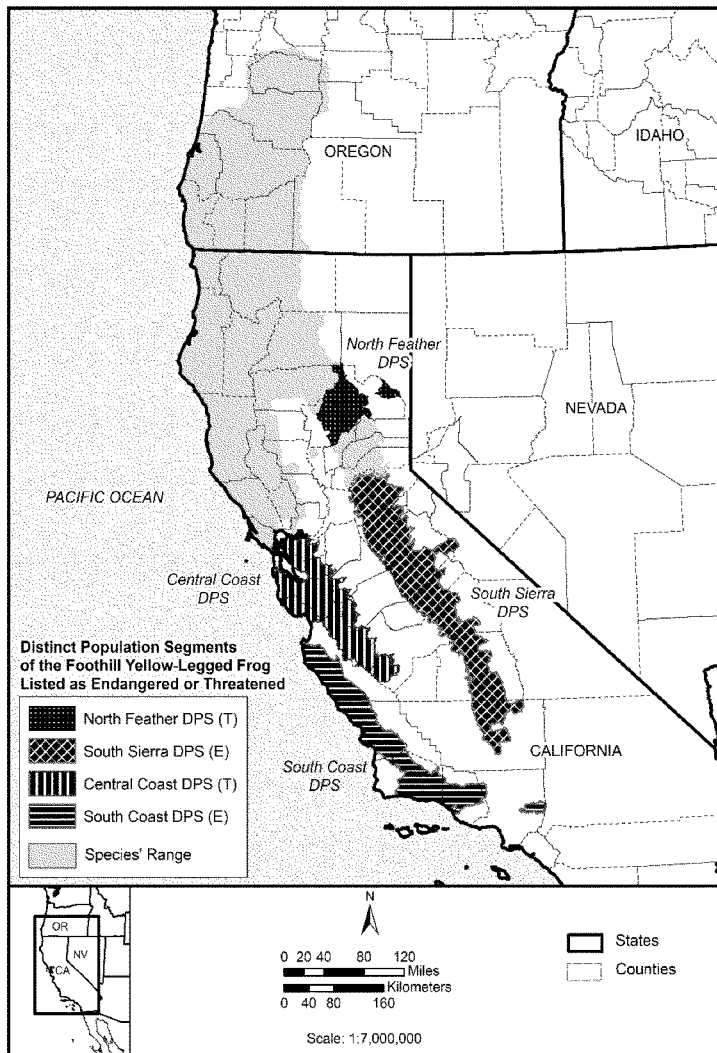


Figure of the Range of the Four Distinct Population Segments of the Foothill Yellow-legged Frog

Foothill yellow-legged frogs are obligate stream-dwelling frogs (Wheeler and Welsh 2008, p. 128) that use aquatic habitat for feeding, reproduction, and development and terrestrial habitat near streams for foraging, overwintering, and dispersal. The species occurs in lower elevation streams from sea level to approximately 5,000 feet (ft) (1,524 meters (m)) but have been documented at higher elevations. The species uses small tributaries to larger mainstem streams (first- through eighth-order streams as identified by the Strahler method (Strahler 1957, p. 914)) that are either primarily rain-fed (coastal DPSs) to primarily snow-influenced (most Sierra Nevada DPSs) (Olson and Davis 2009, p. 12; Wheeler et al. 2015, pp. 1276–1277; California Department of Fish and Wildlife (CDFW) 2019, p. 16).

The streams and surrounding terrestrial habitat of the foothill yellow-legged frog occurs in a wide variety of vegetation types including valley-foothill hardwood, valley-foothill hardwood-conifer, valley-foothill riparian, ponderosa pine, mixed conifer, mixed chaparral, and wet meadows (Hayes et al. 2016, p. 5). While habitat conditions can be vastly different among the stream habitat and across the species' geographic range, only a narrow range of abiotic conditions are tolerated by early life stages (*i.e.*, eggs, tadpoles, and metamorphs) (Kupferberg 1996, pp. 1336–1342; Bondi et al. 2013, p. 101; Lind et al. 2016, p. 263; Catenazzi and Kupferberg 2018, pp. 1044–1045). The abiotic conditions that directly influence the success of early life stages are those associated with stream

velocity, water depth, water temperature, and streambed substrate. Because foothill yellow-legged frogs are a wide-ranging species and habitat conditions are also highly variable depending on factors such as surrounding vegetation cover, stream depth, stream geomorphology, slope, and substrate composition, the exact conditions for stream velocity, depth, and temperature needed by the species for early life stages across its range for successful reproduction are also variable. Because each population is limited to its present ecological conditions, it is difficult to determine specific thresholds for these parameters across the range of the species.

In general, foothill yellow-legged frog breeding takes place between late March and early July (Zweifel 1955, p. 228;

Yarnell et al. 2013, pp. 64, 67, table 14). Most foothill yellow-legged frogs breed along mainstem water channels and overwinter along smaller tributaries near the mainstem channel (Kupferberg 1996, p. 1339; GANDA 2008, p. 20). Foothill yellow-legged frogs that overwinter along tributaries often congregate at the same breeding locations along the mainstem each year (Kupferberg 1996, p. 1334; Wheeler and Welsh 2008, p. 128).

Stream morphology is a strong predictor of breeding habitat because it creates the microhabitat conditions required for successful oviposition (*i.e.*, egg-laying), hatching, growth, and metamorphosis. Stream velocity, water depth, water temperature, and streambed substrate are most suitable for foothill yellow-legged frog oviposition and rearing in streams that exemplify the natural hydrological pattern that is characterized by strong winter flows in mainstem channels, followed by gradually decreasing flows during the spring into the summer (Kupferberg et al. 2009, p. 3; Power et al. 2016, pp. 714, 716, 719, figure 33.2). Increased or strong winter flows can maintain or increase foothill yellow-legged frog habitat by widening and diversifying channel morphology, improving rocky substrate conditions (by removing sediments), and increasing sunlight (by removing encroaching vegetation) (Lind et al. 1996, pp. 64–65; Lind et al. 2016, p. 269; Power et al. 2016, p. 719). The transition from the wet season to the dry season is characterized by a gradually decreasing stream flow called the spring recession flow, decreasing water velocity, and increasing water temperature (Kupferberg et al. 2012, p. 520; Power et al. 2016, pp. 714, 716, figure 33.2). Foothill yellow-legged frogs require a hydroperiod (*i.e.*, period of time during which an area is saturated with or full of water) that is sufficient for successful breeding and survival through dry periods. The timeframe and duration of the hydroperiod required varies by year and by region because of regional differences in timing of hydrological breeding cues (*e.g.*, water flows, temperature, spring recession flows), intrinsic tadpole growth rates (Catenazzi and Kupferberg 2017, pp. 1261–1262, figure 4), and ambient conditions (*e.g.*, temperature) that influence early life stage development. Foothill yellow-legged frogs are most likely cued in to these gradually reducing flows and increases in stream temperatures for reproduction (Kupferberg 1996, p. 1332; Wheeler and Welsh 2008, p. 134;

Gonsolin 2010, p. 32; Van Hattem et al. 2021, pp. 206–207).

The foothill yellow-legged frog spends much of the year outside of breeding areas, so it is extremely important that nonbreeding habitat meet their feeding, sheltering, and thermoregulatory needs by providing sources of invertebrate prey and intermittent canopy, thermally stable microsites, and moist, interstitial spaces (van Wagner 1996, p. 101; Rombough 2006, p. 159). During the nonbreeding season, the smaller tributaries, some of which may flow only during the wet winter season, provide refuge while the larger breeding channels may experience overbank flooding and high flows (Kupferberg 1996, p. 1339). Habitat elements outside the mainstem streams that provide both refuge from winter peak flows and adequate moisture for foothill yellow-legged frogs include pools, springs, seeps, submerged root wads, undercut banks, and large boulders or debris at or above high-water lines (van Wagner 1996, pp. 74–75, 111; Rombough 2006, p. 159).

Food resources are variable by life stage with tadpoles consuming algae, diatoms, and detritus that are scraped from submerged rocks and vegetation (Ashton et al. 1997, p. 7; Fellers 2005, p. 535). Metamorphs, juveniles, and adults feed upon a wide range of aquatic and terrestrial invertebrates including snails, moths, flies, water striders, beetles, grasshoppers, hornets, arthropods, and ants, as well as vertebrates such as small fish and small frogs (Zweifel 1955, p. 223; Nussbaum et al. 1983, p. 165). Food resources have been found to be primarily terrestrial (88 percent) as opposed to aquatic (*i.e.*, captured on or under water) (van Wagner 1996, pp. 88–89, 94, figure 38).

#### *Summary of Essential Physical or Biological Features*

We derive the specific physical or biological features essential to the conservation of the foothill yellow-legged frog from studies of the species' habitat, ecology, and life history as described above. Additional information can be found in the SSA report (Service 2023b, pp. 23–34, 52–66). We have determined that the following physical or biological features are essential to the conservation of the four DPSs of the foothill yellow-legged frog:

##### 1. Aquatic Stream Habitat

(a) Stream reaches with a hydrological pattern (including appropriate stream velocity, water depth, water temperature, streambed substrate, and geomorphic heterogeneity) capable of supporting foothill yellow-legged frog

breeding and rearing. Suitable stream reaches typically contain a wide and shallow channel morphology, an intermittent canopy, and rocky substrate that is cobble-sized or larger. These features provide habitat for breeding, feeding, and reproduction and in some cases general aquatic or overwintering habitat for the foothill yellow-legged frog.

(b) Tributary (nonbreeding) habitat adjacent to and accessible from breeding and rearing habitat. Suitable tributary habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia protected from scouring winter flows. These refugia may include springs, seeps, pools, woody debris, root wads, undercut banks, clumps of sedges, and rocks.

##### 2. Terrestrial and Dispersal Habitat

(a) Upland habitat adjacent to and accessible from breeding, rearing, and tributary habitat as identified in 1(a) and (b) above. Suitable upland habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia. These refugia may include nonstream pools, woody debris, root wads, clumps of sedges, and large boulders or debris.

(b) Dispersal habitat comprising permanent or ephemeral water channels and adjacent uplands that connect breeding and overwintering habitat sites. Suitable dispersal habitat does not need to hold moisture for extended periods. Suitable dispersal habitat typically connects areas containing intermittent canopy, interstitial spaces for sheltering, and sources of invertebrate prey. Additionally, suitable dispersal habitat is free from large physical barriers, hydrological barriers (*e.g.*, dams, reservoirs, and rivers with highly altered flow regimes), and areas with high exposure to predators.

#### **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 contain features that are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of the four DPSs of the foothill yellow-legged frog that may require special management considerations or protection to reduce the following direct or indirect threats to habitat are: (1) altered hydrology and stream flow; (2) nonnative species predation and

competition; (3) disease; (4) wildfire (upland habitat disturbance and sedimentation); (5) effects of climate change (e.g., increased temperatures); and (6) anthropogenic activities (e.g., agriculture (land conversion), urbanization, road construction, and recreation).

Special management considerations or protection that may be required within critical habitat areas to address these threats include (but are not limited to) the following: implement best management practices (BMPs) for protecting, maintaining, and enhancing stream flows or managing stream flows to mimic natural hydrologic conditions; maintaining adequate habitat connectivity between occupied areas or upland and aquatic habitat; avoiding alteration of stream features and associated upland habitats; protecting and restoring riparian vegetation along streams; implementing practices to reduce sedimentation, erosion, and streambank degradation; reducing other watershed, riparian, and floodplain disturbances that release sediments, pollutants, or nutrients into the water; and improving industrial and municipal water treatment facilities and sewage systems to reduce nutrient and pathogen pollution.

#### Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are not currently proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat.

In identifying areas of critical habitat for each of the four DPSs of the foothill yellow-legged frog, we developed a conservation strategy to assist in delineating the specific areas on which are found those physical or biological features essential for the conservation of the foothill yellow-legged frog. In our analysis for determining areas as critical habitat, we focused on those areas that have well-established populations throughout each of the four DPS's ranges. These areas would provide individuals for other local populations

and assist in maintaining the redundancy, representation, and resiliency of the foothill yellow-legged frog throughout the range of each DPS. Additional aspects of our conservation strategy include: (1) conserving and maintaining a sufficient amount of high-quality breeding and rearing habitat with appropriate physical and hydrological characteristics to provide for recruitment over the long term; (2) conserving and maintaining sufficient high-quality upland and tributary habitat to provide for juvenile and adult overwintering survival to allow for maintenance of breeding populations over the long term; and (3) retaining or providing areas for connectivity between high-quality breeding and rearing habitat for genetic exchange and recolonization within metapopulations. Without appropriate well-established areas for breeding, rearing, and upland use, the foothill yellow-legged frog within each of the four DPSs would not be able to sustain populations in the wild.

To implement the above strategy and identify the areas within the geographical area occupied by the species at the time of listing, we delineated critical habitat unit boundaries using the following criteria and processes: (1) we determined local populations by using breeding occurrence information from recent occurrence and modeling data; (2) we identified the upland and dispersal extent within 2 km (1.2 mi) of high-quality breeding and rearing habitat that had well-established breeding populations; and (3) we evaluated boundaries of units and included areas with appropriate in-stream and upland habitat characteristics and removed nonhabitat features as allowed by the available data.

Our identification of these areas using this rule set will allow for opportunities to monitor occupancy and abundance of existing populations and survey areas within and around each DPS's historical range to determine where potential population enhancement, reintroductions, threat management, or other actions may be necessary.

In our analysis of identifying areas as critical habitat, we determined the extent and distribution of areas being considered are sufficient to conserve each of the four DPSs. Although smaller populations, populations in less desirable habitat, and unoccupied areas occur within each of the four DPS's ranges, these areas have limited conservation value to each DPS overall and do not meet our rule set for consideration as critical habitat. As a result, we have not included these less

desirable occupied or unoccupied areas in our proposed designation.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the four DPSs of the foothill yellow-legged frog. 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 lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands (and not affecting the designated critical habitat) would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We propose to designate as critical habitat lands that we have determined are occupied at the time of listing (*i.e.*, currently occupied) and that contain one or more of the physical or biological features that are essential to support life-history processes of the four DPSs of the foothill yellow-legged frog.

We have identified 4 units for the North Feather DPS; 14 units with 4 subunits for the South Sierra DPS; 8 units with 7 subunits for the Central Coast DPS; and 1 unit for the South Coast DPS as proposed critical habitat based on one or more of the physical or biological features being present to support each of the four DPS's life-history processes. Some units contain all of the identified physical or biological features and support multiple life-history processes. Some units contain only some of the physical or biological features necessary to support each respective DPS's particular use of that habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation.

#### Proposed Critical Habitat Designation

We are proposing a total of 27 units as critical habitat for the foothill yellow-legged frog within the range of the four DPSs totaling approximately 760,071 ac (307,590 ha). The critical habitat areas

we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the foothill yellow-legged frog. The

areas we propose as critical habitat are identified below. All units and subunits are currently occupied by each respective DPS. Table 1 shows the total

area of proposed critical habitat by general land ownership for each of the four specific DPSs.

**TABLE 1—CRITICAL HABITAT UNITS FOR THE FOUR DPSs OF THE FOOTHILL YELLOW-LEGGED FROG**  
 [Area estimates reflect all land within critical habitat unit boundaries]

Unit No./name	Area in acres (hectares)	Land ownership	* Impacts to physical or biological features
<b>North Feather DPS</b>			
Unit NF–1. North Fork Feather River .....	30,116 (12,188) 383 (155)	Federal .....	1, 4, 5
Unit NF–2. Middle Fork Feather River .....	68,934 (27,897) 69,251 (28,025) 447 (181)	State. Private. Federal .....	1, 2, 4, 5
Unit NF–3. South Fork Feather River .....	7,446 (3,013) 4,645 (1,880)	State. Private. Federal .....	1, 2, 4, 5
Unit NF–4. Clear Creek .....	6,541 (2,647) 32 (13) 4,480 (1,813)	Private. Federal .....	1, 2, 4, 5
Total .....	192,275 (77,811)		
<b>South Sierra DPS</b>			
Unit SS–1. Rock Creek .....	2,630 (1,064) 1,718 (695)	Federal .....	1, 2, 4, 5
Unit SS–2. Chili Bar Reservoir .....	1,245 (504) 3,732 (1,510)	Private. Federal .....	1, 2, 4, 5
Unit SS–3. South Fork American River–Camp Creek .....	30,894 (12,502) 11,214 (4,538)	Private. Federal .....	1, 2, 4, 5
Unit SS–4. North Fork Mokelumne River .....	16,174 (6,546) 18,577 (7,518)	Federal .....	1, 2, 4, 5
Unit SS–5. Else Creek .....	324 (131) 219 (89) 4,114 (1,665)	Private. Federal .....	1, 2, 4, 5
Unit SS–6. Jesus Maria Creek .....	1,606 (650) 2,476 (1,002)	Private. Federal .....	1, 2, 4, 5
Unit SS–7 Subunit a. Stanislaus Confluence .....	37,548 (15,195) 2,720 (1,101)	Private. Federal .....	1, 2, 4, 5
Unit SS–7 Subunit b. Moaning Cave .....	15,564 (6,299) 587 (238) 3,037 (1,229)	Private. Federal .....	1, 2, 4, 5
Unit SS–8. North Fork and Middle Tuolumne River .....	64,360 (26,046) 13,791 (5,581)	Private. Federal .....	1, 2, 4, 5
Unit SS–9. Moccasin Creek .....	4,509 (1,825) 3,770 (1,526)	Private. Federal .....	1, 2, 4, 5
Unit SS–10 Subunit a. North Fork Merced River .....	10,467 (4,236) 5,024 (2,033)	Private. Federal .....	1, 2, 4, 5
Unit SS–10 Subunit b. Bull Creek .....	11,087 (4,487) 992 (402)	Private. Federal .....	1, 2, 4, 5
Unit SS–11. Merced River and Sherlock Creek .....	13,267 (5,369) 3,451 (1,397)	Private. Federal .....	1, 2, 4, 5
Unit SS–12. Jose Creek .....	9,204 (3,725) 30 (12) 948 (384)	Private. Federal .....	1, 2, 4, 5
Unit SS–13. North Fork Tule River .....	217 (88) 4,932 (1,996)	Private. Federal .....	1, 2, 4, 5
Unit SS–14. Kern River .....	7,327 (2,965) 17 (7)	Private. Federal .....	1, 2, 4, 5
Total .....	307,772 (124,485)		
<b>Central Coast DPS</b>			
Unit CC–1 Subunit a. Corral Hollow Creek .....	4,483 (1,814)	Private .....	1, 2, 3, 4, 5
Unit CC–1 Subunit b. Lower Arroyo Mocho .....	6 (3) 7,564 (3,061)	Local .....	1, 2, 3, 4, 5
Unit CC–1 Subunit c. Upper Arroyo Mocho .....	4,541 (1,838)	Private .....	1, 2, 3, 4, 5
Unit CC–1 Subunit d. Colorado Creek .....	4,698 (1,901)	Private .....	1, 2, 3, 4, 5
Unit CC–1 Subunit e. Del Puerto Creek .....	414 (168)	Federal .....	1, 2, 3, 4, 5



TABLE 1—CRITICAL HABITAT UNITS FOR THE FOUR DPSS OF THE FOOTHILL YELLOW-LEGGED FROG—Continued  
 [Area estimates reflect all land within critical habitat unit boundaries]

Unit No./name	Area in acres (hectares)	Land ownership	* Impacts to physical or biological features
Unit CC–2. Robison Creek .....	11,981 (4,849) 5,139 (2,080) 1,839 (744)	Private. State .....	1, 2, 3, 4, 5
Unit CC–3. Orestimba Creek .....	4,541 (1,838)	Private .....	1, 2, 3, 4, 5
Unit CC–4. Alameda Creek, Arroyo Hondo, and Upper Penitencia Creek.	2,828 (1,144)	State .....	1, 2, 3, 4, 5
Unit CC–5. Coyote Creek .....	1,871 (757) 59,208 (23,961) 643 (260)	Local. Private. Federal .....	1, 2, 3, 4, 5
Unit CC–6 Subunit a. Guadalupe and Rincon Creeks .....	16,251 (6,576) 255 (103) 23,222 (9,398)	State. County. Private.	1, 2, 3, 4, 5
Unit CC–6 Subunit b. Llagas Creek .....	1,100 (445) 6,672 (2,700)	County .....	1, 2, 3, 4, 5
Unit CC–7. Soquel and Bridge Creeks .....	9,459 (3,828)	Private .....	1, 2, 3, 4, 5
Unit CC–8. Goat Mountain .....	5,689 (2,302) 13,800 (5,585) 38,953 (15,764)	State .....	1, 2, 3, 4, 5
Total .....	1,804 (730) 22,981 (9,300) 249,942 (101,148)	Private. Federal .....	1, 2, 3, 4, 5
<b>South Coast DPS</b>			
Unit SC–1. San Carpoforo Creek .....	2,683 (1,086) 7,394 (2,992)	Federal .....	1, 2, 3, 4, 5
Total .....	10,077 (4,078)	Private.	
Grand Total .....	760,071 (307,590)		

**Note:** Area sizes may not sum due to rounding.  
 \* See table 2 for codes identifying those activities that may impact the physical or biological features.

TABLE 2—ACTIVITY CODES

Code	Activity that may impact the physical or biological features	Physical or biological feature impacted
1 .....	Activities associated with altered hydrology and stream flows from dams or other water diversion or conveyance infrastructure.	1(a), 1(b), and 2(b).
2 .....	Activities to control or remove nonnative aquatic predators or invasive aquatic plants that cause impacts to habitat or water quality.	1(a), 1(b), 2(a), 2(b).
3 .....	Activities associated with the introduction and potential spread of disease .....	1(a) and 1(b).
4 .....	Activities associated with wildfire suppression and prevention that result in nonpoint- and point-source pollution or discharge of sediment into aquatic habitat, causing water quality impacts.	1(a), 1(b), and 2(b).
5 .....	Activities associated with human use and development (e.g., agriculture (land conversion), urbanization, road construction, and recreation.	1(a), 1(b), 2(a), 2(b).

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the four DPSS, below.

*North Feather DPS*

Unit NF–1: North Fork Feather River

The North Fork Feather River Unit is in Butte and Plumas Counties along the North Fork Feather River within the Sacramento River watershed east of the City of Chico and State Route 32 to the west, north, and east of the town of Paradise. The unit encompasses 99,433 acres (ac) (40,239 hectares (ha)) and

contains Bureau of Land Management (BLM; 4,362 ac (1,765 ha)), U.S. Forest Service (USFS; 25,754 ac (10,422 ha)), State Park (383 ac (155 ha)), and private (68,934 ac (27,897 ha)) lands. General land uses in this unit are primarily agriculture, recreation, and residential development. Threats present in this unit that may require special management include altered hydrology, effects of climate change, road construction and use, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The

unit is occupied and contains one or more physical or biological features essential to the conservation of the species. The unit is the northernmost proposed critical habitat unit.

Unit NF–2: Middle Fork Feather River

The Middle Fork Feather River Unit is in Butte and Plumas Counties within the Sacramento River watershed northeast of Lake Oroville and south of State Route 70. The unit encompasses 77,145 ac (31,219 ha) and contains USFS (69,251 ac (28,025 ha)), State (447 ac (181 ha)), and private (7,446 ac (3,013

ha)) lands. General land uses in this unit are primarily agriculture, mining, recreational activities, and a small amount of residential development. Threats present in this unit that may require special management include altered hydrology, climate change, road construction and use, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains all physical or biological features essential to the conservation of the species. This unit contains areas near the documented altitudinal limit of the species (ca. 6,500 ft (1,981 m)) where the species occasionally interbreeds with its endangered congener, the Sierra Nevada yellow-legged frog (*Rana sierrae*).

#### Unit NF-3: South Fork Feather River

The South Fork Feather River Unit is in Butte and Plumas Counties along the South Fork Feather River within the Sacramento River watershed east of Lake Oroville and north of New Bullards Bar Reservoir. The unit encompasses 11,186 ac (4,527 ha) and contains USFS (4,645 ac (1,880 ha)) and private (6,541 ac (2,647 ha)) lands. General land uses in this unit are primarily mining and recreational activities. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains all physical or biological features essential to the conservation of the species.

#### Unit NF-4: Clear Creek

The Clear Creek Unit is in Butte County along Clear Creek within the Sacramento River watershed west of the Town of Butte. The unit encompasses 4,512 ac (1,826 ha) and contains BLM (32 ac (13 ha)) and private (4,480 ac (1,813 ha)) lands. General land uses in this unit are primarily agriculture, mining, and recreational activities. A small portion of the unit is developed as the Butte College campus and residential development. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, encroachment from development, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### South Sierra DPS

##### Unit SS-1: Rock Creek

The Rock Creek Unit is in El Dorado County along Rock Creek within the South Fork of the American River watershed east of the Town of Georgetown. The unit encompasses 4,348 ac (1,760 ha) and contains USFS (2,630 ac (1,064 ha)) and private (1,718 ac (695 ha)) lands. General land use in this unit is primarily recreation, and there is a small amount of residential development. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, encroachment from development, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

##### Unit SS-2: Chili Bar Reservoir

The Chili Bar Reservoir Unit is in El Dorado County upstream (east) of Chili Bar Reservoir within the South Fork of the American River watershed. The unit encompasses 4,976 ac (2,014 ha) and contains BLM (1,012 ac (410 ha)), USFS (232 ac (94 ha)), and private (3,732 ac (1,510 ha)) lands. General land use in this unit is primarily recreation and small portions of agriculture. The unit is urbanized at its southern extent near the town of Placerville. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, encroachment from development, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

##### Unit SS-3: South Fork American River—Camp Creek

The South Fork American River—Camp Creek Unit is in El Dorado County along the South Fork American River within the South Fork American River watershed and Camp Creek within the San Joaquin River watershed east of the Town of Pollock Pines. The unit encompasses 42,108 ac (17,040 ha) and contains USFS (30,894 ac (12,502 ha)) and private (11,214 ac (4,538 ha)) lands. General land use in this unit is primarily recreation. The unit is densely urbanized near the town of Pollock Pines. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, encroachment from development, and trampling by vehicles or recreational activity. Notably, Camp

Creek drains into the San Joaquin River watershed rather than into the South Fork American River. However, these drainages are in close proximity to each other and likely maintain population connectivity through dispersal. The location of this unit spanning two separate drainages likely magnifies the importance of this unit for maintaining species connectivity throughout the entire South Sierra DPS. This unit is occupied and contains all physical or biological features essential to the conservation of the species.

##### Unit SS-4: North Fork Mokelumne River

The North Fork Mokelumne River Unit is in Amador County along the North Fork Mokelumne River within the San Joaquin River watershed downstream of Salt Springs Reservoir and east of the Town of Pioneer. The unit encompasses 34,751 ac (14,063 ha) and contains USFS (15,227 ac (6,162 ha)), BLM (948 ac (384 ha)), and private (18,577 ac (7,518 ha)) lands. General land use in this unit is primarily recreation. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more of the physical or biological features essential to the conservation of the species.

##### Unit SS-5: Else Creek

The Else Creek Unit is in Amador County along Else Creek within the San Joaquin River watershed near the Town of Pine Grove. The unit encompasses 4,658 ac (1,885 ha) and contains BLM (324 ac (131 ha)), State (219 ac (89 ha)), and private (4,114 ac (1,665 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is urbanized near the town of Pine Grove. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, encroachment by development, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more of the physical or biological features essential to the conservation of the species.

##### Unit SS-6: Jesus Maria Creek

The Jesus Maria Creek Unit is in Calaveras County northeast of the Town of San Andreas along Jesus Maria Creek within the San Joaquin River watershed. The unit encompasses 4,082 ac (1,652 ha) and contains BLM (1,606 ac (650

ha)) and private (2,476 ac (1,002 ha)) lands. General land use in this unit is primarily recreation. The unit is sparsely developed at its southern extent. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more of the physical or biological features essential to the conservation of the species.

#### Unit SS-7: Stanislaus River

The Stanislaus River Unit is located in Calaveras and Tuolumne Counties along the Stanislaus River within the San Joaquin River watershed north and west of the City of Columbia. The unit encompasses 59,457 ac (24,062 ha) and contains BLM (4,554 ac (1,843 ha)), Bureau of Reclamation (718 ac, 291 ha)), USFS (32,864 ac (13,300 ha)), State (2,720 ac (1,101 ha)), and private (18,601 ac (7,528 ha)) lands. General land use in this unit is primarily agriculture, mining, and recreation. The unit is sparsely developed along its periphery. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is composed of two occupied subunits that are in close proximity to each other in the Stanislaus River watershed that contain all physical or biological features essential to the conservation of the species.

#### Unit SS-7, Subunit a: Stanislaus Confluence

The Stanislaus Confluence Subunit is located in Calaveras County upstream of the confluence of the Main Steam and South Fork of the Stanislaus River within the San Joaquin River watershed north of the City of Columbia. The subunit encompasses 55,833 ac (22,595 ha) and contains BLM (4,141 ac (1,676 ha)), Bureau of Reclamation (543 ac, 220 ha)), USFS (32,864 ac (13,300 ha)), State (2,720 ac (1,101 ha)), and private (15,564 ac (6,299 ha)) lands. General land use in this subunit is primarily agriculture, mining, and recreation. The subunit is sparsely developed along its northern and southern periphery. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This subunit is occupied and contains all physical or

biological features essential to the conservation of the species.

#### Unit SS-7, Subunit b: Moaning Cave

The Moaning Cave Subunit is located in Calaveras County along Coyote Creek within the San Joaquin River watershed southeast of the Town of Angels Camp. The subunit encompasses 3,625 ac (1,467 ha) and contains BLM (413 ac (167 ha)), Bureau of Reclamation (175 ac (71 ha)), and private (3,037 ac (1,229 ha)) lands. General land use in this subunit is primarily agriculture and recreation. The subunit is sparsely developed at its northeastern extent along Moaning Cave Road. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This subunit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit SS-8: North Fork and Middle Tuolumne River

The North Fork and Middle Tuolumne River Unit is located in Tuolumne and Mariposa Counties along the North Fork and Middle Tuolumne River within the San Joaquin River watershed generally south of State Route 108 and north of State Route 120 to the west of Yosemite National Park. The unit encompasses 78,151 ac (31,627 ha) and contains BLM (3,565 ac (1,443 ha)), USFS (60,795 ac (24,603 ha)), and private (13,791 ac (5,581 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is sparsely developed along Highway 120 and near the towns of Buchanan and Confidence. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains all physical or biological features essential to the conservation of the species.

#### Unit SS-9: Moccasin Creek

The Moccasin Creek Unit is located in Tuolumne and Mariposa Counties along Moccasin Creek within the San Joaquin River watershed south (upstream) of Moccasin Reservoir. The unit encompasses 8,280 ac (3,351 ha) and contains BLM (4,509 ac (1,825 ha)) and private (3,770 ac (1,526 ha)) lands. General land use in this unit is primarily agriculture, water management, and recreation. The unit is sparsely developed along Highway 49

and near the Moccasin Reservoir. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit SS-10: North Fork Merced River, Bull Creek

The North Fork Merced River, Bull Creek Unit is located in Mariposa County located along North Fork Merced River and Bull Creek within the San Joaquin River watershed east of State Route 49 and north of State Route 140. The unit encompasses 27,571 ac (11,157 ha) and contains BLM (28 ac (11 ha)), USFS (21,525 ac (8,711 ha)), and private (6,017 ac (2,435 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is sparsely developed near the town of Greeley Hill. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is composed of two occupied subunits that are in close proximity to each other in the Merced River watershed that contain all physical or biological features essential to the conservation of the species.

#### Unit SS-10, Subunit a: North Fork Merced River

The North Fork Merced River Subunit is located in Mariposa County along the North Fork Merced River east of the Town of Greeley Hill. The subunit encompasses 15,491 ac (6,269 ha) and contains BLM (28 ac (11 ha)), USFS (10,439 ac (4,224 ha)), and private (5,024 ac (2,033 ha)) lands. General land use in this subunit is primarily agriculture and recreation. The subunit is sparsely developed near the town of Greeley Hill. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This subunit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit SS-10, Subunit b: Bull Creek

The Bull Creek Subunit is located in Mariposa County along Bull Creek west of the Town of Foresta. The subunit encompasses 12,079 ac (4,888 ha) and contains USFS (11,087 ac (4,487 ha))

and private (992 ac (402 ha)) lands. General land use in this subunit is primarily recreation. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This subunit is occupied and contains all physical or biological features essential to the conservation of the species.

#### Unit SS–11: Merced River and Sherlock Creek

The Merced River and Sherlock Creek Unit is located in Mariposa County along the Merced River and Sherlock Creek within the San Joaquin River watershed north of the Town of Mariposa. The unit encompasses 16,719 ac (6,766 ha) and contains BLM (13,267 ac (5,369 ha)) and private (3,451 ac (1,397 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is sparsely developed at its southeastern extent. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit SS–12: Jose Creek

The Jose Creek Unit is located in Madera and Fresno Counties along Jose Creek within the San Joaquin River watershed west of Shaver Lake. The unit encompasses 10,182 ac (4,121 ha) and contains USFS (9,204 ac (3,725 ha)), State (30 ac (12 ha)), and private (948 ac (384 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is sparsely developed near the confluence of Jose Creek with the San Joaquin River. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit SS–13: North Fork Tule River

The North Fork Tule River Unit is located in Tulare County along the North Fork Tule River within the Tulare/Buena Vista Lake watershed east of the Town of Porterville. The unit encompasses 5,149 ac (2,084 ha) and contains USFS (217 ac (88 ha)) and private (4,932 ac (1,996 ha)). General land use in this unit is primarily for

agriculture and recreation. The unit is sparsely developed along the North Fork Tule River and near the town of Springville. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more physical or biological features essential to the conservation of the species. This unit contains one of the few remaining occupied areas within the Tulare/Buena Vista Lake watershed.

#### Unit SS–14: Kern River

The Kern River Unit is located in Tulare County along Jywood and Ash Creeks (two adjacent tributaries to the Kern River) within the Tulare/Buena Vista Lake watershed northeast of the Town of Johnsondale. The unit encompasses 7,344 ac (2,972 ha) and contains USFS (7,327 ac (2,965 ha)) and private (17 ac (7 ha)) lands. General land use in this unit is primarily recreation. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more physical or biological features essential to the conservation of the species. This unit contains one of the few remaining occupied areas within the Tulare/Buena Vista Lake watershed and is the southernmost locality remaining in the South Sierra DPS.

#### Central Coast DPS

##### Unit CC–1: Northeastern Coastal Range

The Northeastern Coastal Range Unit in Alameda, Santa Clara, and Stanislaus Counties contains subunits located along drainages within the San Francisco Bay and San Joaquin River watersheds near the eastern ridge of the Coastal Range Mountains southeast of the City of Livermore. The unit encompasses 33,687 ac (13,633 ha). The unit contains BLM (414 ac (168 ha)), local government (6 ac (3 ha)) and private (33,266 ac (13,462 ha)) lands. The unit is sparsely developed along Lower Arroyo Mocho. General land use in this unit is primarily agriculture and recreation. Threats present in this unit that may require special management include altered hydrology, climate change, disease, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The unit is composed of five occupied subunits that are in close proximity to each other or in the same drainages that

contain one or more physical or biological features essential to the conservation of the species. The unit spans both the San Francisco Bay and San Joaquin River drainages and is also likely important for maintaining species connectivity within the Central Coast DPS.

##### Unit CC–1, Subunit a: Corral Hollow Creek

The Corral Hollow Creek subunit is located in Alameda County along Corral Hollow Creek within the San Joaquin River watershed 8 kilometers northeast of Lake Del Valle. The unit encompasses approximately 4,483 ac (1,814 ha) of entirely private land. General land use within the subunit is agriculture and recreation. The subunit is sparsely developed near its northern extent. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more physical or biological features essential to the conservation of the species.

##### Unit CC–1, Subunit b: Lower Arroyo Mocho

The Lower Arroyo Mocho Subunit is located in Alameda County along Lower Arroyo Mocho within the San Francisco Bay watershed 2 kilometers northeast and east of Lake Del Valle. The subunit encompasses 7,571 ac (3,064 ha) of local government (6 ac (3 ha)) and private land (7,564 ac, 3,061 ha)). General land use within the subunit is agriculture and recreation. The subunit is sparsely developed along Arroyo Mocho. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more physical or biological features essential to the conservation of the species.

##### Unit CC–1, Subunit c: Upper Arroyo Mocho

The Upper Arroyo Mocho Subunit is located in Alameda County along Upper Arroyo Mocho in the San Francisco Bay watershed 9 kilometers southeast of Lake Del Valle. The subunit encompasses 4,541 ac (1,838 ha) of private land. General land use within the subunit is agriculture and recreation. The subunit is sparsely developed along Arroyo Mocho. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by

nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit CC–1, Subunit d: Colorado Creek

The Colorado Creek Subunit is located in Santa Clara County along Colorado Creek within the San Francisco Bay watershed approximately 10 kilometers north of the Town of Ashrama. The subunit encompasses approximately 4,698 ac (1,901 ha) of entirely private land. General land use within the subunit is mining and recreation. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more physical or biological features essential to the conservation of the species. The subunit is located in close proximity to the Del Puerto Creek Subunit (Unit CC–1, Subunit e) described below and is likely important for maintaining connectivity between the San Francisco Bay and San Joaquin River watersheds.

#### Unit CC–1, Subunit e: Del Puerto Creek

The Del Puerto Creek Subunit is located in Stanislaus County along Del Puerto Creek within the San Joaquin River watershed approximately 8 kilometers northeast of the Town of Ashrama. The subunit encompasses approximately 12,395 ac (5,016 ha) of BLM (414 ac (168 ha)) and private lands (11,981 ac (4,849 ha)). General land use within the subunit is agriculture and recreation. The subunit is sparsely developed along Del Puerto Creek. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more physical or biological features essential to the conservation of the species. The subunit is located in close proximity to the Colorado Creek Subunit (Unit CC–1, Subunit d) described above and is likely important for maintaining connectivity between the San Francisco Bay and San Joaquin River watersheds.

#### Unit CC–2: Robison Creek

The Robison Creek Unit is located in Stanislaus County along Robison Creek within the San Joaquin River watershed at the northeastern extent of Henry W. Coe State Wilderness Area. The unit

encompasses 6,977 ac (2,824 ha) and contains State Park (5,139 ac (2,080 ha)) and private (1,838 ac (744 ha)) lands. General land use within the unit is recreation. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit CC–3: Orestimba Creek

The Orestimba Creek Unit is located in Stanislaus County along Orestimba Creek within the San Joaquin River watershed approximately 7 kilometers west of Interstate Highway 5. The unit encompasses 4,541 ac (1,838 ha) of private lands. General land use within the unit is recreation. The unit is sparsely developed along Orestimba Creek. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species.

#### Unit CC–4: Alameda Creek, Arroyo Hondo, and Upper Penitencia Creek

The Alameda Creek, Arroyo Hondo, and Upper Penitencia Creek Unit is located in Alameda and Santa Clara Counties along Indian Creek, Alameda Creek, Arroyo Hondo, Isabel Creek, Bonita Creek, San Antonio Creek, Smith Creek, and Sulphur Creek within the San Francisco Bay watershed as well as Upper Penitencia Creek within the Coyote Creek watershed near the eastern extent of the City of San Jose. The unit encompasses a total of 63,907 ac (25,862 ha) including State (2,828 ac (1,144 ha)), local government (1,871 ac (757 ha)), and private lands (59,208 ac (23,961 ha)). General land use within the unit is agriculture and recreation. The unit is sparsely developed along its western periphery. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species. Notably the unit spans both the Coyote Creek and San Francisco Bay watersheds and is likely important for maintaining species connectivity within the Central Coast DPS. We have

identified a portion of this unit for potential exclusion as a result of the Santa Clara Valley HCP/NCCP (see *Consideration of Impacts under Section 4(b)(2) of the Act* below).

#### Unit CC–5: Coyote Creek

The Coyote Creek Unit is located in Santa Clara County along Coyote Creek within the Coyote Creek watershed east of the City of Morgan Hill. The unit encompasses 40,370 ac (16,337 ha) and contains BLM (643 ac (260 ha)), State (16,251 ac (6,576 ha)), County (255 ac (103 ha)), and private (23,222 ac (9,398 ha)) lands. A large portion of the unit is within Henry Coe State Park. General land use within the unit is recreation. The unit is sparsely developed at its southern extent. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more physical or biological features essential to the conservation of the species. We have identified a portion of this unit for potential exclusion as a result of the Santa Clara Valley HCP/NCCP (see *Consideration of Impacts under Section 4(b)(2) of the Act* below).

#### Unit CC–6: Interior Santa Cruz Mountains

The Interior Santa Cruz Mountains Unit is located in Santa Clara County along the interior portion of the Santa Cruz Mountains southeast of the City of Los Gatos and northwest of the City of Morgan Hill. The unit encompasses 17,231 ac (6,973 ha) and contains subunits that drain into the Coyote Creek and Pajaro Slough watersheds. The unit contains county park (1,100 ac (445 ha)) and private (16,131 ac (6,528 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is heavily developed at its northwestern extent near the City of Los Gatos and sparsely developed at its northeastern extent near Chesbro Reservoir. The unit is sparsely developed at its southern extent. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The unit is composed of two occupied subunits that are in close proximity to each other in the Coyote Creek and Pajaro Slough drainages that contain one or more physical or biological features essential to the conservation of the species.

Unit CC–6, Subunit a: Guadalupe and Rincon Creeks

The Guadalupe and Rincon Creeks Subunit (Central Coast DPS Unit 6, Subunit a) of proposed critical habitat for the Central Coast DPS is located along Guadalupe and Rincon Creeks within the Coyote Creek watershed in Santa Clara County, California. The subunit encompasses 7,772 ac (3,145 ha) and contains county park (1,100 ac (445 ha)) and private (6,672 ac (2,700 ha)) lands. A large portion of the subunit lies within the Sierra Azul Open Space Regional Park. General land use within the subunit is agriculture and recreation. The subunit is heavily developed at its northern extent near the City of Los Gatos. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more of the physical or biological features essential to the conservation of the species. The subunit is in close proximity to the Llagas Creek Subunit (Unit CC–6, Subunit b) described below and thus likely promotes genetic connectivity between the Coyote Creek and Pajaro Slough watersheds. We have identified a portion of this subunit for potential exclusion as a result of the Santa Clara Valley HCP/NCCP (see *Consideration of Impacts under Section 4(b)(2) of the Act* below).

Unit CC–6, Subunit b: Llagas Creek

The Llagas Creek Subunit is located in Santa Clara County along Llagas Creek within the Pajaro Slough watershed west of the City of Morgan Hill. The subunit encompasses 9,459 ac (3,828 ha) and contains entirely private lands. A large portion of the subunit lies within the Rancho Canada del Oro Open Space Regional Park. General land use within the subunit is agriculture and recreation. The subunit is sparsely developed along its eastern extent near the Chesbro Reservoir. Threats present in this subunit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. The subunit is occupied and contains one or more of the physical or biological features essential to the conservation of the species. The subunit is in close proximity to the Guadalupe and Rincon Creeks Subunit (Unit CC–6, Subunit a) and thus likely promotes genetic connectivity between the Coyote Creek and Pajaro Slough watersheds. We have

identified a portion of this subunit for potential exclusion as a result of the Santa Clara Valley HCP/NCCP (see *Consideration of Impacts under Section 4(b)(2) of the Act* below).

Unit CC–7: Soquel and Bridge Creeks

The Soquel and Bridge Creeks Unit is located in Santa Cruz County along Soquel and Bridge Creeks within the Monterey Bay watershed northeast of the City of Santa Cruz. The unit encompasses 19,490 ac (7,887 ha) and contains State (5,689 ac (2,302 ha)) and private (13,800 ac (5,585 ha)) lands. A large portion of the unit is within the State's Soquel Demonstration Forest and Forest of Nisene Marks State Park. General land use within the unit is agriculture and recreation. The southern extent of the unit is heavily developed along Soquel Creek near the City of Santa Cruz. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, encroachment by development, wildfire, and trampling by vehicles or recreational activity. The unit is occupied and contains one or more of the physical or biological features essential to the conservation of the species.

Unit CC–8: Goat Mountain

The Goat Mountain Unit is located in San Benito and Fresno Counties along creeks within the Diablo Range Mountains northeast of King City. Creeks within the unit drain into the Pajaro Slough, San Joaquin River, and Tulare-Buena Vista Lakes watersheds. The unit encompasses 63,739 ac (25,794 ha) and contains BLM (38,953 ac (15,764 ha)), State (1,804 ac (730 ha)), and private (22,981 ac (9,300 ha)) lands. General land use in this unit is primarily agriculture and recreation. The unit is sparsely developed near the town of Idria. Threats present in this unit that may require special management include altered hydrology, climate change, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains all of the physical or biological features essential to the conservation of the species. The unit is likely important for maintaining species connectivity across watersheds within the Central Coast DPS.

*South Coast DPS*

Unit SC–1: San Carporo Creek

The San Carporo Creek Unit is located in Monterey and San Luis Obispo Counties along San Carporo Creek within the Big Creek watershed.

The unit encompasses approximately 10,077 ac (4,078 ha), including USFS (2,683 ac (1,086 ha)) and private land owned by Hearst Ranch (7,394 ac (2,992 ha)). The primary use of lands within the unit is recreation. Threats present in this unit that may require special management include altered hydrology, climate change, disease, predation by nonnative species, wildfire, and trampling by vehicles or recreational activity. This unit is occupied and contains one or more of the physical or biological features essential to the conservation of the species. As noted by the SSA report (Service 2023b, p. 48), creeks used by the species in the South Coast DPS have flashier flows, more ephemeral channels, and a higher degree of intermittency because of the region's more variable and lower amount of precipitation, and have the warmest average temperatures in comparison to other portions of the species' range. Thus, the physical or biological features essential to the conservation of the species within the unit may be especially vulnerable to threats from the effects of climate change or altered hydrology that may also increase the likelihood of disease outbreaks (Adams et al. 2017, p. 10228; Service 2023b, p. 48). At present it is likely that the population within this unit is isolated from other populations of the species, including the nearby Los Burros Creek population located on Fort Hunter Liggett.

## Effects of Critical Habitat Designation

### *Section 7 Consultation*

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final rule revising the definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

Compliance with the requirements of section 7(a)(2) of the Act is documented 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 and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define “reasonable and prudent alternatives” (at 50 CFR 402.02) as alternative actions identified during formal 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 Service Director’s opinion, avoid the likelihood of jeopardizing the continued existence of the listed species or avoid the likelihood of 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 set forth requirements for Federal agencies to reinstate consultation if any of the following four conditions occur: (1) the amount or extent of taking specified in the incidental take statement is exceeded; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or (4) a new species is listed or critical habitat designated that may be affected by the identified action. The reinitiation requirement applies only to actions that remain subject to some discretionary Federal involvement or control. As provided in 50 CFR 402.16, the requirement to reinstate

consultations for new species listings or critical habitat designation does not apply to certain agency actions (e.g., land management plans issued by the Bureau of Land Management in certain circumstances).

#### *Destruction or Adverse Modification of Critical Habitat*

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat for the conservation of the listed species. As discussed above, the role of critical habitat is to support the physical or biological features essential to the conservation of a listed 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 violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that we may, during a consultation under section 7(a)(2) of the Act, consider likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would alter stream flow magnitude (either increasing or decreasing flows), flow timing, or temperature. Such activities could include, but are not limited to, water management on streams with dams or other water delivery and conveyance infrastructures such as pipelines, or water diversions. These activities could change appropriate water conditions (temperature, flow periods), disrupt breeding, disturb egg masses, change stream substrate requirements, or increase shading due to lack of flows.

(2) Actions that would increase sedimentation. Such activities could include road construction, wildland fire, urbanization and development, unauthorized off-highway-vehicle use, or riparian habitat alteration or destruction. These activities may increase deposit of sediments into stream habitat and reduce appropriate cobbled structure and interstitial spaces needed for cover.

(3) Actions that would eliminate or reduce the upland habitat necessary for overwintering and dispersal. Such activities could include urbanization, timber harvest, or natural land use conversion from agriculture. These activities would limit upland

overwintering ability and potentially reduce localized populations. Limiting dispersal would subject populations to inbreeding and make them more vulnerable to catastrophic events.

#### **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:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) 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)) provides that 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.

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for the foothill yellow-legged frog to determine

if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are Department of Defense (DoD) lands with completed, Service-approved INRMPs within the proposed critical habitat designation.

#### *Approved INRMPs*

U.S. Army Fort Hunter Liggett Military Reservation, Monterey County, California

U.S. Army Fort Hunter Liggett occupies approximately 163,000 ac (66,000 ha) of varied habitats within the Santa Lucia Mountains in southern Monterey County. The current INRMP for Fort Hunter Liggett was completed in December 2022 (Desert Research Institute 2022, entire) and became effective in May 2023. The Service and CDFW are signatory agencies on the Fort Hunter Liggett INRMP. We have identified 5,557 ac (2,249 ha) of occupied habitat for the South Coast DPS of the foothill yellow-legged frog on the facility. As stated above, to be exempt under section 4(a)(3) of the Act, an INRMP must include the four criteria identified above as well as meet the criteria under our regulations at 50 CFR 424.12(h) that includes information regarding: (a) the extent of the area and features present; (b) the type and frequency of use of the area by the species; (c) the relevant elements of the INRMP in terms of management objectives, activities covered, and best management practices, and the certainty that the relevant elements will be implemented; and (d) the degree to which the relevant elements of the INRMP will protect the habitat from the types of effects that would be addressed through a destruction-or-adverse-modification analysis. The Fort Hunter Liggett INRMP meets all of these requirements.

The South Coast DPS of the foothill yellow-legged frog occurs on the facility in less than 4.5 km (2.8 mi) of Los Burros and North Fork creeks. The endangered arroyo toad (*Anaxyrus californicus*) and threatened California red-legged frog (*Rana draytonii*) occur on the facility and use similar habitat as the South Coast DPS of the foothill yellow-legged frog. Measures being implemented for these species will provide benefits to the South Coast DPS by protecting water quality, reducing nonnative predators, and contributing to other habitat protection. Measures being implemented specifically for the foothill yellow-legged frog include enhancing habitat conditions and continuing annual surveys to determine stability of the breeding population. Fort Hunter

Liggett has implemented its INRMP and established several Sensitive Resource Management Areas (SRMAs) including a 4,059-ac (1,643-ha) area for the listed species on the facility. The INRMP includes Endangered Species Management Components (ESMCs) for listed species; both development and implementation of such components are required by U.S. Army regulations.

The Army through implementation of the INRMP has established several guiding principles in their management of habitat for sensitive species and their habitat including:

- (1) Identify installation activities that compromise the function and composition of ecosystems and develop remedies through adaptive management;
- (2) Sustain and enhance healthy terrestrial and aquatic habitats on the facility that provide services and values in an ecosystem;
- (3) Protect, restore, and enhance wetlands to maintain no net loss of wetland acreage and quality;
- (4) Assess, sustain, and enhance the health and habitats of fish and wildlife populations in a manner consistent with the military mission and security constraints;
- (5) Minimize pest-related habitat damage and health risks to natural resources and people;
- (6) Provide sustainable natural resources-related outdoor recreation opportunities given security constraints;
- (7) Increase awareness of natural resources issues, programs, and responsibilities among Fort Hunter Liggett employees, residents, tenants, and visitors;
- (8) Integrate the natural resources programs as identified in the INRMP with local, State, and regional environmental programs and initiatives; and
- (9) Use a geographical information system (GIS) database to monitor and enhance natural resources management on the facility.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Fort Hunter Liggett INRMP and that conservation efforts identified in the INRMP will provide a benefit to the South Coast DPS of the foothill yellow-legged frog. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including approximately 5,557 ac (2,249 ha) of habitat in this proposed critical habitat designation because of this exemption.

#### **Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to 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 designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (hereafter, the “2016 Policy”; 81 FR 7226, February 11, 2016), both of which were developed jointly with the National Marine Fisheries Service (NMFS). We also refer to a 2008 Department of the Interior Solicitor’s opinion entitled “The Secretary’s Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act” (M–37016).

In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise discretion to exclude the area only if such exclusion would not result in the extinction of the species. In making the determination to exclude a particular area, 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. In our final rules, we explain any decision to exclude areas, as well as decisions not to exclude, to make clear the rational basis for our decision. We describe below the process that we use for taking into consideration each category of impacts and any initial analyses of the relevant impacts.

#### *Consideration of Economic Impacts*

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific



critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed 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, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). Therefore, the baseline represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.*, conservation of the species and its habitat 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. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary 4(b)(2) exclusion analysis.

Executive Order (E.O.) 12866 and E.O. 13563 and direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with these E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. To determine whether the designation of critical habitat may have an economic effect of \$200 million or more in any given year (which would trigger section 3(f)(1) of E.O. 12866, as amended by E.O. 14094), we used a screening analysis to assess whether a designation of critical habitat for the

foothill yellow-legged frog is likely to exceed this threshold.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat (Service 2023a, entire). The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the four DPSs of the foothill yellow-legged frog (Industrial Economics, Inc. (IEc) 2023, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out particular geographical areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts.

In particular, the screening analysis considers baseline costs (*i.e.*, absent critical habitat designation) and includes any probable incremental economic impacts where land and water use may already be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The presence of the listed species in occupied areas of critical habitat means that any destruction or adverse modification of those areas is also likely to jeopardize the continued existence of the species. Therefore, designating occupied areas as critical habitat typically causes little if any incremental impact above and beyond the impacts of listing the species. As a result, we generally focus the screening analysis on areas of unoccupied critical habitat (unoccupied units or unoccupied areas within occupied units). Overall, the screening analysis assesses whether designation of critical habitat is likely to result in any additional management or conservation efforts that may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM constitute what we consider to be our economic analysis of the proposed critical habitat designation for the four DPSs of the foothill yellow-legged frog; our economic analysis is summarized in the narrative below.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the four DPSs of the foothill yellow-legged frog, first we identified, in the IEM dated May 2023, probable incremental economic impacts associated with the following categories of activities: (1) altered hydrology and stream flows; (2) nonnative species predation and competition; (3) introduction and spread of disease; (4) wildfire prevention and suppression; (5) effects of climate change; and (6) anthropogenic activities and their effects (e.g., agriculture, urbanization, and recreation). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat affects only activities conducted, funded, permitted, or authorized by Federal agencies. In areas where any of the four listed DPSs of the foothill yellow-legged frog is present, Federal agencies would be required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect the species or its habitat. If we finalize this proposed critical habitat designation, Federal agencies would be required to consider the effects of their actions on the designated habitat, and if the Federal action may affect critical habitat, our consultations would include an evaluation of measures to avoid the destruction or adverse modification of critical habitat.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.*, difference between the jeopardy and adverse modification standards) for each of the four DPSs' critical habitat. Because the designation of critical habitat for the four DPSs of the foothill yellow-legged frog is being proposed after a relatively short time after their final listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The

essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would likely adversely affect the essential physical or biological features of occupied critical habitat are also likely to adversely affect the species itself. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the four DPSs of the foothill yellow-legged frog includes 27 occupied units, totaling approximately 760,071 ac (307,590 ha). The lands being considered are Federal (47 percent), State (5 percent), local government (0.4 percent), and private (49 percent) making up the remainder of land ownership. In these areas, any actions that may affect the species or its habitat would also affect the proposed critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of any of the four DPSs of the foothill yellow-legged frog. The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies (such as the U.S. Forest Service, Bureau of Land Management, Bureau of Reclamation, Federal Energy Regulatory Commission, Army Corps of Engineers, and Federal Highway Administration) and, in some cases, third parties, most frequently State (transportation agencies) and private land owners and developers. While this additional analysis will require time and resources by both the Federal action agency and the Service, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

The incremental costs for each technical assistance, informal, formal, and programmatic section 7 consultation conducted is estimated to total \$430, \$2,700, \$5,500, and \$10,000, respectively, across all Federal and third party participants. These estimates assume that consultations would occur even in the absence of critical habitat due to the presence of the listed DPS and the amount of administrative effort to address critical habitat during this process is relatively minor.

Applying these incremental costs to the estimated future consultations forecast, we estimate the incremental administrative costs of consultations pursuant to the proposed critical habitat for the four DPSs of the foothill yellow-legged frog is likely on the order of \$346,500 per year (2023 dollars), including approximately \$220,000 for formal consultations, \$116,100 for informal consultations, and \$10,400 for technical assistances.

We are soliciting data and comments from the public on the economic analysis discussed above. During the development of a final designation, we will consider the information presented in the economic analysis and any additional information on economic impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) of the Act, our implementing regulations at 50 CFR 424.19, and the 2016 Policy. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

#### *Consideration of National Security Impacts*

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (e.g., a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), then national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of "critical habitat." However, the Service must still consider impacts on national security, including homeland security, on those lands or areas not covered by section 4(a)(3)(B)(i) because section 4(b)(2) requires the Service to consider those impacts whenever it designates critical habitat. Accordingly, if DoD, the Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns, or we have otherwise identified national-security or homeland-security impacts from designating particular areas as critical habitat, we generally have reason to consider excluding those areas.

However, we cannot automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the

basis of national-security or homeland-security impacts, we must conduct an exclusion analysis if the Federal requester provides information, including a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction, as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If we conduct an exclusion analysis because the agency provides a reasonably specific justification or because we decide to exercise the discretion to conduct an exclusion analysis, we will defer to the expert judgment of DoD, DHS, or another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary section 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

Under section 4(b)(2) of the Act, we also consider whether a national security or homeland security impact might exist on lands owned or managed by DoD or DHS. In preparing this proposal, we have determined that, other than the land exempted under section 4(a)(3)(B)(i) of the Act based upon the existence of an approved INRMP (see Exemptions, above), the lands within the proposed designation of critical habitat for any of the four DPSs of the foothill yellow-legged frog are not owned or managed by DoD or DHS. Therefore, we anticipate no impact on national security or homeland security.

#### *Consideration of 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 discussed above. To identify other relevant

impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are approved and permitted conservation agreements or plans covering the species in the area—such as safe harbor agreements (SHAs), candidate conservation agreements with assurances (CCAAs) or “conservation benefit agreements” or “conservation agreements” (CBAs) (CBAs are a new type of agreement replacing SHAs and CCAAs in use after April 2024 (89 FR 26070; April 12, 2024)) or HCPs—or whether there are non-permitted conservation agreements and partnerships that may be impaired by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

When analyzing other relevant impacts of including a particular area in a designation of critical habitat, we weigh those impacts relative to the conservation value of the particular area. To determine the conservation value of designating a particular area, we consider a number of factors, including, but not limited to, the additional regulatory benefits that the area would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

In the case of the four DPSs of the foothill yellow-legged frog, the benefits of critical habitat include public awareness of the presence of foothill yellow-legged frog and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the foothill yellow-legged frog due to protection from destruction or adverse modification of critical habitat. Continued implementation of an ongoing management plan that provides conservation equal to or more than the protections that result from a critical habitat designation would reduce those benefits of including that specific area in the critical habitat designation.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion.

If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

#### Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act

As mentioned above, as part of our 4(b)(2) analysis, we consider whether there are approved and permitted conservation agreements or plans covering the species in the area such as SHAs, CCAAs, CBAs or HCPs. Under sections 10(a)(1)(A) and 10(a)(1)(B) of the Act, non-federal entities may develop these agreements or plans when they seek authorization for take that may otherwise be prohibited under section 9 through an enhancement of survival (EOS) or incidental take permit (ITP), respectively.

Property owners seeking an EOS permit collaborate with the Service to develop a CBA to support the application. The EOS permit authorizes take associated with implementing the agreement and ongoing land management activities that provide a net conservation benefit to the covered species. The CBA replaces two previous types of voluntary agreements (SHAs and CCAAs) going forward for new agreements after May 2024. However, permitted SHAs and CCAAs or those noticed in the **Federal Register** prior to May 2024 remain in effect.

For incidental take permits issued under section 10(a)(1)(B) of the Act, applicants are required to develop a conservation plan, more commonly known as an HCP to support their application. ITPs authorize take that is incidental to, but not the purpose of, carrying out otherwise lawful activities provided that the impact of the taking is minimized and mitigated to the maximum extent practicable.

For both section 10(a)(1)(A) and 10(a)(1)(B) permits, we provide permittees with assurances. In the case of 10(a)(1)(A) permits, we may not require additional or different conservation measures to be undertaken by a permittee without the consent of the permittee. In the case of section 10(a)(1)(B), we will not impose further land-, water-, or resource-use restrictions, or require additional commitments of land, water, or finances, beyond those agreed to in the HCP.

We place great value on the partnerships that are developed during the preparation and implementation of

conservation plans and agreements. In some cases, permittees agree to do more for the conservation of the species and their habitats on private lands than designation of critical habitat would provide alone.

When we undertake a discretionary section 4(b)(2) exclusion analysis based on conservation plans or agreements, we anticipate consistently excluding such areas if incidental take caused by the activities in those areas is covered by the permit under section 10 of the Act and the plan meets all of the following three factors (See the 2016 Policy for additional details. Because combining types of agreements such as SHAs and CCAAs into the term “CBAs” is a recent development (see 89 FR 26070; April 12, 2024), the 2016 Policy did not expressly reference CBAs. However, because CBAs replace CCAAs and SHAs, moving forward we treat CBAs similarly to how we treat CCAAs/SHAs/HCPs described below):

a. The permittee is properly implementing the CBA/HCP and is expected to continue to do so for the term of the agreement. A CBA/HCP is properly implemented if the permittee is and has been fully implementing the commitments and provisions in the CBA/HCP, implementing agreement, and permit.

b. The species for which critical habitat is being designated is a covered species in the CBA/HCP, or very similar in its habitat requirements to a covered species. The recognition that the Service extends to such an agreement depends on the degree to which the conservation measures undertaken in the CBA/HCP would also protect the habitat features of the similar species.

c. The CBA/HCP specifically addresses that species’ habitat and meets the conservation needs of the species in the planning area.

The proposed critical habitat designation includes areas that are covered by a joint Federal and State habitat conservation plan (HCP) and California State natural community conservation plan (NCCP) (Santa Clara Valley HCP/NCCP) that has been approved and implemented for the Central Coast DPS of the foothill yellow-legged frog as a covered species and assists in local population and habitat conservation and restoration (ICF International 2012, entire).

#### *Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan*

The Santa Clara Valley Habitat Plan (Plan) was permitted in 2012 and provides a framework for promoting the protection and recovery of natural

resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities (ICF International 2012, entire). The foothill yellow-legged frog is a covered species under the joint Federal and State plan. The plan covers a 519,506-ac (210,237-ha) area in Santa Clara County in the Central California Coast Range and includes measures for species management and habitat protection. Covered activities in the plan fall into seven general categories and include urban development, in-stream capital projects, in-stream operations and maintenance, rural capital projects, rural operations and maintenance, rural development, and conservation strategy implementation (*i.e.*, activities within the lands managed, enhanced, restored, and monitored to conserve the natural resources targeted by the plan).

Measures identified for conservation of the foothill yellow-legged frog provided in the plan and being implemented include land acquisition and protection; habitat management; survey and monitoring; stream flow management; and habitat enhancement, restoration, and creation.

The Santa Clara Valley HCP/NCCP has gone through the appropriate approval processes from the Service and CDFW as well as through necessary public participation; the conservation actions identified in the plan have been implemented and protect, conserve, and enhance the physical or biological features essential to the conservation of the Central Coast DPS of the foothill yellow-legged frog; and the HCP/NCCP contains an adaptive management, monitoring, and reporting program to ensure the conservation measures are effective and can be modified in the future in response to new information. After considering the factors described

above, we have reason to consider excluding the approximately 57,910 ac (23,435 ha) of critical habitat within the Central Coast DPS that occurs in the Santa Clara Valley HCP/NCCP planning area from the final designation.

**Summary of Exclusions Considered Under 4(b)(2) of the Act**

We have reason to consider excluding the following areas under section 4(b)(2) of the Act from the final critical habitat designation for the Central Coast DPS of the foothill yellow-legged frog. Table 3 below provides approximate areas (ac, ha) of lands that meet the definition of critical habitat but for which we are considering possible exclusion under section 4(b)(2) of the Act from the final critical habitat rule. In total, we have identified approximately 57,910 ac (23,435 ha) of proposed critical habitat to consider for exclusion under section 4(b)(2) of the Act.

TABLE 3—AREAS CONSIDERED FOR EXCLUSION FOR THE CENTRAL COAST DPS OF THE FOOTHILL YELLOW-LEGGED FROG BY PROPOSED CRITICAL HABITAT UNIT

Unit	Areas meeting the definition of critical habitat, in acres (hectares)	Areas considered for possible exclusion, in acres (hectares)	Reasons for considering exclusion
4 .....	63,907 (25,862)	6,604 (2,673)	Santa Clara Valley HCP/NCCP.
5 .....	40,371 (16,337)	40,386 (16,344)	
6 subunit a .....	7,772 (3,145)	1,474 (597)	
6 subunit b .....	9,459 (3,828)	9,446 (3,823)	
Total .....	.....	57,910 (23,435)	

In conclusion, for this proposed rule, we have reason to consider excluding the areas identified above from the final designation based on other relevant impacts. We specifically solicit comments on the inclusion or exclusion of such areas. We also solicit comments on whether there are potential economic, national security, or other relevant impacts from designating any other particular areas as critical habitat. As part of developing the final designation of critical habitat, we will evaluate the information we receive regarding potential impacts from designating the areas described above or any other particular areas, and we may conduct a discretionary exclusion analysis to determine whether to exclude those areas under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19. If we receive a request for exclusion of a particular area and after evaluation of supporting information we do not exclude, we will fully describe our decision in the final rule for this action.

**Required Determinations**

*Clarity of the Rule*

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

*Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)*

Executive Order (E.O.) 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O.s 12866, 13563, and 14094. Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Executive Order 12866, as reaffirmed by E.O. 13563 and amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs

(OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rulemaking action is not significant.

*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 of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

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 whether 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.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking

itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

*Energy Supply, Distribution, or Use—Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare statements of energy effects when “to the extent permitted by law” when undertaking actions identified as significant energy actions (66 FR 28355; May 22, 2001). Executive Order 13211 defines a “significant energy action” as, among other things, an action that (i) meets the definition of a “significant regulatory action” under E.O. 12866, as amended by E.O. 14094; and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule is not a significant regulatory action under E.O. 12866 as amended by E.O. 14094 (88 FR 21879; April 11, 2023). Therefore, this action is not a significant energy action, and

there is no requirement to prepare a statement of energy effects for this action.

*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 finding:

(1) This proposed rule would not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)–(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or Tribal governments” with two exceptions. It excludes “a condition of Federal assistance.” It also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding,” and the State, local, or Tribal governments “lack authority” to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children 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 are not likely to 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 would significantly or uniquely affect small governments because the government lands being proposed for critical habitat are owned by Santa Clara County, the State of California, the Bureau of Land Management, and the U.S. Forest Service, and none of these government entities fits the definition of “small governmental jurisdiction.” In addition, the designation will not produce a Federal mandate of \$100 million or greater in any year, and, therefore, 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 and, 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 critical habitat for the four DPSs of the foothill yellow-legged frog in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for the foothill yellow-legged frog, and it concludes that, if adopted, this

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 proposed rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed 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 or biological features of the habitat necessary for 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 State and local governments in long-range planning because they no longer have to 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) of the Act would 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 would not unduly burden the judicial system and that it meets the

requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the physical or biological features essential to the conservation of the species. The proposed areas of critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

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

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required. We may not conduct or sponsor and you are 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.)*

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g.*, *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

#### *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 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior’s manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretary’s

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. During the development of the SSA report for the foothill yellow-legged frog, we asked for information and concerns from all the federally recognized Tribes in the range of the species in Oregon and California. We did not receive any information regarding the foothill yellow-legged frog from any Tribe. We will continue to work with Tribal entities during the development of a final rule for the designation of critical habitat for the four DPSs of the foothill yellow-legged frog.

**References Cited**

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service’s Species Assessment Team and staff from the Sacramento and Ventura Fish and Wildlife Offices.

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

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

**Proposed Regulation Promulgation**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title

50 of the Code of Federal Regulations, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

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

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, amend paragraph (h) in the List of Endangered and Threatened Wildlife under Amphibians by revising the entries for “Frog, foothill yellow-legged [Central Coast DPS]”, “Frog, foothill yellow-legged [North Feather DPS]”, “Frog, foothill yellow-legged [South Coast DPS]”, and “Frog, foothill yellow-legged [South Sierra DPS]” to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* * * * *				
AMPHIBIANS				
* * * * *				
Frog, foothill yellow-legged [Central Coast DPS].	<i>Rana boylei</i> .....	California (All foothill yellow-legged frogs in the Central Coast Range south of San Francisco Bay to San Benito and Fresno Counties).	T	88 FR 59698, 8/29/2023; 50 CFR 17.43(g); <sup>4d</sup> 50 CFR 17.95(d). <sup>CH</sup>
Frog, foothill yellow-legged [North Feather DPS].	<i>Rana boylei</i> .....	California (All foothill yellow-legged frogs in the North Feather River watershed largely in Plumas and Butte Counties).	T	88 FR 59698, 8/29/2023; 50 CFR 17.43(g); <sup>4d</sup> 50 CFR 17.95(d). <sup>CH</sup>
Frog, foothill yellow-legged [South Coast DPS].	<i>Rana boylei</i> .....	California (All foothill yellow-legged frogs in the Coast Range from Coastal Monterey County south to Los Angeles County).	E	88 FR 59698, 8/29/2023; 50 CFR 17.95(d). <sup>CH</sup>
Frog, foothill yellow-legged [South Sierra DPS].	<i>Rana boylei</i> .....	California (All foothill yellow-legged frogs in the Sierra Nevada Mountains south of the American River sub-basin south to the Transverse Range in Kern County).	E	88 FR 59698, 8/29/2023; 50 CFR 17.95(d). <sup>CH</sup>
* * * * *				

- 3. Amend § 17.95 in paragraph (d) by adding:
- a. An entry for “Foothill Yellow-Legged Frog (*Rana boylei*), Central Coast

- DPS” after the entry for “Dusky Gopher Frog (*Rana sevos*)”;
- b. An entry for “Foothill Yellow-Legged Frog (*Rana boylei*), North Feather DPS” after the new entry for “Foothill

- Yellow-Legged Frog (*Rana boylei*), Central Coast DPS”;
- c. An entry for “Foothill Yellow-Legged Frog (*Rana boylei*), South Coast DPS” after the new entry for “Foothill

Yellow-Legged Frog (*Rana boylei*), North Feather DPS”; and

■ d. An entry for “Foothill Yellow-Legged Frog (*Rana boylei*), South Sierra DPS” after the new entry for “Foothill Yellow-Legged Frog (*Rana boylei*), South Coast DPS”.

The additions read as follows:

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

\* \* \* \* \*

(d) *Amphibians.*

\* \* \* \* \*

Foothill Yellow-Legged Frog (*Rana boylei*), Central Coast DPS

(1) Critical habitat units are depicted for Alameda, Fresno, San Benito, Santa Clara, Santa Cruz, and Stanislaus Counties, California, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of foothill yellow-legged frog consist of the following components:

(i) *Aquatic stream habitat.* (A) Stream reaches with a hydrological pattern (including appropriate stream velocity, water depth, water temperature, streambed substrate, and geomorphic heterogeneity) capable of supporting foothill yellow-legged frog breeding and rearing. Suitable stream reaches typically contain a wide and shallow channel morphology, an intermittent canopy, and rocky substrate that is cobble-sized or larger. These features provide habitat for breeding, feeding, and reproduction and in some cases general aquatic or overwintering habitat for the foothill yellow-legged frog.

(B) Tributary (nonbreeding) habitat adjacent to and accessible from breeding and rearing habitat. Suitable tributary habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia protected from scouring winter flows. These refugia may include springs, seeps, pools, woody debris, root wads, undercut banks, clumps of sedges, and rocks.

(ii) *Terrestrial and dispersal habitat.*

(A) Upland habitat adjacent to and accessible from breeding, rearing, and tributary habitat as identified in paragraphs (2)(i)(A) and (B) of this entry. Suitable upland habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia. These refugia may include nonstream pools, woody debris, root wads, clumps of sedges, and large boulders or debris.

(B) Dispersal habitat comprising permanent or ephemeral water channels and adjacent uplands that connect breeding and overwintering habitat sites. Suitable dispersal habitat does not need to hold moisture for extended periods. Suitable dispersal habitat typically connects areas containing intermittent canopy, interstitial spaces for sheltering, and sources of invertebrate prey. Additionally, suitable dispersal habitat is free from large physical barriers, hydrological barriers (e.g., dams, reservoirs, and rivers with highly altered flow regimes), and areas with high exposure to predators.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using the National Hydrography Dataset and California Natural Diversity Database occurrence records and other survey information. The critical habitat units were then mapped using Universal Transverse Mercator Zone 10N and 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

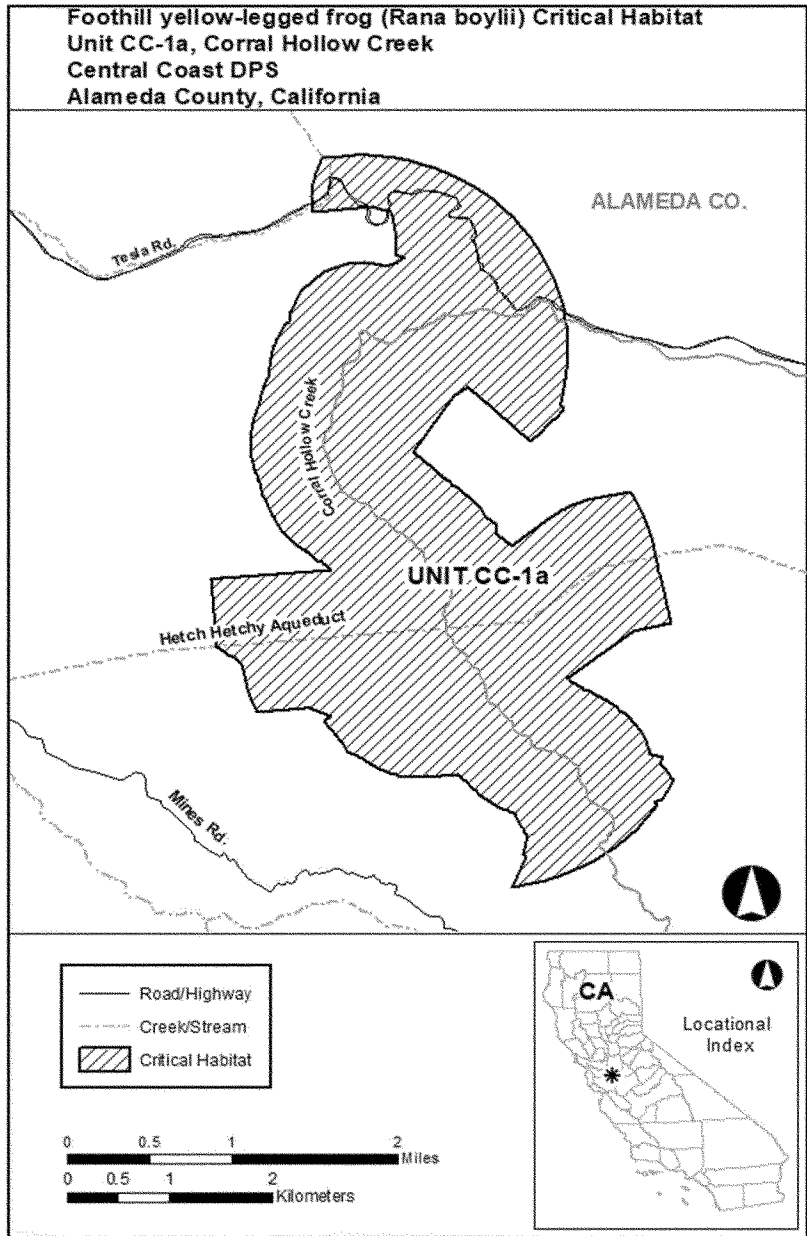
(5) Unit CC-1a: Central Coast DPS—Corral Hollow Creek, Alameda County, California.

(i) Unit CC-1a consists of 4,483 ac (1,814 ha) in Alameda County and is composed entirely of private ownership.

(ii) Map of Unit CC-1a follows: Figure 1 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (5)(ii)

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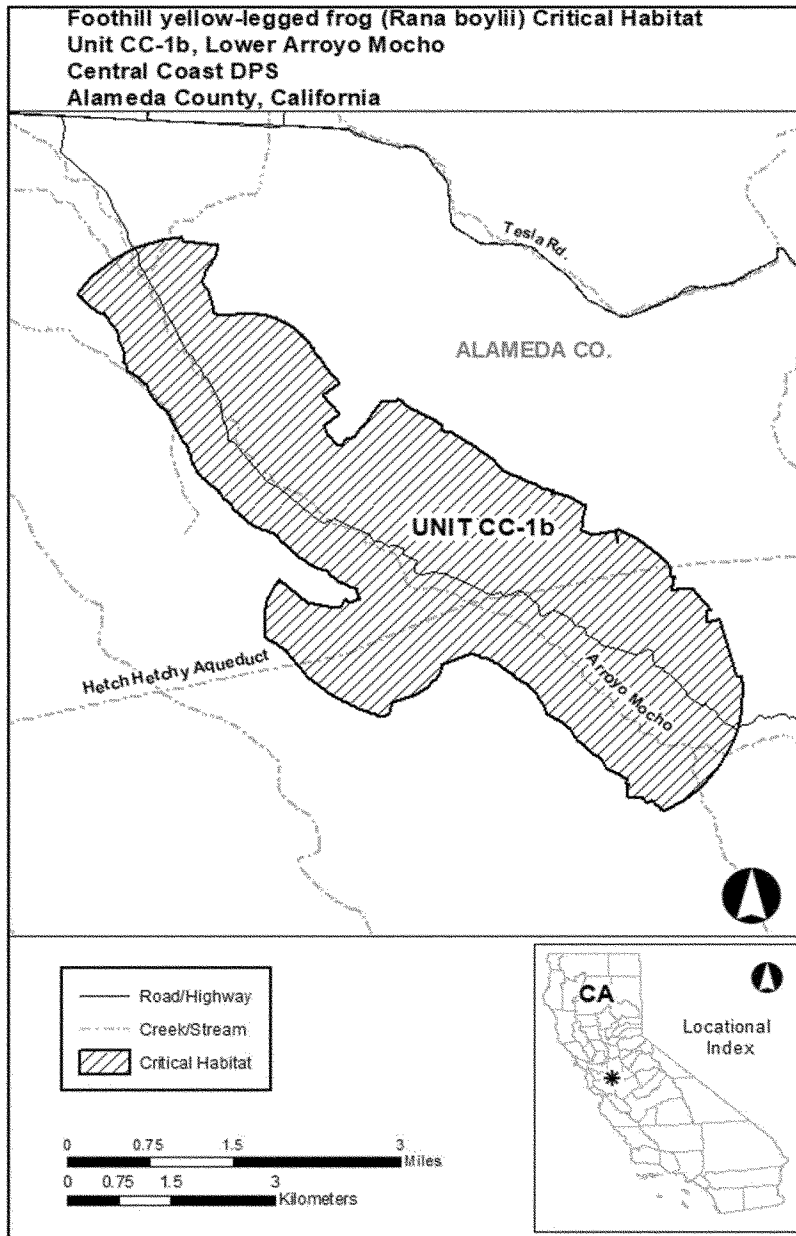
(6) Unit CC-1b: Central Coast DPS— Lower Arroyo Mocho, Alameda County, California.

(i) Unit CC-1b consists of 7,571 ac (3,064 ha) in Alameda County and is

composed of local government (6 ac (3 ha)) and private (7,564 ac (3,061 ha)) ownership.

(ii) Map of Unit CC-1b follows:

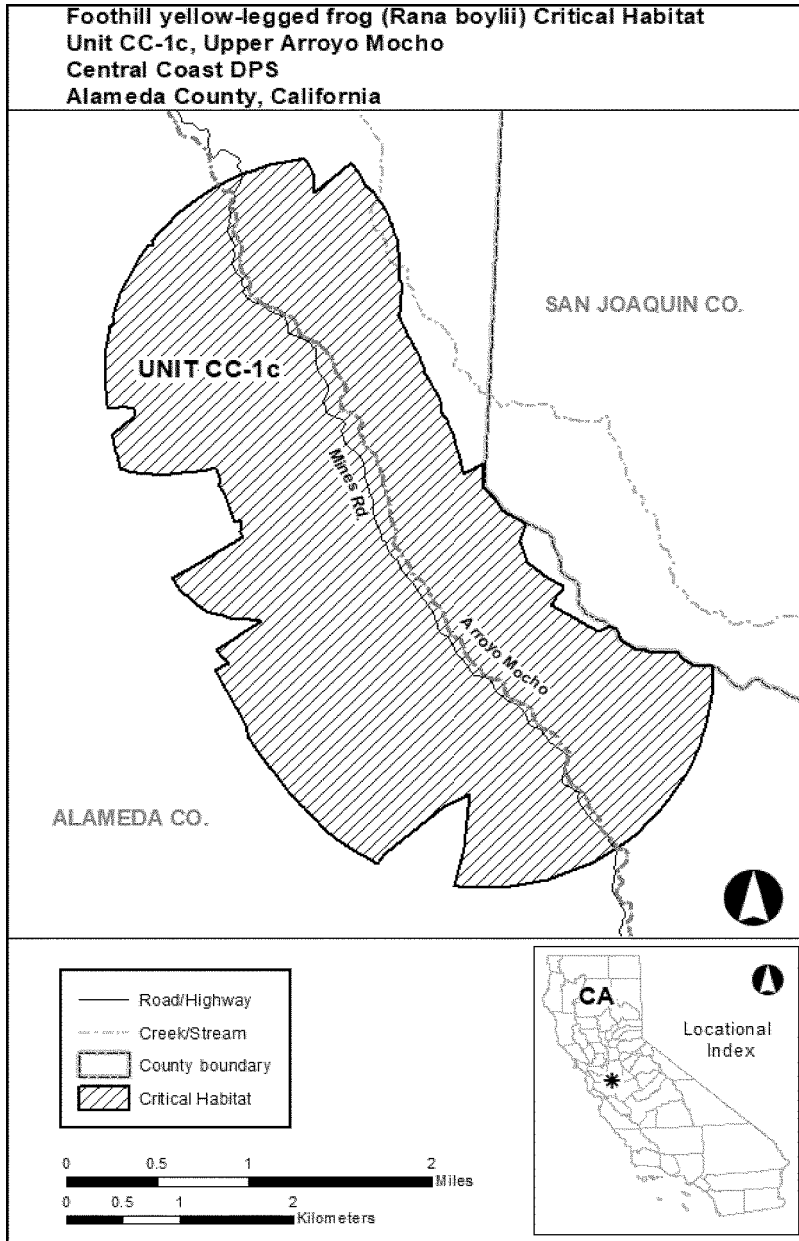
Figure 2 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (6)(ii)



(7) Unit CC-1c: Central Coast DPS—  
Upper Arroyo Mocho, Alameda County,  
California.

(i) Unit CC-1c consists of 4,541 ac  
(1,838 ha) in Alameda County and is  
composed entirely of private ownership.  
(ii) Map of Unit CC-1c follows:

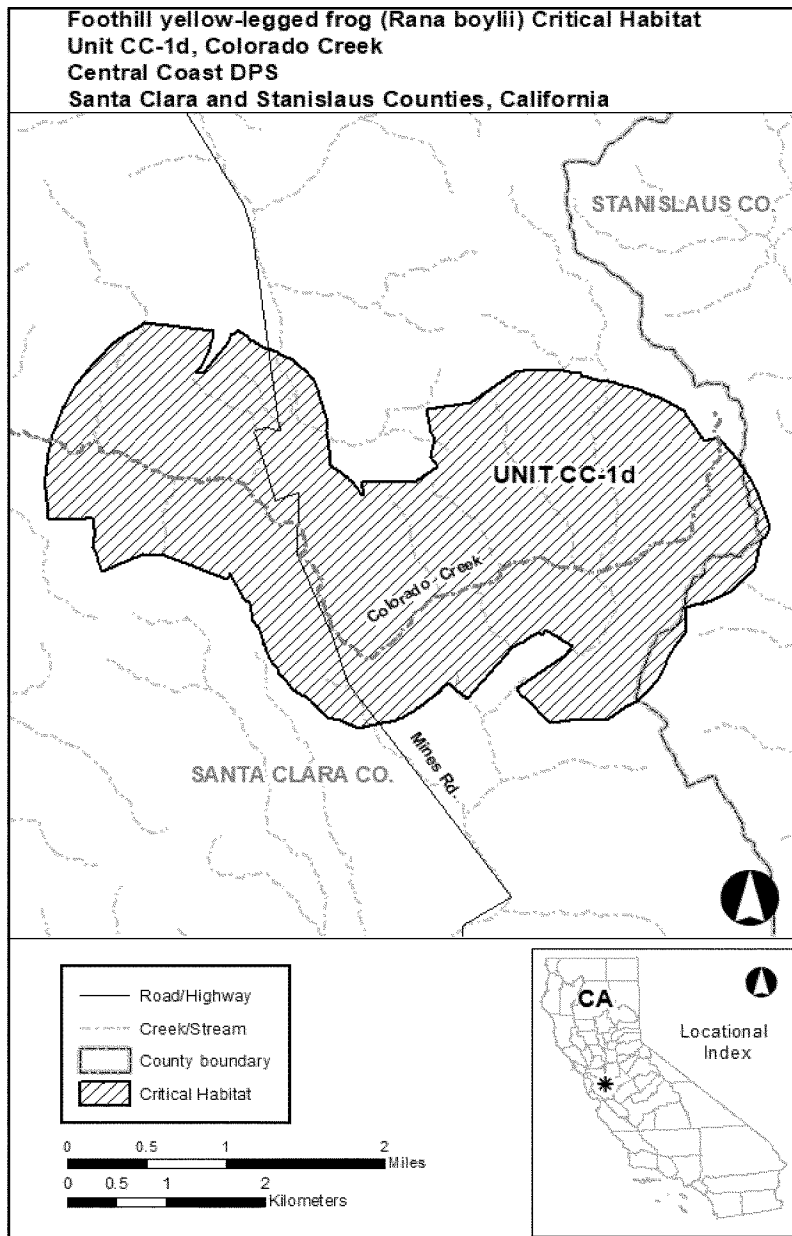
Figure 3 to Central Coast DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (7)(ii)



(8) Unit CC-1d: Central Coast DPS—Colorado Creek, Santa Clara and Stanislaus Counties, California.

(i) Unit CC-1d consists of 4,698 ac (1,901 ha) in Santa Clara and Stanislaus Counties and is composed entirely of private ownership.

(ii) Map of Unit CC-1d follows: Figure 4 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (8)(ii)



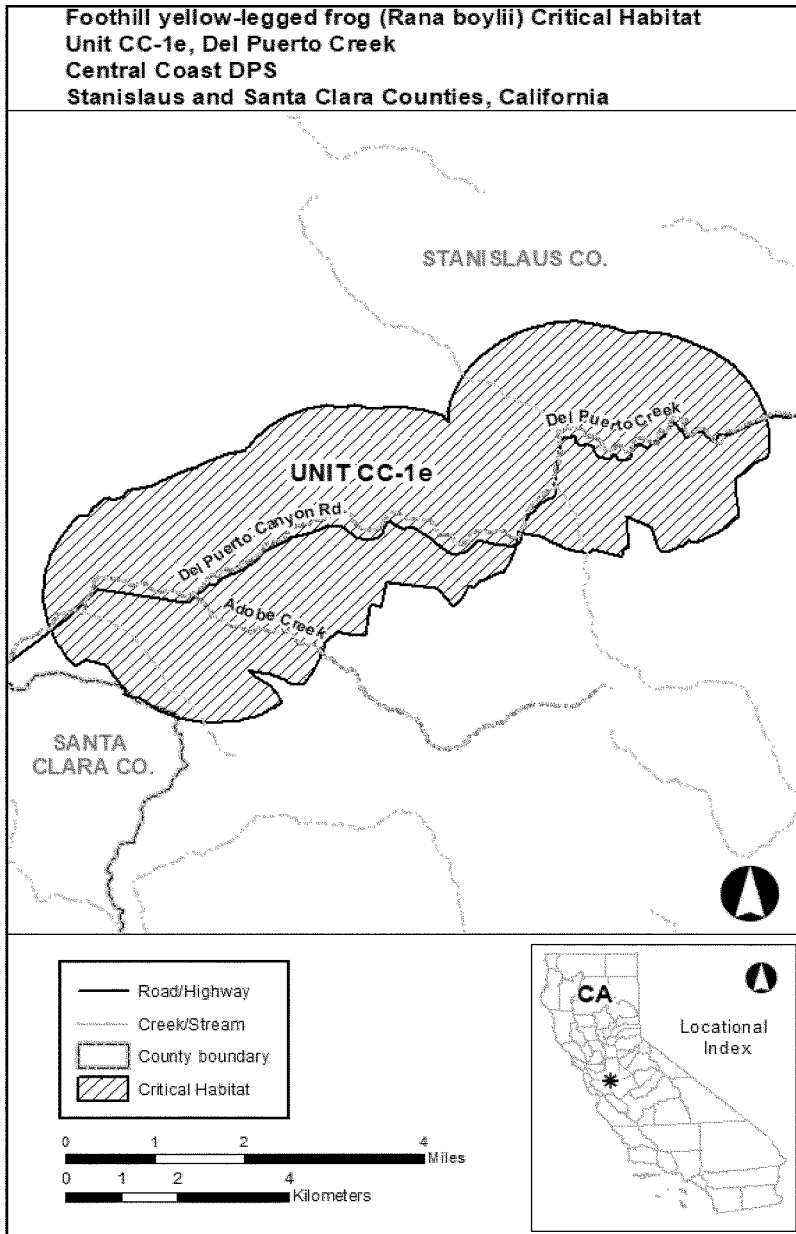
(9) Unit CC-1e: Central Coast DPS—Del Puerto Creek, Stanislaus County, California.

(i) Unit CC-1e consists of 12,395 ac (5,016 ha) in Stanislaus County and is

composed of Federal 414 ac (168 ha) and private (11,981 ac (4,849 ha)) ownership.

(ii) Map of Unit CC-1e follows:

Figure 5 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (9)(ii)



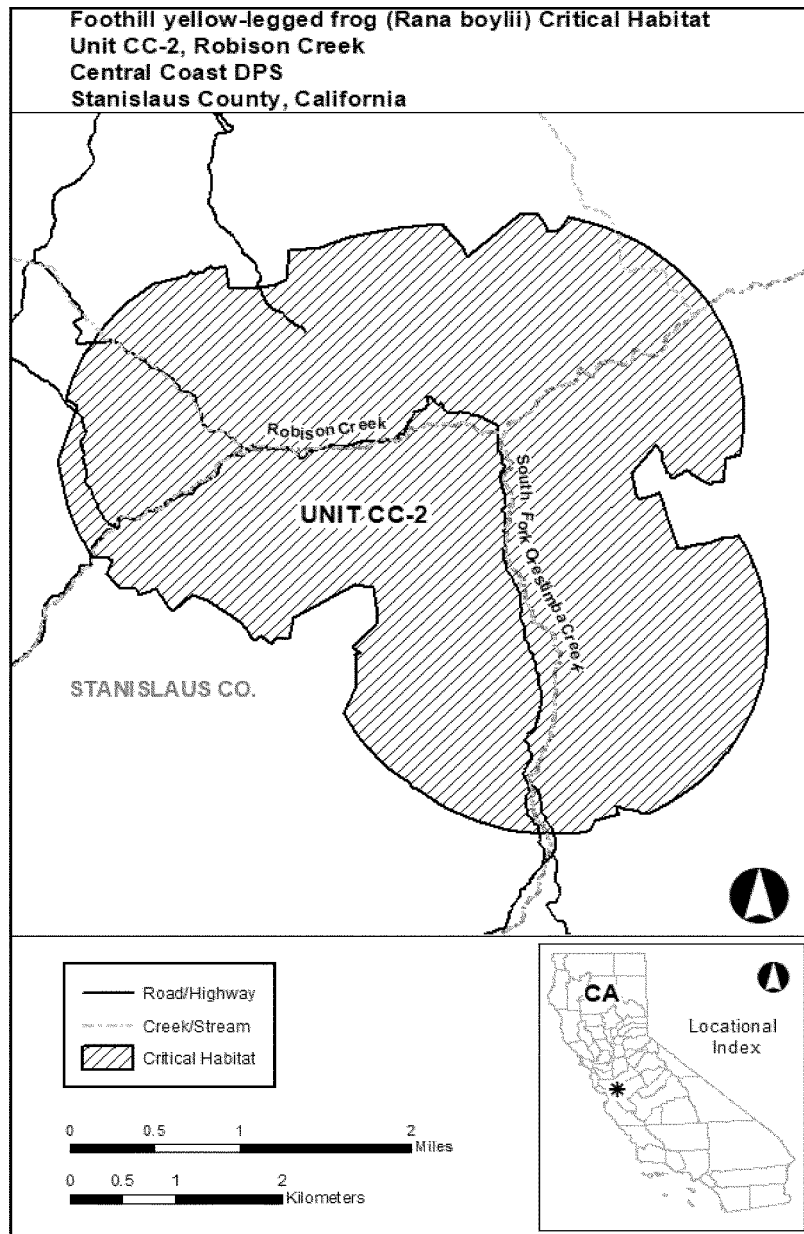
(10) Unit CC-2: Central Coast DPS—Robison Creek, Stanislaus County, California.

(i) Unit CC-2 consists of 6,977 ac (2,824 ha) in Stanislaus County and is

composed of Federal (5,139 ac (2,080 ha)) and private (1,838 ac (744 ha)) ownership.

(ii) Map of Unit CC-2 follows:

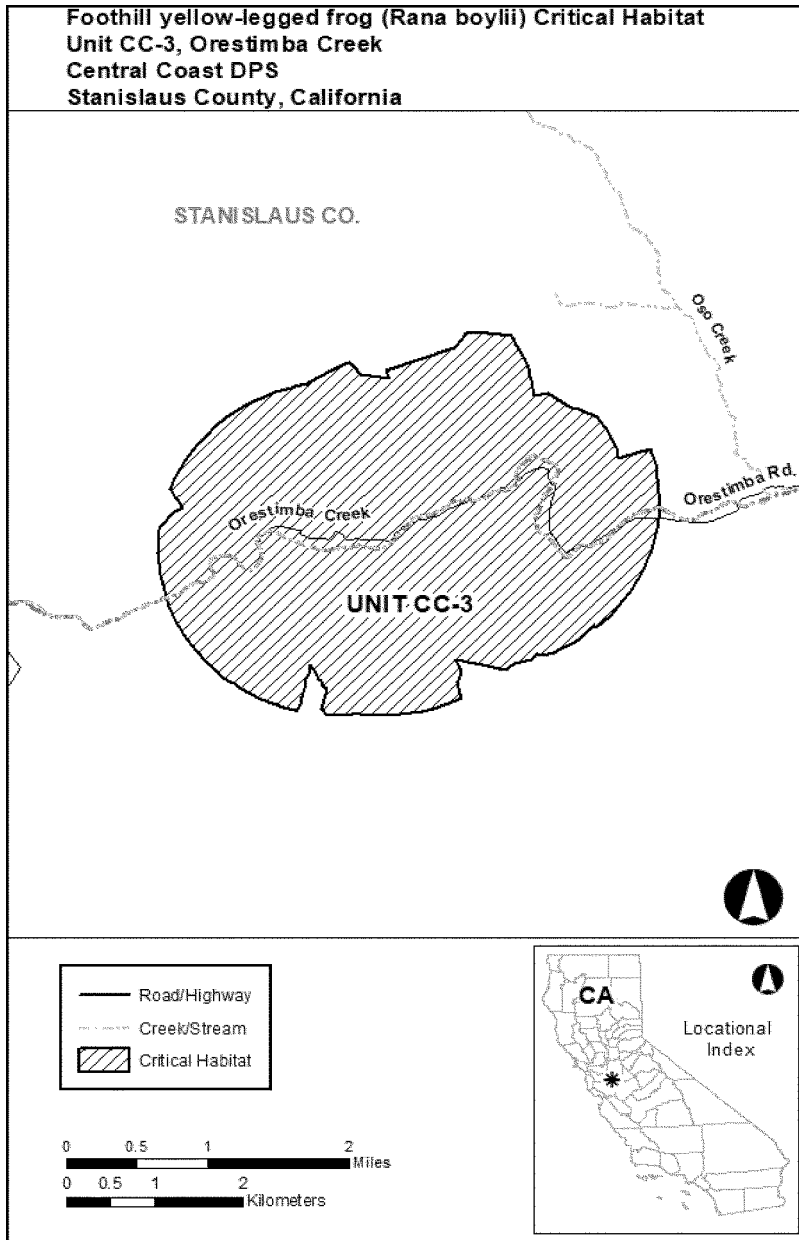
Figure 6 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (10)(ii)



(11) Unit CC-3: Central Coast DPS—  
Orestimba Creek, Stanislaus County,  
California.

(i) Unit CC-3 consists of 4,541 ac  
(1,838 ha) in Stanislaus County and is  
composed entirely of private ownership.  
(ii) Map of Unit CC-3 follows:

Figure 7 to Central Coast DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (11)(ii)



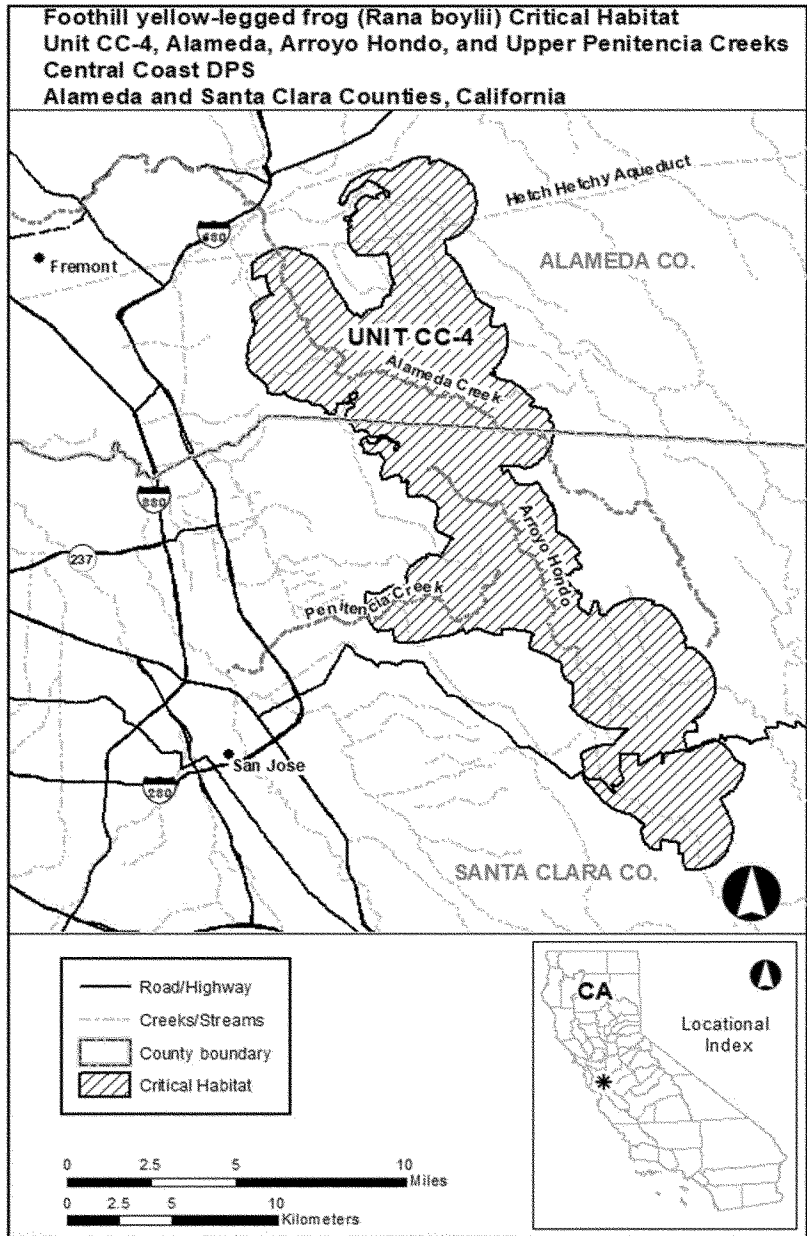
(12) Unit CC-4: Central Coast DPS— Alameda Creek, Arroyo Hondo, and Upper Penitencia, Alameda and Santa Clara Counties, California.

(i) Unit CC-4 consists of 63,907 ac (25,862 ha) in Alameda and Santa Clara

Counties and is composed of State (2,828 ac (1,144 ha)), local government (1,871 ac (757 ha)), and private (59,208 ac (23,961 ha)) ownership.

(ii) Map of Unit CC-4 follows:

Figure 8 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (12)(ii)



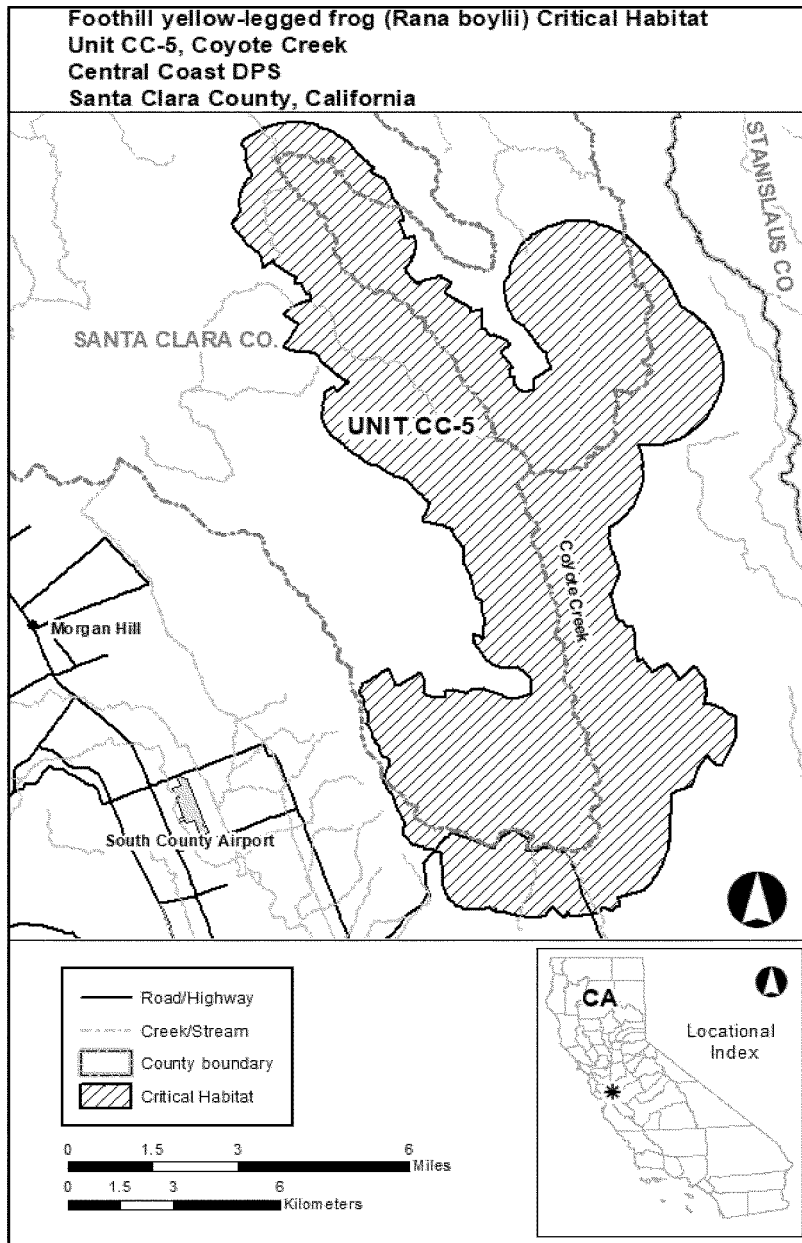
(13) Unit CC-5: Central Coast DPS—Coyote Creek, Santa Clara County, California.

(i) Unit CC-5 consists of 40,370 ac (16,337 ha) in Santa Clara County and

is composed of Federal (643 ac (260 ha)), State (16,251 ac (6,576 ha)), local government (255 ac (103 ha)), and private (23,222 ac (9,398 ha)) ownership.

(ii) Map of Unit CC-5 follows: Figure 9 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (13)(ii)





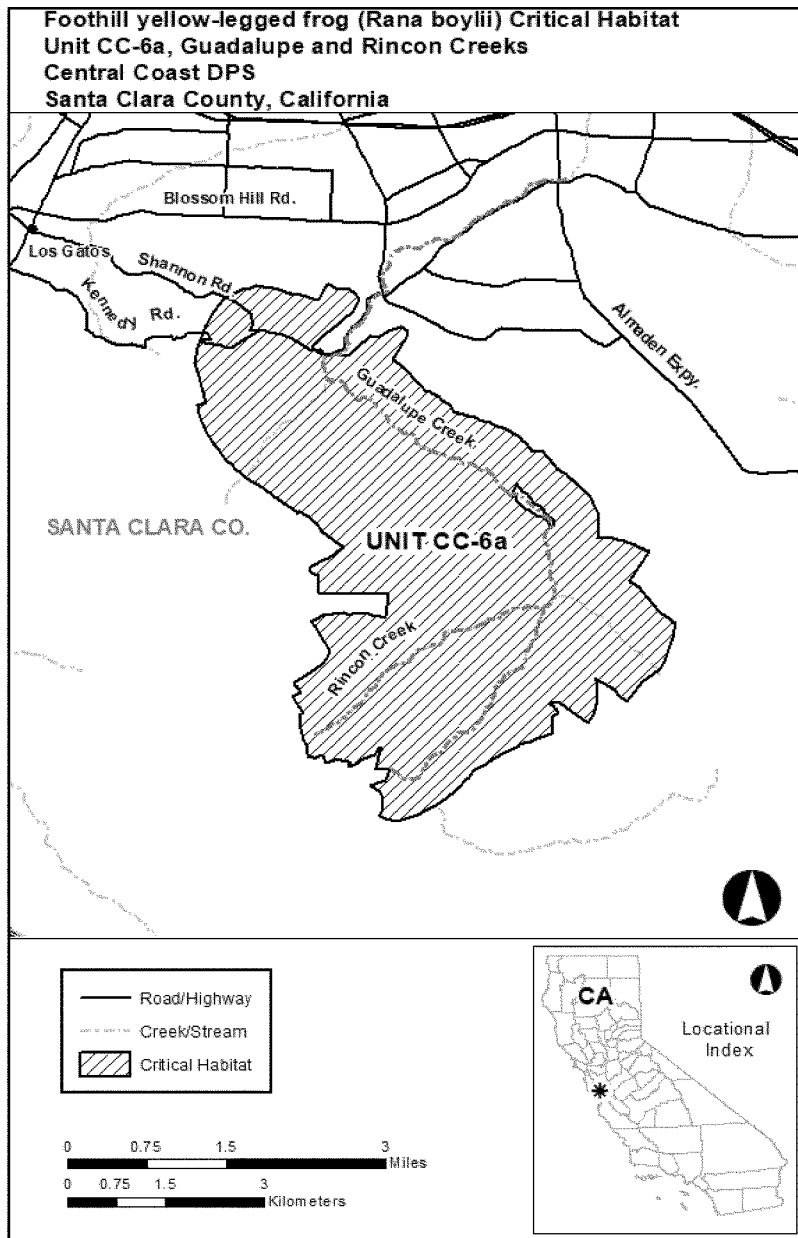
(14) Unit CC-6a: Central Coast DPS—Guadalupe and Rincon Creeks, Santa Clara County, California.

(i) Unit CC-6a consists of 7,772 ac (3,145 ha) in Santa Clara County and is

composed of local government (1,100 ac (445 ha)) and private (6,672 ac (2,700 ha)) ownership.

(ii) Map of Unit CC-6a follows:

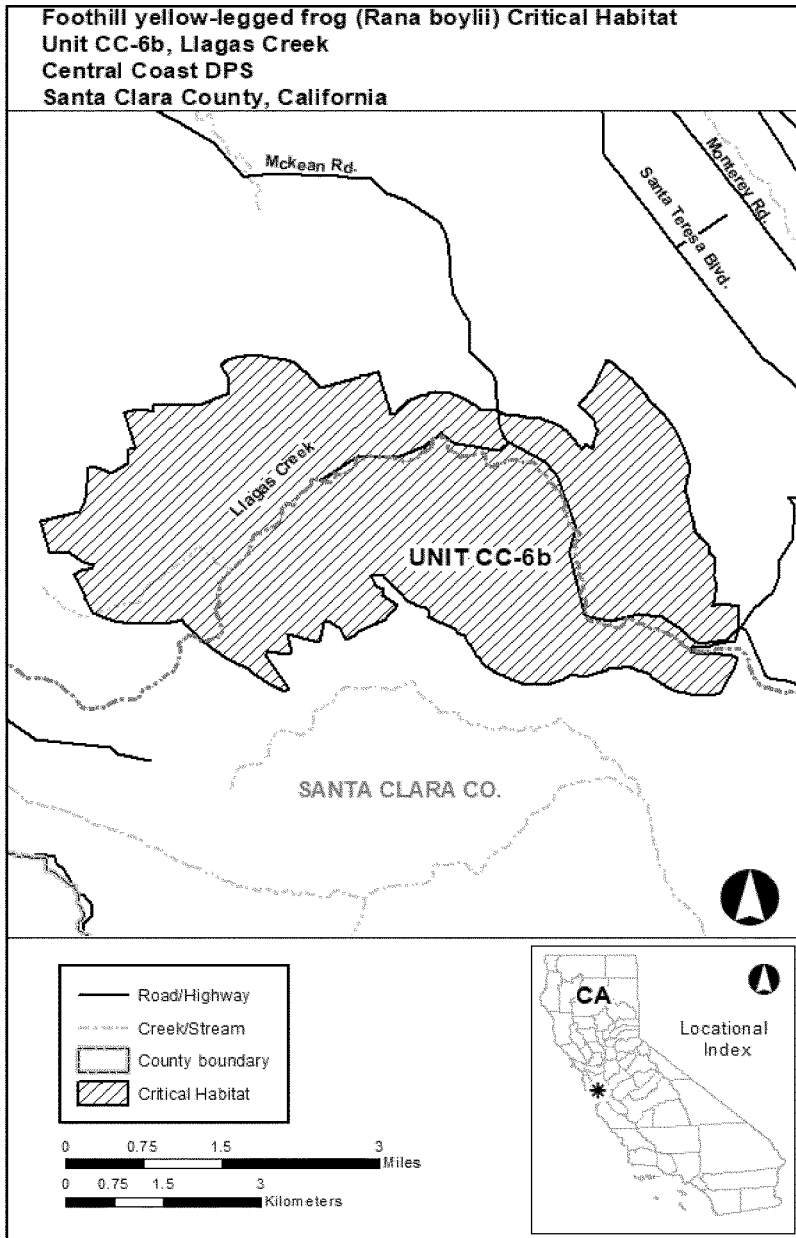
Figure 10 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (14)(ii)



(15) Unit CC-6b: Central Coast DPS—  
Llagas Creek, Santa Clara County,  
California.

(i) Unit CC-6b consists of 9,459 ac  
(3,828 ha) in Santa Clara County and is  
composed entirely of private ownership.  
(ii) Map of Unit CC-6b follows:

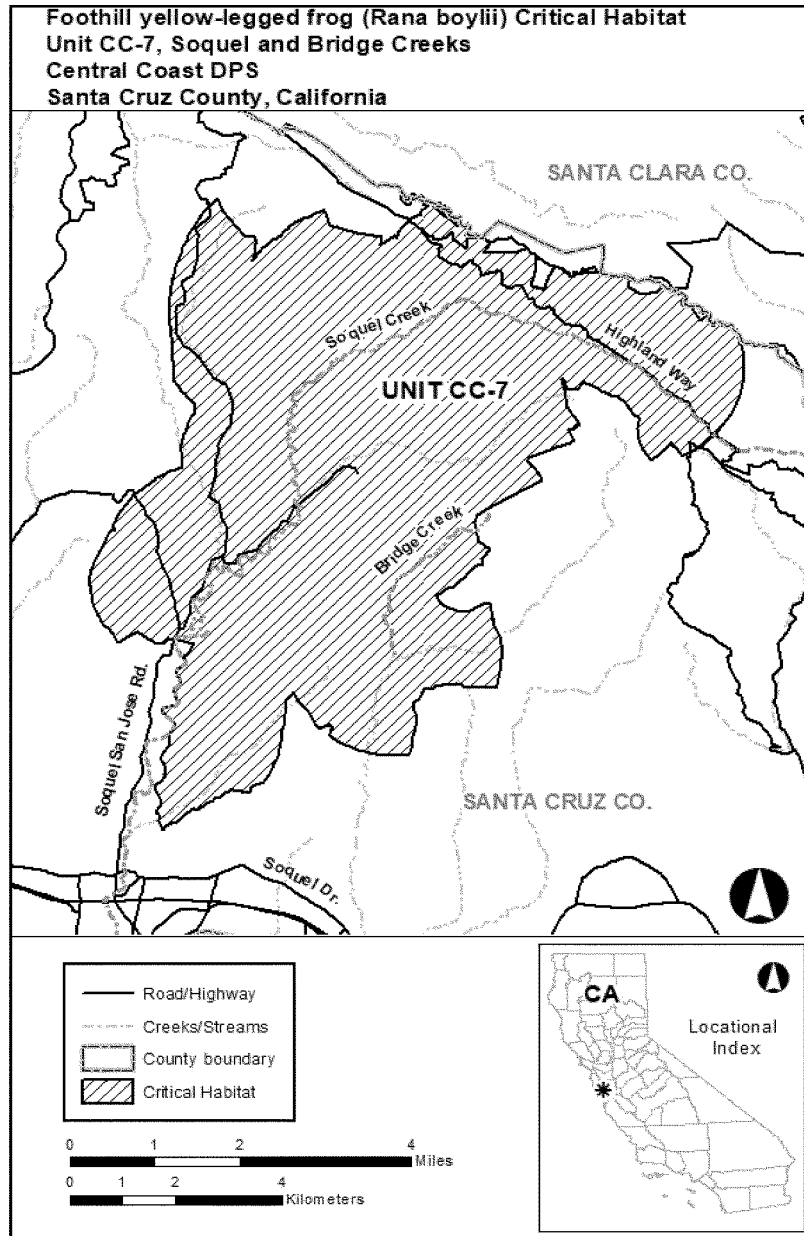
Figure 11 to Central Coast DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (15)(ii)



(16) Unit CC-7: Central Coast DPS—  
 Soquel and Bridge Creeks, Santa Cruz  
 and Santa Clara Counties, California.  
 (i) Unit CC-7 consists of 19,490 ac  
 (7,887 ha) in Santa Cruz and Santa Clara

Counties and is composed of State  
 (5,689 ac (2,302 ha)) and private (13,800  
 ac (5,585 ha)) ownership.  
 (ii) Map of Unit CC-7 follows:

Figure 12 to Central Coast DPS of the  
 foothill yellow-legged frog (*Rana  
 boylei*) paragraph (16)(ii)



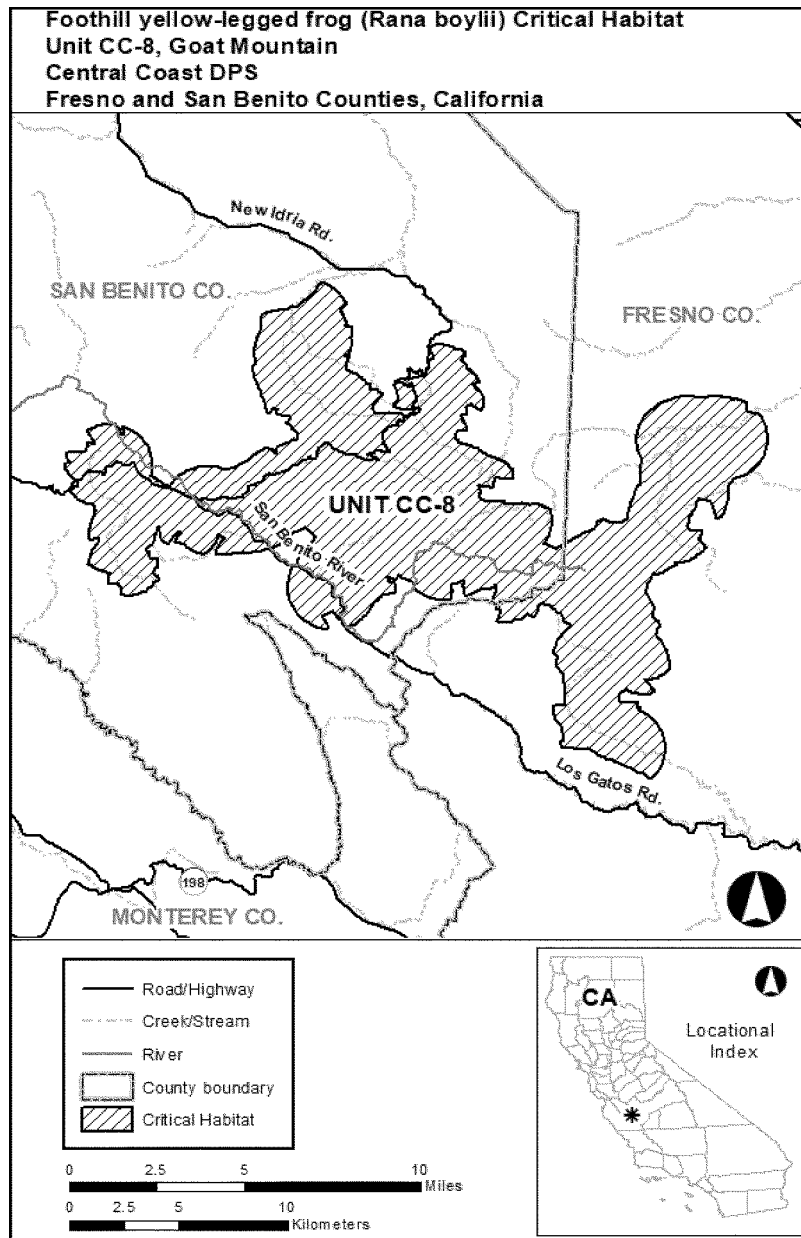
(17) Unit CC-8: Central Coast DPS—Goat Mountain, Fresno and San Benito Counties, California.

(i) Unit CC-8 consists of 63,739 ac (25,794 ha) in Fresno and San Benito

Counties and is composed of Federal (38,953 ac (15,764 ha)), State (1,804 (730 ha)), and private (22,981 ac (9,300 ha)) ownership.

(ii) Map of Unit CC-8 follows:

Figure 13 to Central Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (17)(ii)

**BILLING CODE 4333-15-C****Foothill Yellow-Legged Frog (*Rana boylei*), North Feather DPS**

(1) Critical habitat units are depicted for Butte and Plumas Counties, California, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of foothill yellow-legged frog consist of the following components:

(i) *Aquatic stream habitat.* (A) Stream reaches with a hydrological pattern (including appropriate stream velocity, water depth, water temperature, streambed substrate, and geomorphic heterogeneity) capable of supporting foothill yellow-legged frog breeding and rearing. Suitable stream reaches

typically contain a wide and shallow channel morphology, an intermittent canopy, and rocky substrate that is cobble-sized or larger. These features provide habitat for breeding, feeding, and reproduction and in some cases general aquatic or overwintering habitat for the foothill yellow-legged frog.

(B) Tributary (nonbreeding) habitat adjacent to and accessible from breeding and rearing habitat. Suitable tributary habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia protected from scouring winter flows. These refugia may include springs, seeps, pools, woody debris, root wads, undercut banks, clumps of sedges, and rocks.

(ii) *Terrestrial and dispersal habitat.* (A) Upland habitat adjacent to and accessible from breeding, rearing, and tributary habitat as identified in paragraphs (2)(i)(A) and (B) of this entry. Suitable upland habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia. These refugia may include nonstream pools, woody debris, root wads, clumps of sedges, and large boulders or debris.

(B) Dispersal habitat comprising permanent or ephemeral water channels and adjacent uplands that connect breeding and overwintering habitat sites. Suitable dispersal habitat does not need to hold moisture for extended periods. Suitable dispersal habitat

typically connects areas containing intermittent canopy, interstitial spaces for sheltering, and sources of invertebrate prey. Additionally, suitable dispersal habitat is free from large physical barriers, hydrological barriers (e.g., dams, reservoirs, and rivers with highly altered flow regimes), and areas with high exposure to predators.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using the National

Hydrography Dataset and California Natural Diversity Database occurrence records and other survey information. The critical habitat units were then mapped using Universal Transverse Mercator Zone 10N and 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157, and at the field office responsible for this designation. You may obtain field office location information by contacting one

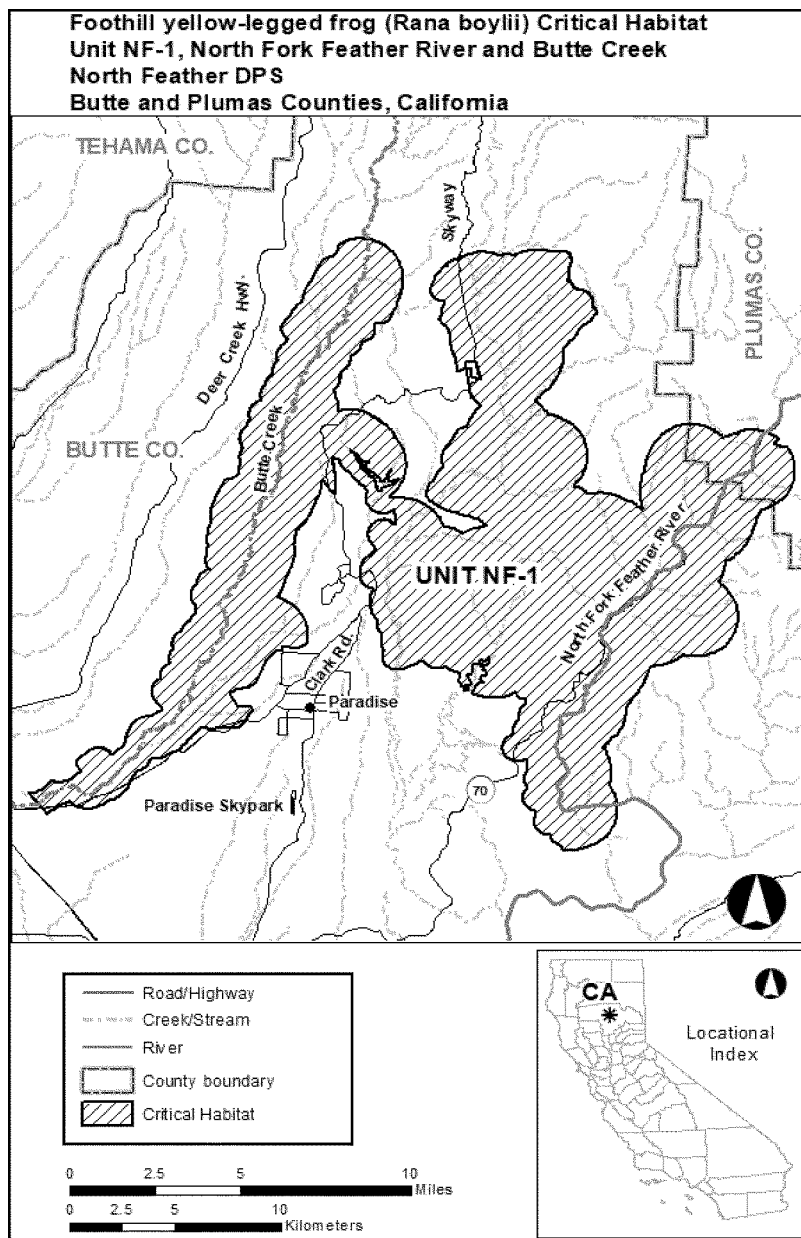
of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Unit NF-1: North Feather DPS—North Fork Feather River and Butte Creek, Butte and Plumas Counties, California.

(i) Unit NF-1 consists of 99,433 ac (40,239 ha) in Butte and Plumas Counties and is composed of Federal (30,116 ac (12,188 ha)), State (383 ac (155 ha)) and private (68,934 ac (27,897 ha)) land ownership.

(ii) Map of Unit NF-1 follows: Figure 1 to North Feather DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (5)(ii)

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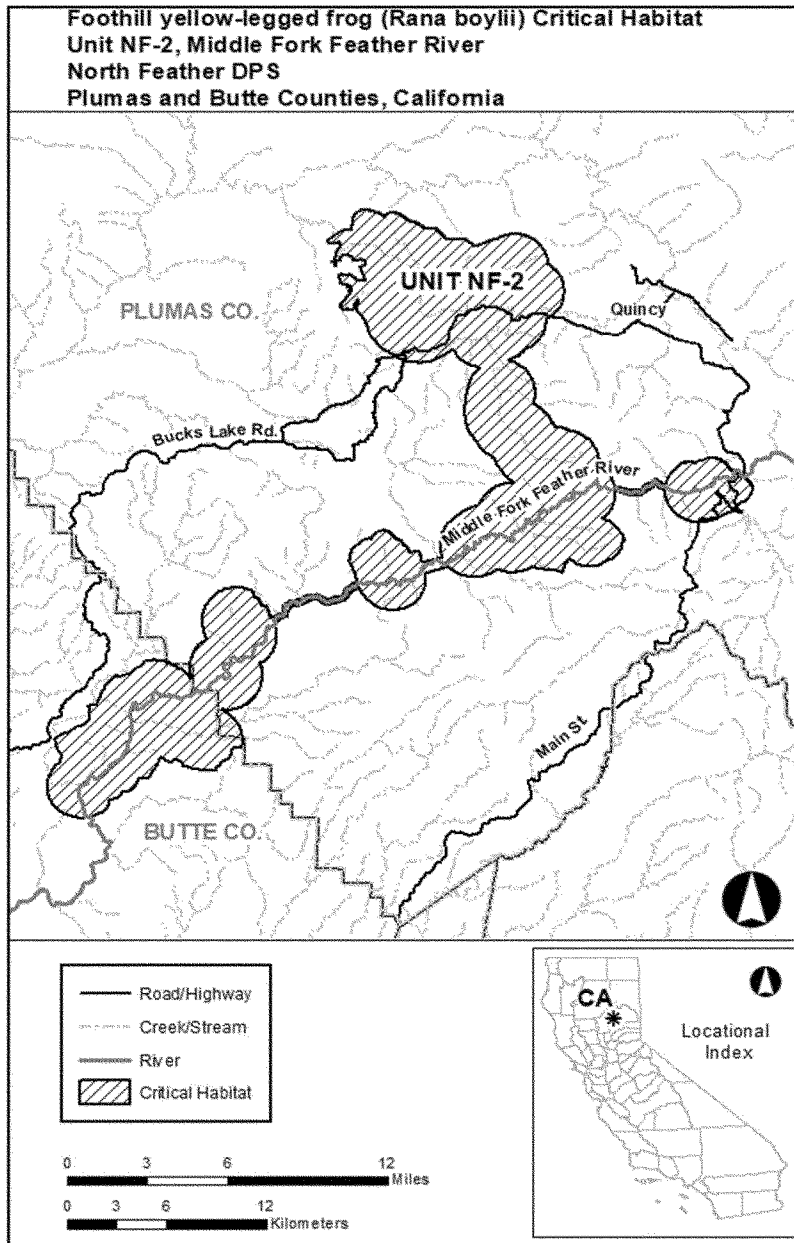
(6) Unit NF-2: North Feather DPS— Middle Fork Feather River, Plumas and Butte Counties, California.

(i) Unit NF-2 consists of 77,145 ac (31,219 ha) in Plumas and Butte

Counties and is composed of Federal (69,251 ac (28,025 ha)), State (447 ac (181 ha)), and private (7,446 ac (3,013 ha)) land ownership.

(ii) Map of Unit NF-2 follows:

Figure 2 to North Feather DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (6)(ii)



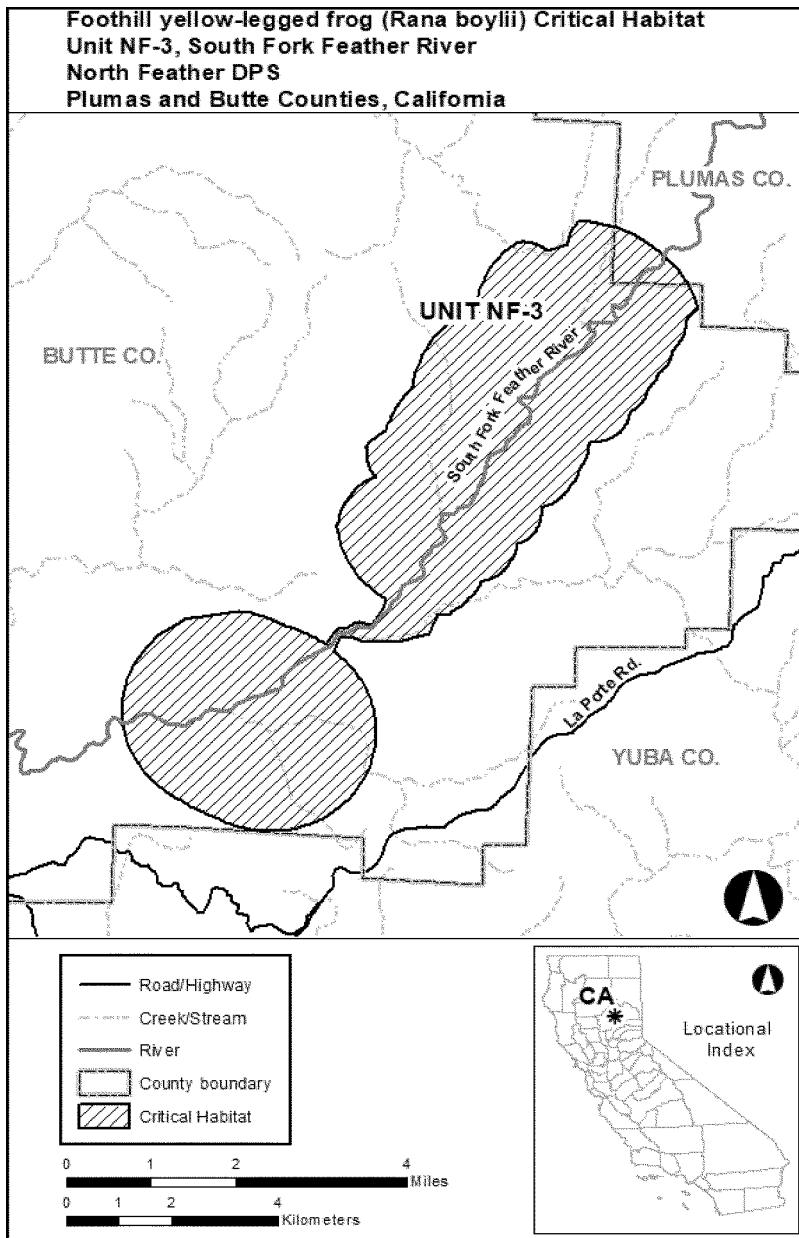
(7) Unit NF-3: North Feather DPS— South Fork Feather River, Plumas and Butte Counties, California.

(i) Unit NF-3 consists of 11,186 ac (4,527 ac) in Plumas and Butte Counties

and is composed of Federal (4,645 ac (1,880 ha)) and private (6,541 ac (2,647 ha)) land ownership.

(ii) Map of Unit NF-3 follows:

Figure 3 to North Feather DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (7)(ii)

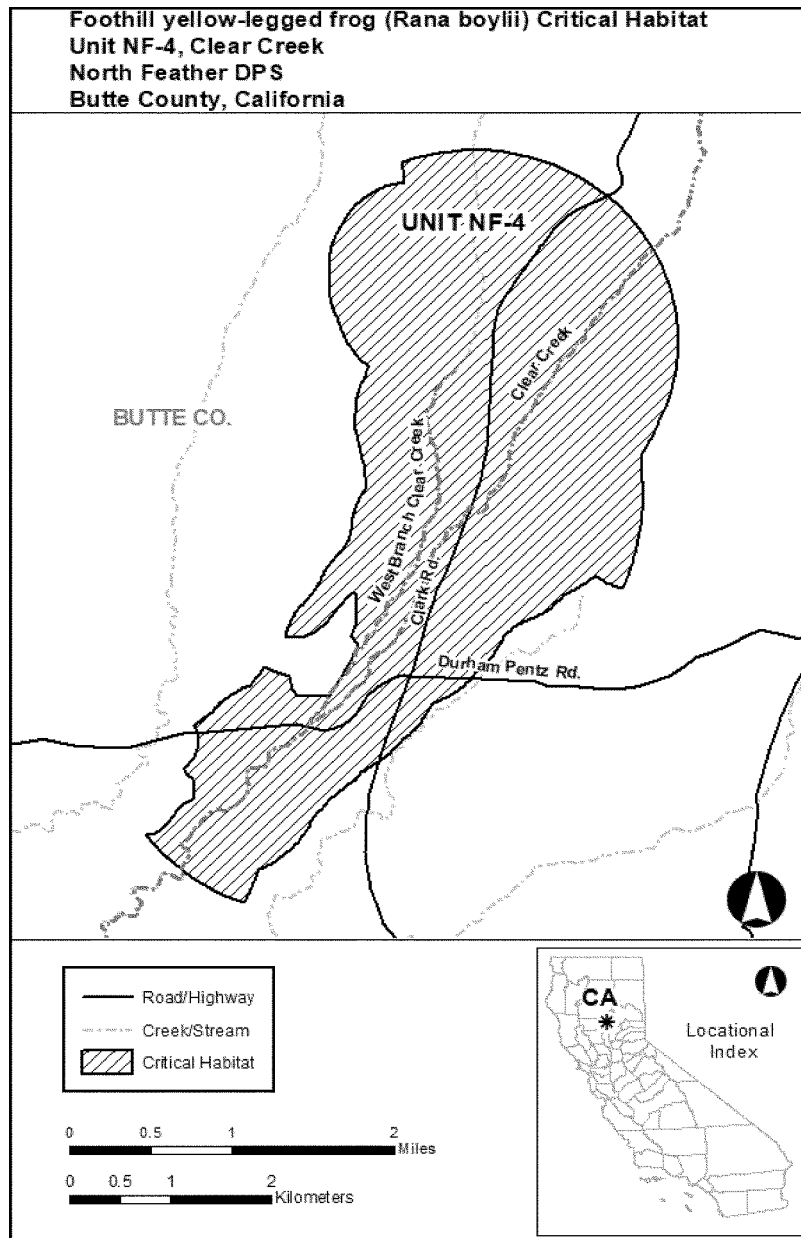


(8) Unit NF-4: North Feather DPS—  
Clear Creek, Butte County, California.  
(i) Unit NF-4 consists of 4,512 ac  
(1,826 ha) in Butte County and is

composed of Federal (32 ac (13 ha)) and  
private (4,480 ac (1,813 ha)) land  
ownership.  
(ii) Map of Unit NF-4 follows:

Figure 4 to North Feather DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (8)(ii)



**BILLING CODE 4333-15-C****Foothill Yellow-Legged Frog (*Rana boylei*), South Coast DPS**

(1) A critical habitat unit is depicted for Monterey and San Luis Obispo Counties, California, on the map in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of foothill yellow-legged frog consist of the following components:

(i) *Aquatic stream habitat.* (A) Stream reaches with a hydrological pattern (including appropriate stream velocity, water depth, water temperature, streambed substrate, and geomorphic heterogeneity) capable of supporting foothill yellow-legged frog breeding and

rearing. Suitable stream reaches typically contain a wide and shallow channel morphology, an intermittent canopy, and rocky substrate that is cobble-sized or larger. These features provide habitat for breeding, feeding, and reproduction and in some cases general aquatic or overwintering habitat for the foothill yellow-legged frog.

(B) Tributary (nonbreeding) habitat adjacent to and accessible from breeding and rearing habitat. Suitable tributary habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia protected from scouring winter flows. These refugia may include springs, seeps, pools, woody debris, root wads, undercut banks, clumps of sedges, and rocks.

(ii) *Terrestrial and dispersal habitat.* (A) Upland habitat adjacent to and accessible from breeding, rearing, and tributary habitat as identified in paragraphs (2)(i)(A) and (B) of this entry. Suitable upland habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia. These refugia may include nonstream pools, woody debris, root wads, clumps of sedges, and large boulders or debris.

(B) Dispersal habitat comprising permanent or ephemeral water channels and adjacent uplands that connect breeding and overwintering habitat sites. Suitable dispersal habitat does not need to hold moisture for extended periods. Suitable dispersal habitat

typically connects areas containing intermittent canopy, interstitial spaces for sheltering, and sources of invertebrate prey. Additionally, suitable dispersal habitat is free from large physical barriers, hydrological barriers (e.g., dams, reservoirs, and rivers with highly altered flow regimes), and areas with high exposure to predators.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using the National

Hydrography Dataset and California Natural Diversity Database occurrence records and other survey information. The critical habitat units were then mapped using Universal Transverse Mercator Zone 10N and 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157, and at the field office responsible for this designation. You may obtain field office

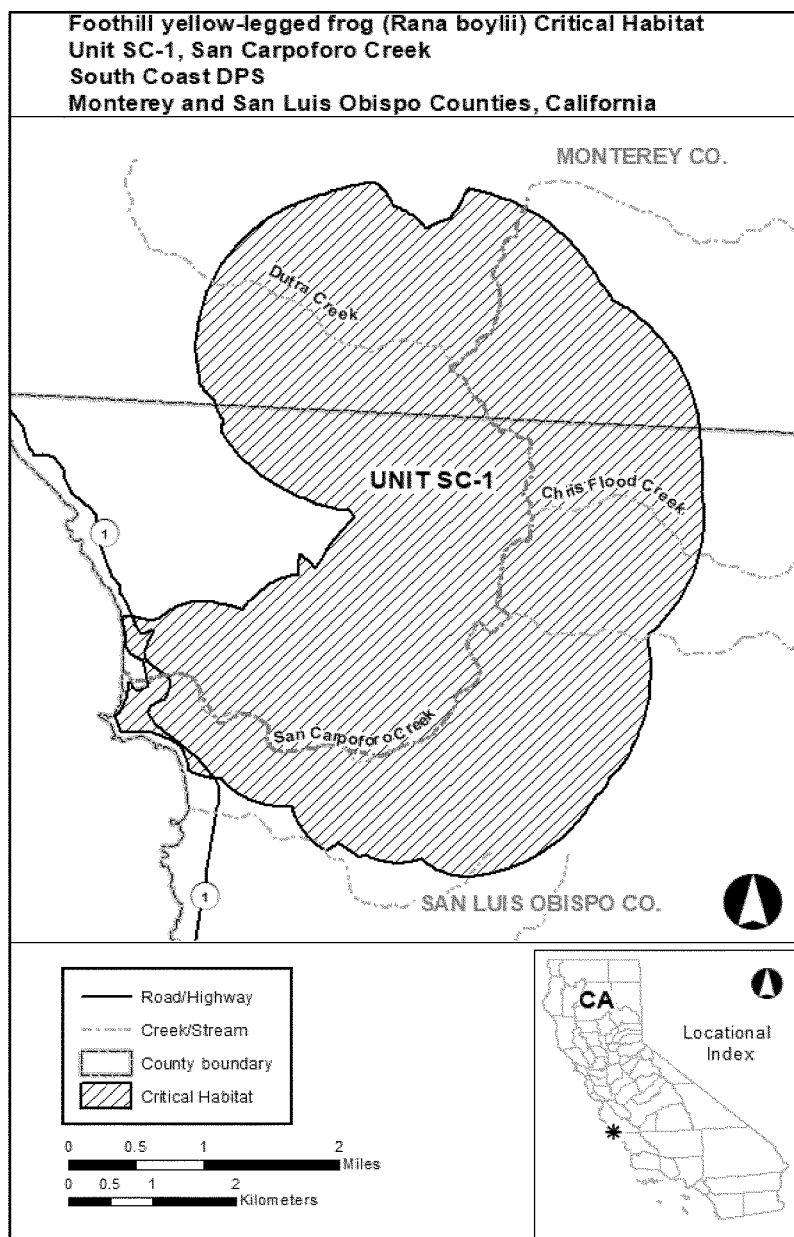
location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Unit SC-1: South Coast DPS—San Carpoforo, Monterey and San Luis Obispo Counties, California.

(i) Unit SC-1 consists of 10,077 ac (4,078 ha) in Monterey and San Luis Obispo Counties and is composed of Federal (2,683 ac (1,086 ha)) and private (7,394 ac (2,992 ha)) ownership.

(ii) Map of Unit SC-1 follows: Figure to South Coast DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (5)(ii)

BILLING CODE 4333-15-P



## BILLING CODE 4333-15-C

Foothill Yellow-Legged Frog (*Rana boylei*), South Sierra DPS

(1) Critical habitat units are depicted for Amador, Calaveras, Eldorado, Fresno, Madera, Mariposa, Tulare, and Tuolumne Counties, California, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of foothill yellow-legged frog consist of the following components:

(i) *Aquatic stream habitat.* (A) Stream reaches with a hydrological pattern (including appropriate stream velocity, water depth, water temperature, streambed substrate, and geomorphic heterogeneity) capable of supporting foothill yellow-legged frog breeding and rearing. Suitable stream reaches typically contain a wide and shallow channel morphology, an intermittent canopy, and rocky substrate that is cobble-sized or larger. These features provide habitat for breeding, feeding, and reproduction and in some cases general aquatic or overwintering habitat for the foothill yellow-legged frog.

(B) Tributary (nonbreeding) habitat adjacent to and accessible from breeding and rearing habitat. Suitable tributary habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia protected from scouring winter flows. These refugia may include springs, seeps, pools,

woody debris, root wads, undercut banks, clumps of sedges, and rocks.

(ii) *Terrestrial and dispersal habitat.*

(A) Upland habitat adjacent to and accessible from breeding, rearing, and tributary habitat as identified in paragraphs (2)(i)(A) and (B) of this entry. Suitable upland habitats typically contain sources of invertebrate prey, intermittent canopy, thermally stable microsites, and moist overwintering refugia. These refugia may include nonstream pools, woody debris, root wads, clumps of sedges, and large boulders or debris.

(B) Dispersal habitat comprising permanent or ephemeral water channels and adjacent uplands that connect breeding and overwintering habitat sites. Suitable dispersal habitat does not need to hold moisture for extended periods. Suitable dispersal habitat typically connects areas containing intermittent canopy, interstitial spaces for sheltering, and sources of invertebrate prey. Additionally, suitable dispersal habitat is free from large physical barriers, hydrological barriers (e.g., dams, reservoirs, and rivers with highly altered flow regimes), and areas with high exposure to predators.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using the National Hydrography Dataset and California Natural Diversity Database occurrence records and other survey information. The critical habitat units were then mapped using Universal Transverse Mercator Zone 10N and 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at <https://www.regulations.gov> at Docket No. FWS-R8-ES-2023-0157, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

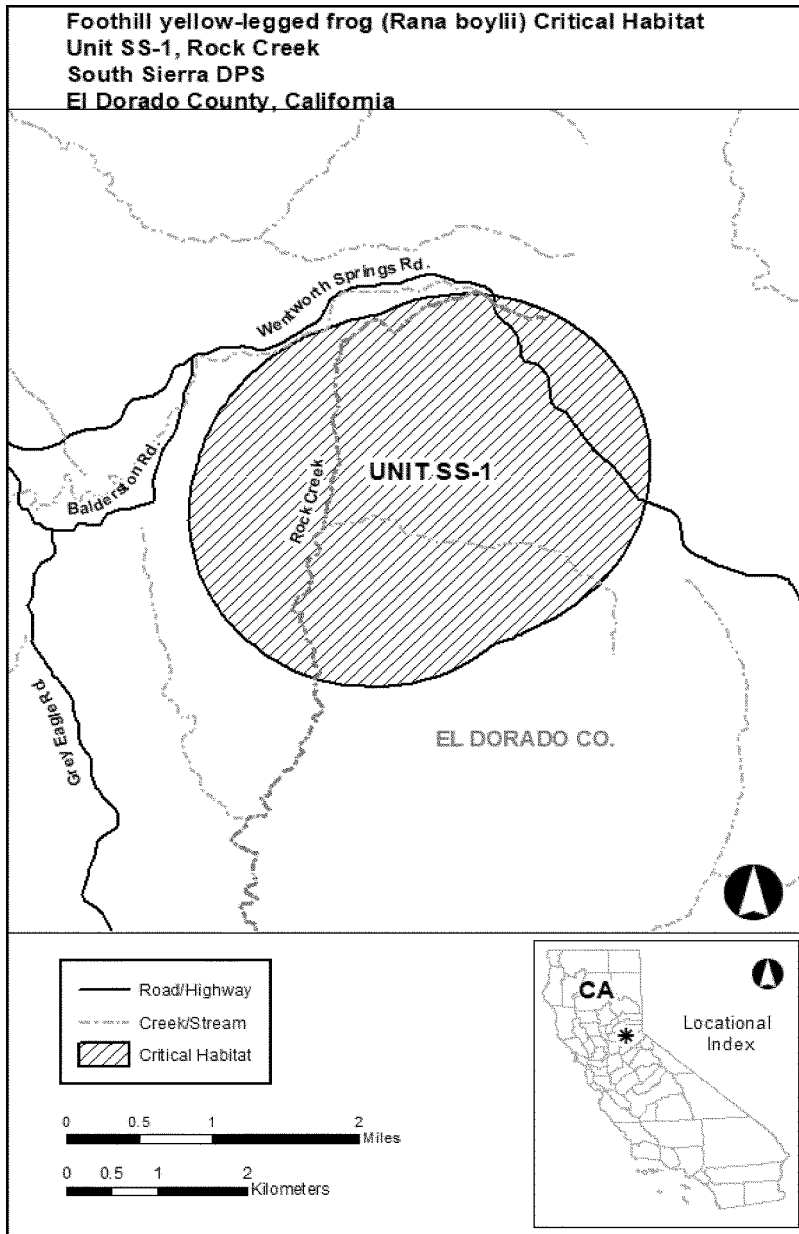
(5) Unit SS-1: South Sierra DPS—Rock Creek, Eldorado County, California.

(i) Unit SS-1 consists of 4,348 ac (1,760 ha) in Eldorado County and is composed of Federal (2,630 ac (1,064 ha)) and private (1,718 ac (695 ha)) ownership.

(ii) Map of Unit SS-1 follows:

Figure 1 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (5)(ii)

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(6) Unit SS-2: South Sierra DPS—Chili Bar Reservoir, Eldorado County, California.

(i) Unit SS-2 consists of 4,976 ac (2,014 ha) in Eldorado County and is

composed of Federal (1,245 ac (504 ha)) and private (3,732 ac (1,510 ha)) ownership.

(ii) Map of Unit SS-2 follows:

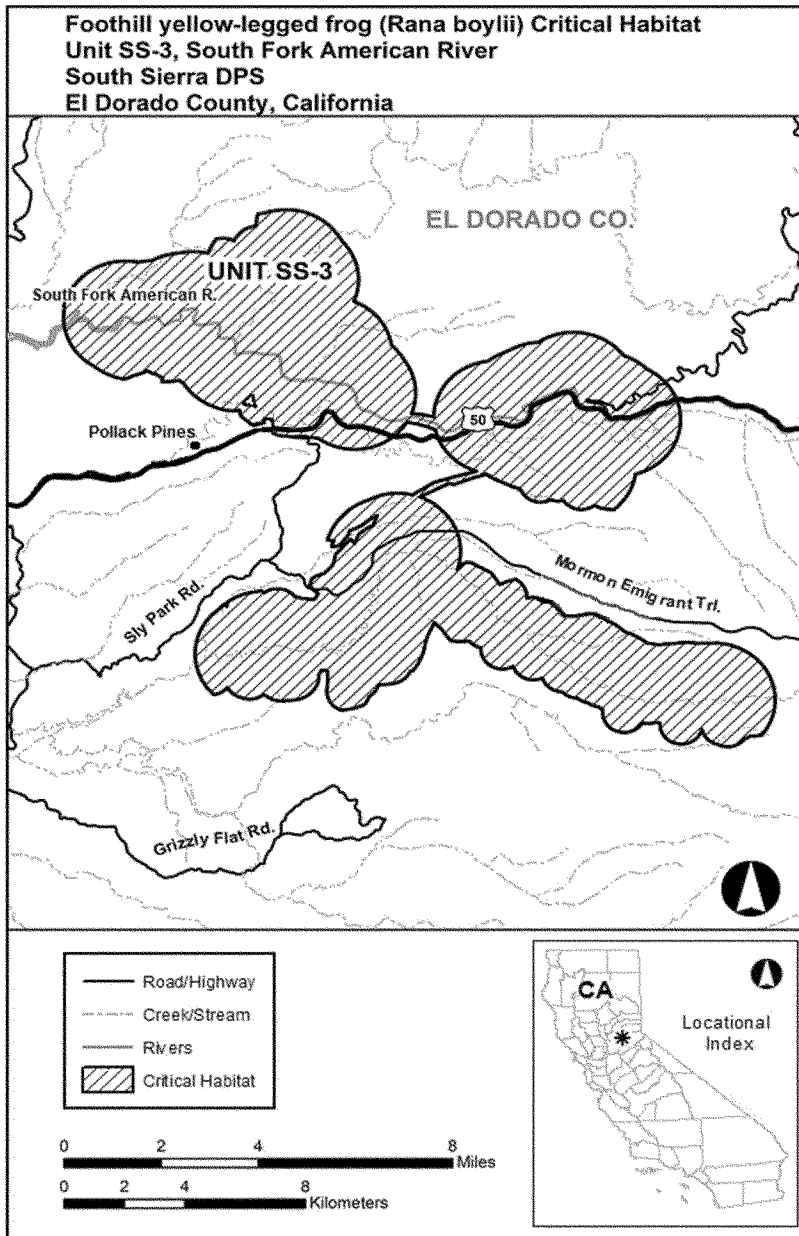
Figure 2 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (6)(ii)



(7) Unit SS-3: South Sierra DSP—  
 South Fork American River—Camp  
 Creek, El Dorado County, California.  
 (i) Unit SS-3 consists of 42,108 ac  
 (17,040 ha) in El Dorado County and is

composed of Federal (30,894 ac (12,502  
 ha)) and private (11,214 ac (4,538 ha))  
 ownership.  
 (ii) Map of Unit SS-3 follows:

Figure 3 to South Sierra DPS of the  
 foothill yellow-legged frog (*Rana  
 boylei*) paragraph (7)(ii)



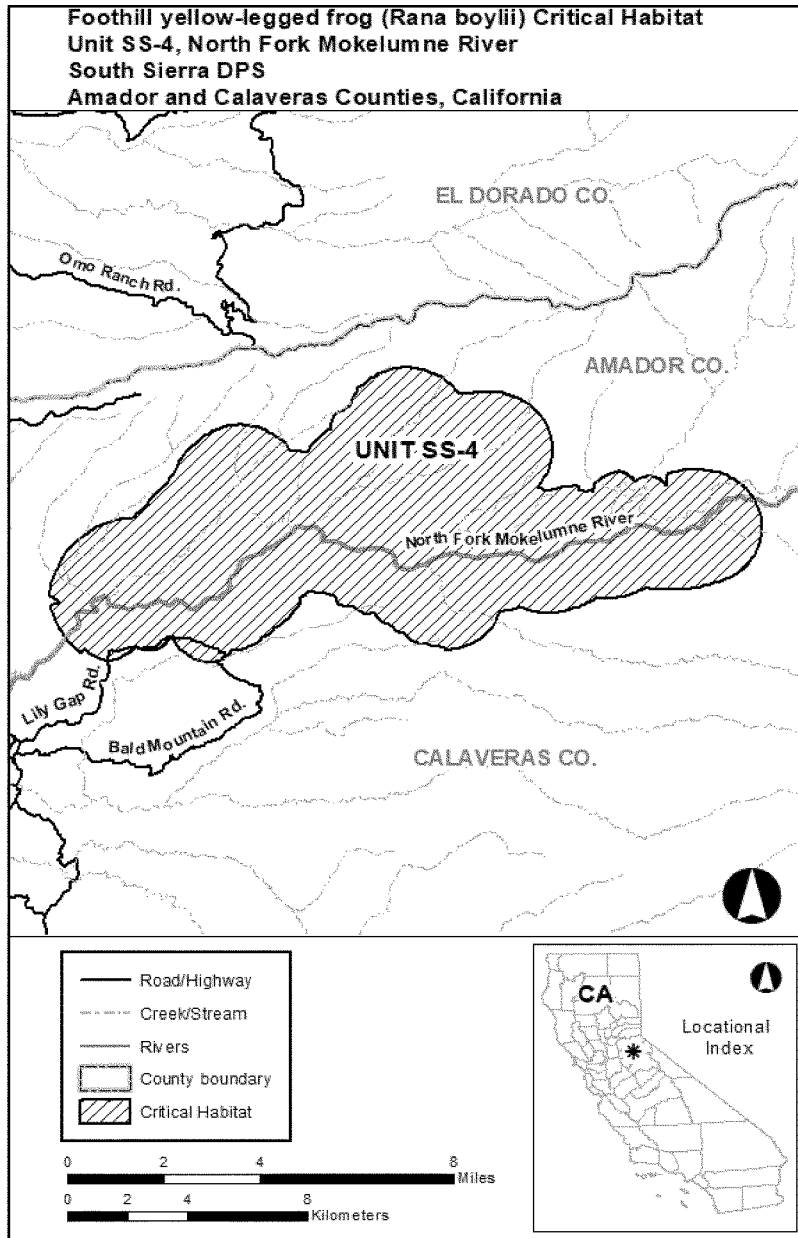
(8) Unit SS-4: South Sierra DPS—  
North Fork Mokelumne River, Amador  
County, California.

(i) Unit SS-4 consists of 34,751 ac  
(14,063 ha) in Amador County and is

composed of Federal (16,174 ac (6,546  
ha)) and private (18,577 ac (7,518 ha))  
ownership.

(ii) Map of Unit SS-4 follows:

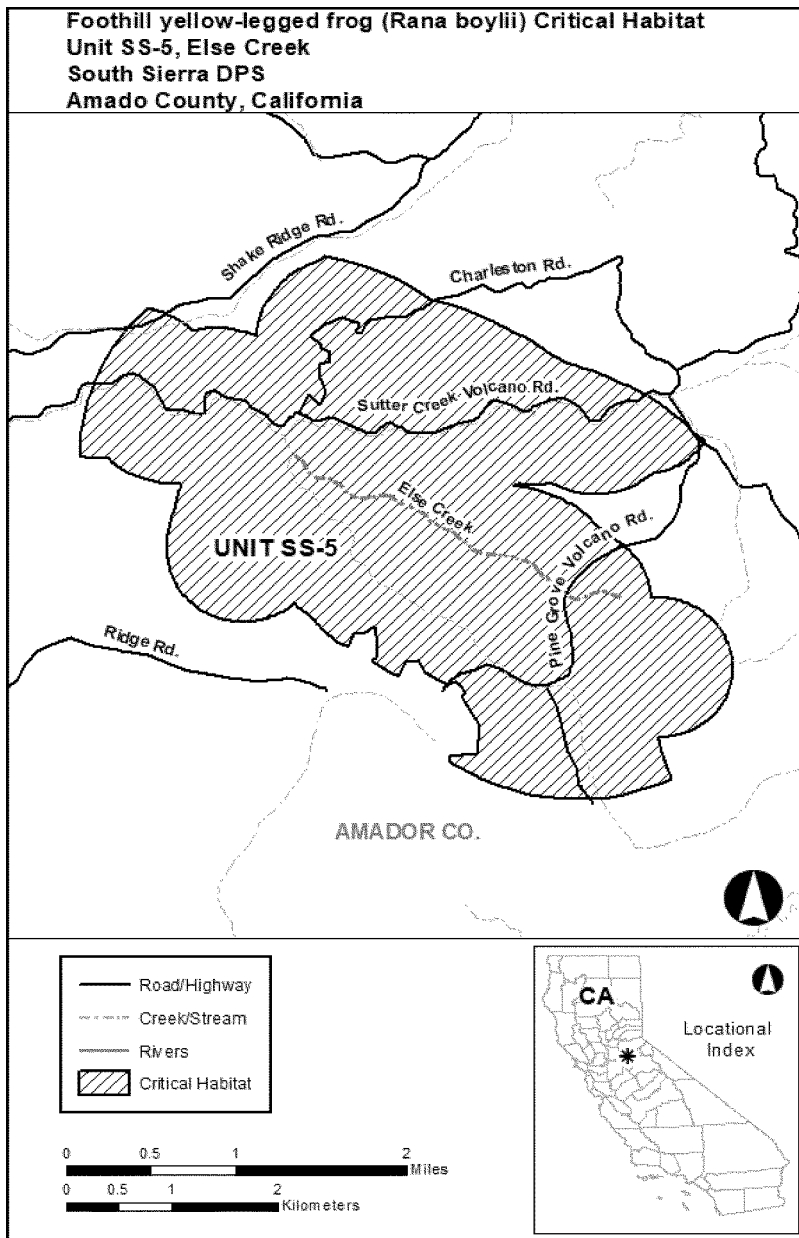
Figure 4 to South Sierra DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (8)(ii)



(9) Unit SS-5: South Sierra DPS—Else Creek, Amador County, California.  
 (i) Unit SS-5 consists of 4,658 ac (1,885 ha) in Amador County and is

composed of Federal (324 ac (131 ha)), State (219 ac (89 ha)), and private (4,114 ac (1,665 ha)) ownership.  
 (ii) Map of Unit SS-5 follows:

Figure 5 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (9)(ii)



(10) Unit SS-6: South Sierra DPS—Jesus Maria Creek, Calaveras County, California.

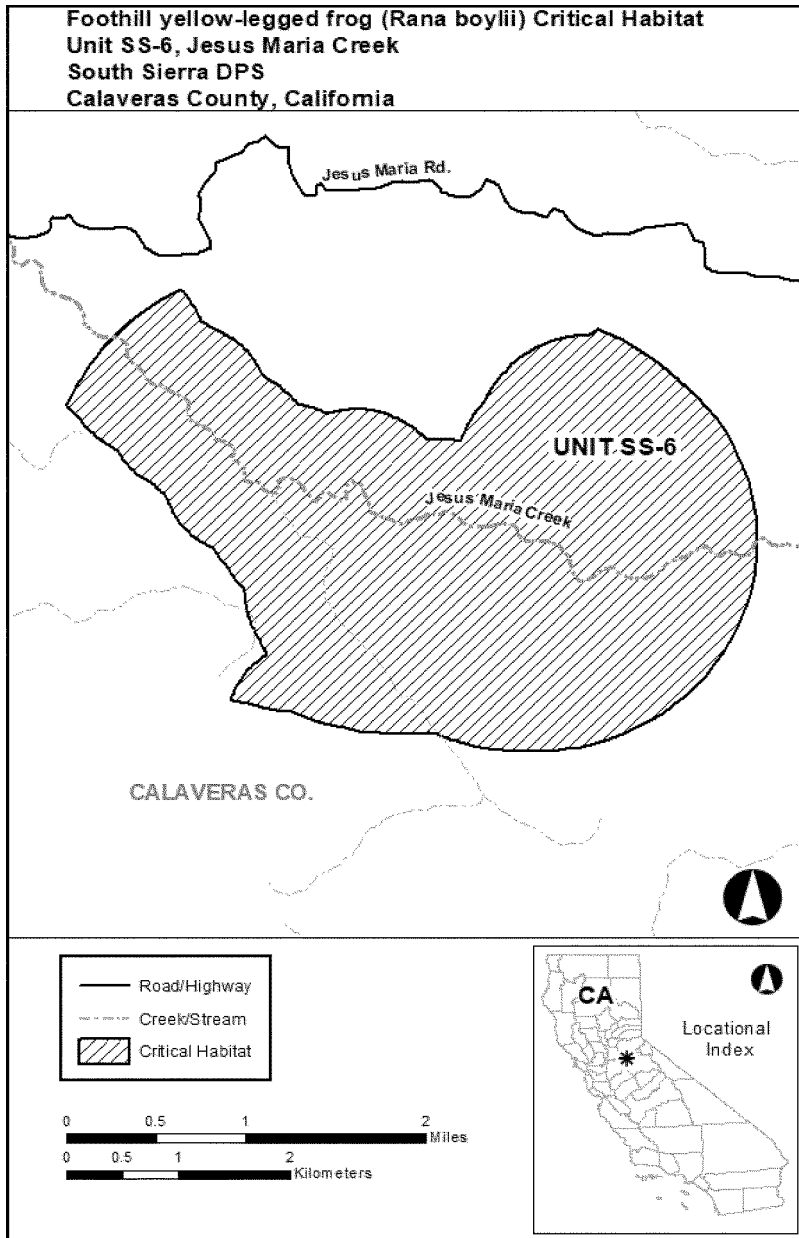
(i) Unit SS-6 consists of 4,082 ac (1,652 ha) in Calaveras County and is

composed of Federal (1,606 ac (650 ha)) and private (2,476 ac (1,002 ha)) ownership.

(ii) Map of Unit SS-6 follows:

Figure 6 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (10)(ii)





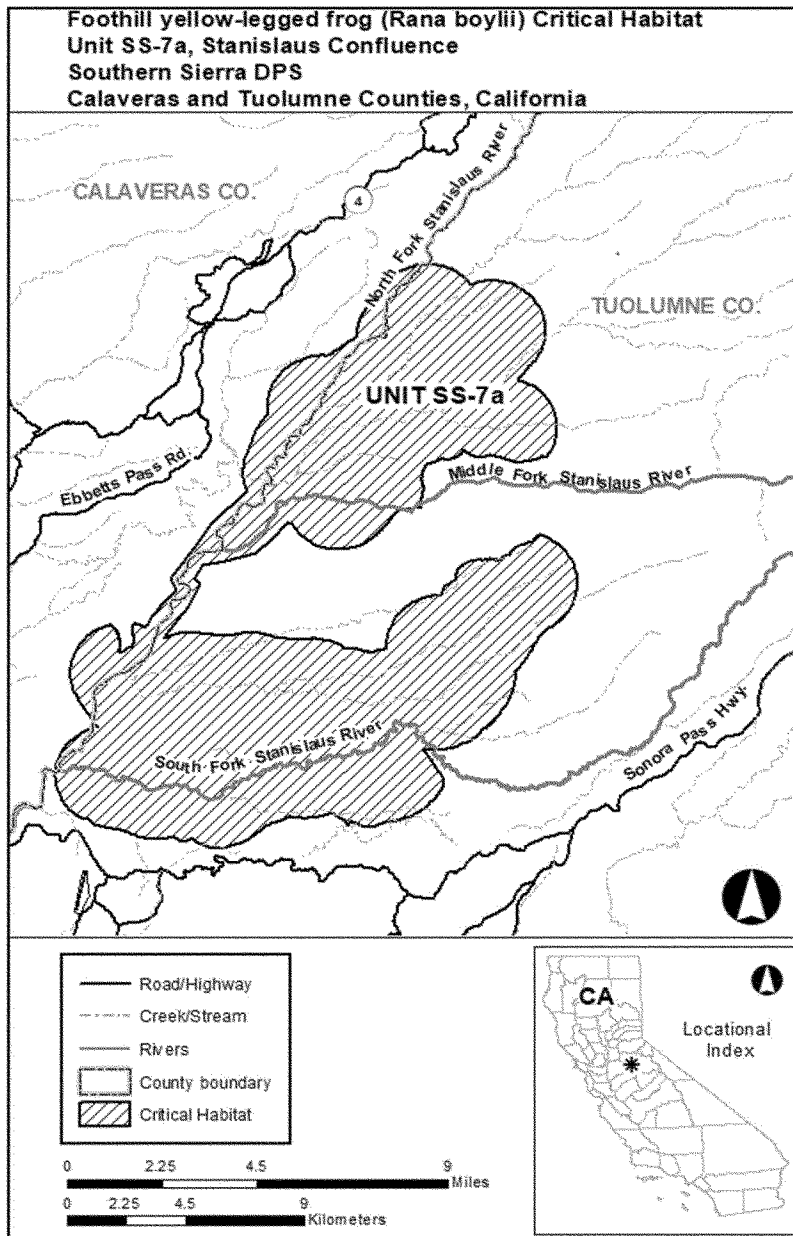
(11) Unit SS-7a: South Sierra DPS—Stanislaus Confluence, Calaveras and Tuolumne Counties, California.

(i) Unit SS-7a consists of 55,832 ac (22,595 ha) in Calaveras and Tuolumne

Counties and is composed of Federal (37,548 ac (15,195 ha)), State (2,720 ac (1,101 ha)), and private (15,564 ac (6,299 ha)) ownership.

(ii) Map of Unit SS-7a follows:

Figure 7 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (11)(ii)



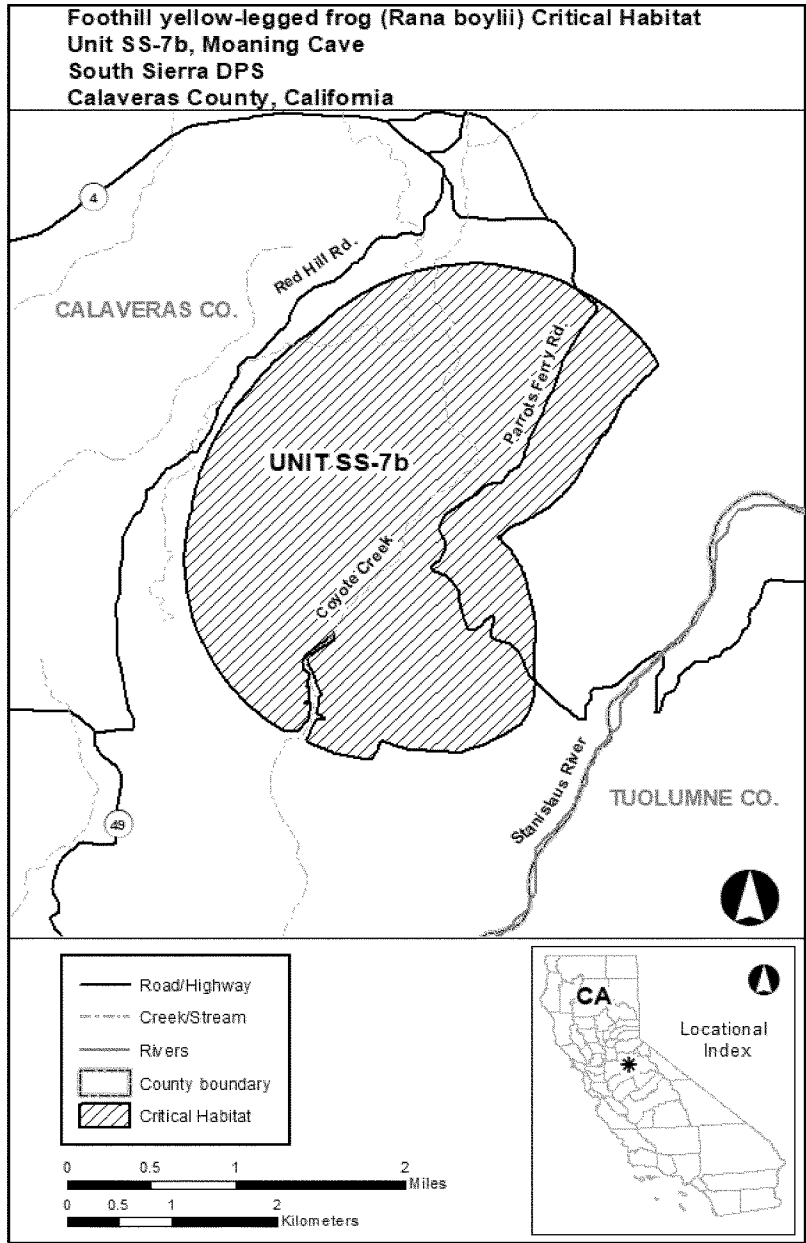
(12) Unit SS-7b: South Sierra DPS—  
Moaning Cave, Calaveras County,  
California.

(i) Unit SS-7b consists of 3,625 ac  
(1,467 ha) in Calaveras County and is

composed of Federal (587 ac (238 ha))  
and private (3,037 ac (1,229 ha))  
ownership.

(ii) Map of Unit SS-7b follows:

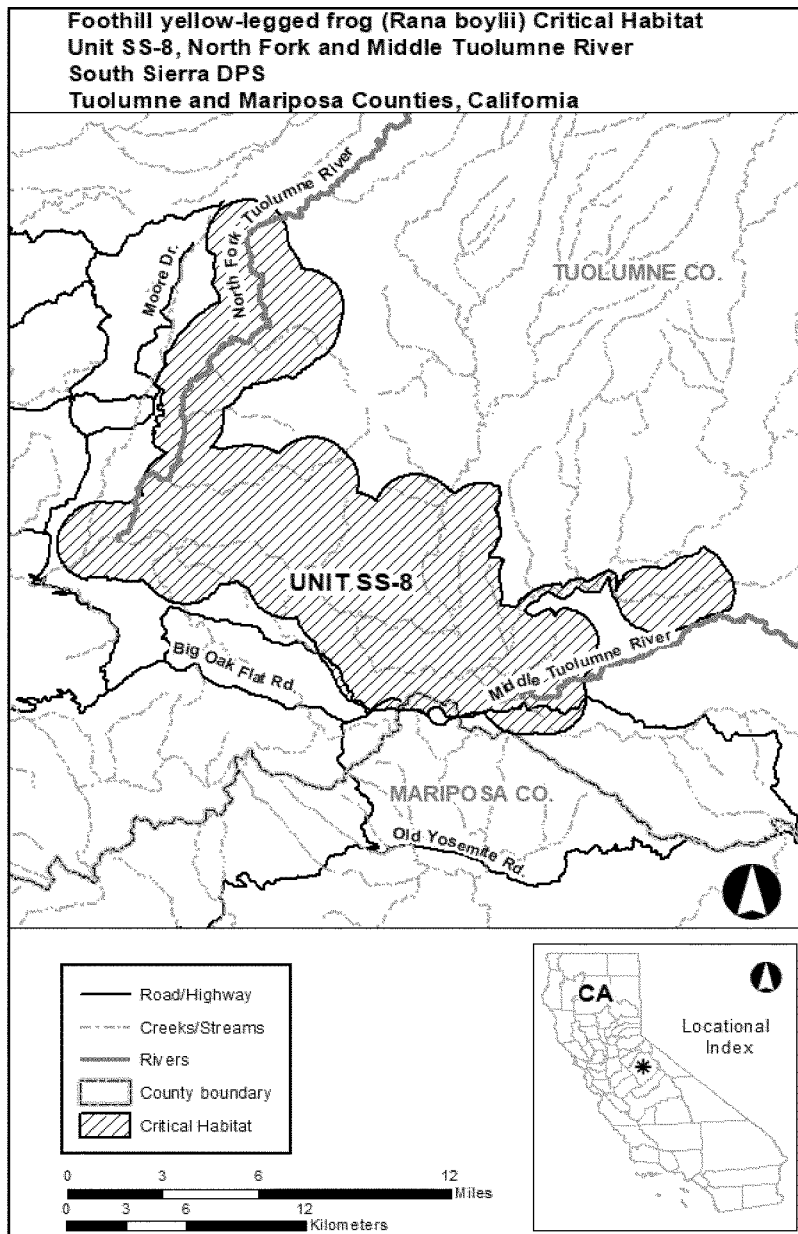
Figure 8 to South Sierra DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (12)(ii)



(13) Unit SS-8: South Sierra DPS— North Fork and Middle Fork Tuolumne River, Tuolumne and Mariposa Counties, California.

(i) Unit SS-8 consists of 78,151 ac (31,627 ha) in Tuolumne and Mariposa Counties and is composed of Federal (64,360 ac (26,046 ha)) and private (13,791 ac (5,581 ha)) ownership.

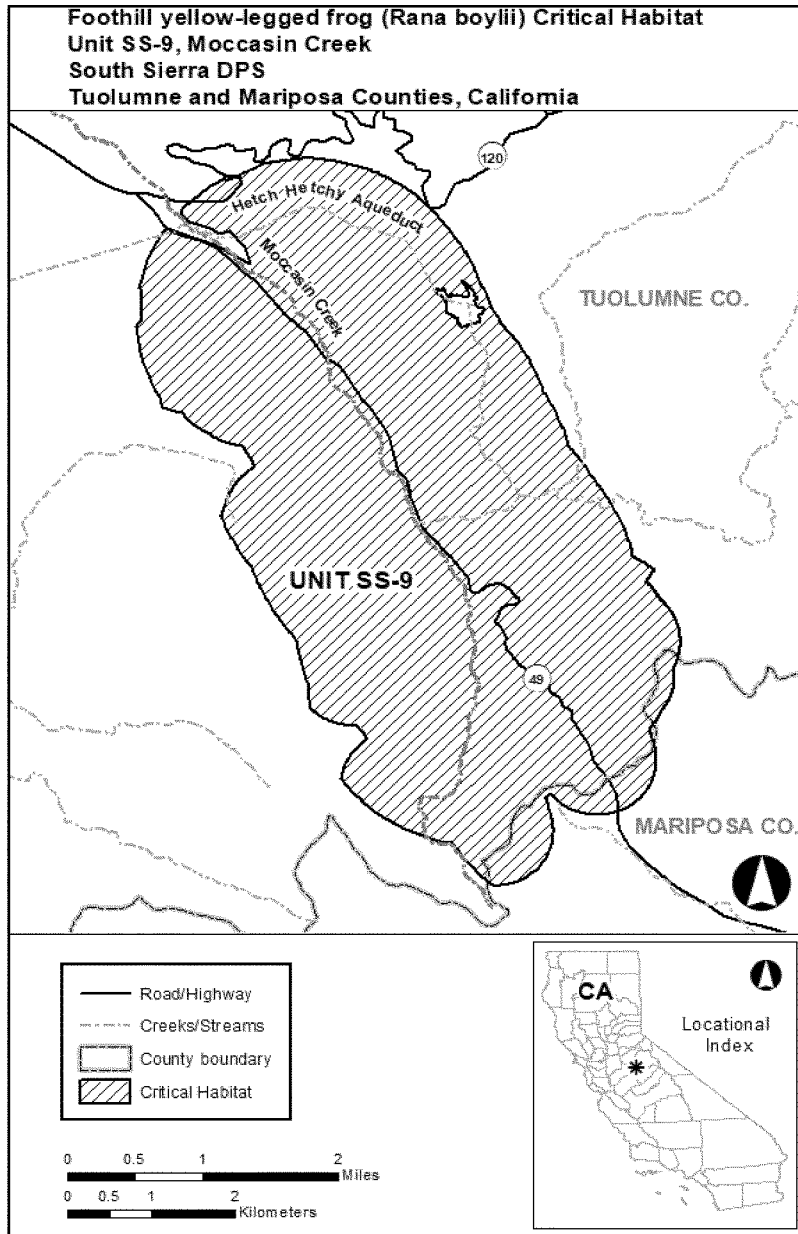
(ii) Map of Unit SS-8 follows: Figure 9 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (13)(ii)



(14) Unit SS-9: South Sierra DPS—  
Moccasin Creek, Tuolumne and  
Mariposa Counties, California.  
(i) Unit SS-9 consists of 8,280 ac  
(3,351 ha) in Tuolumne and Mariposa

Counties and is composed of Federal  
(4,509 ac (1,825 ha)) and private (3,770  
ac (1,526 ha)) ownership.  
(ii) Map of Unit SS-9 follows:

Figure 10 to South Sierra DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (14)(ii)



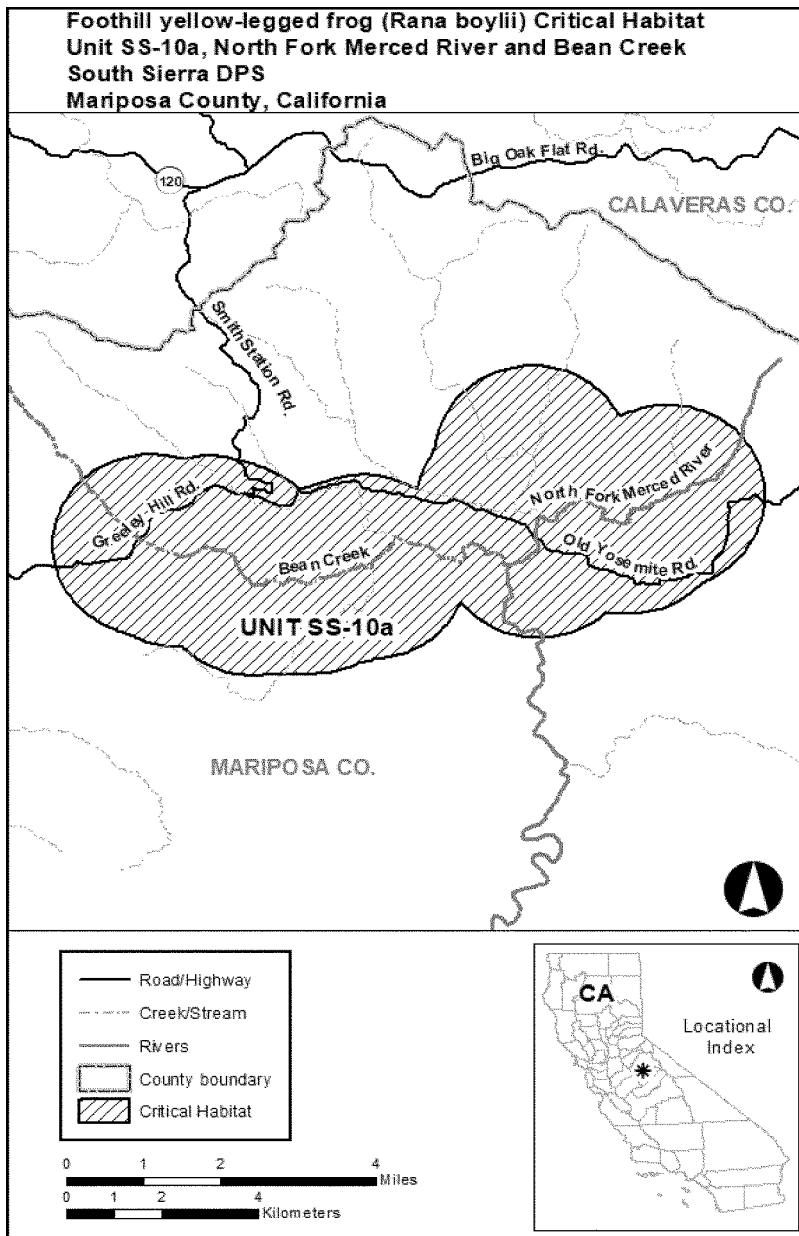
(15) Unit SS-10a: South Sierra DPS—North Fork Merced River, Mariposa County, California.

(i) Unit SS-10a consists of 15,492 ac (6,269 ha) in Mariposa County and is

composed of Federal (10,467 ac (4,236 ha)) and private (5,024 ac (2,033 ha)) ownership.

(ii) Map of Unit SS-10a follows:

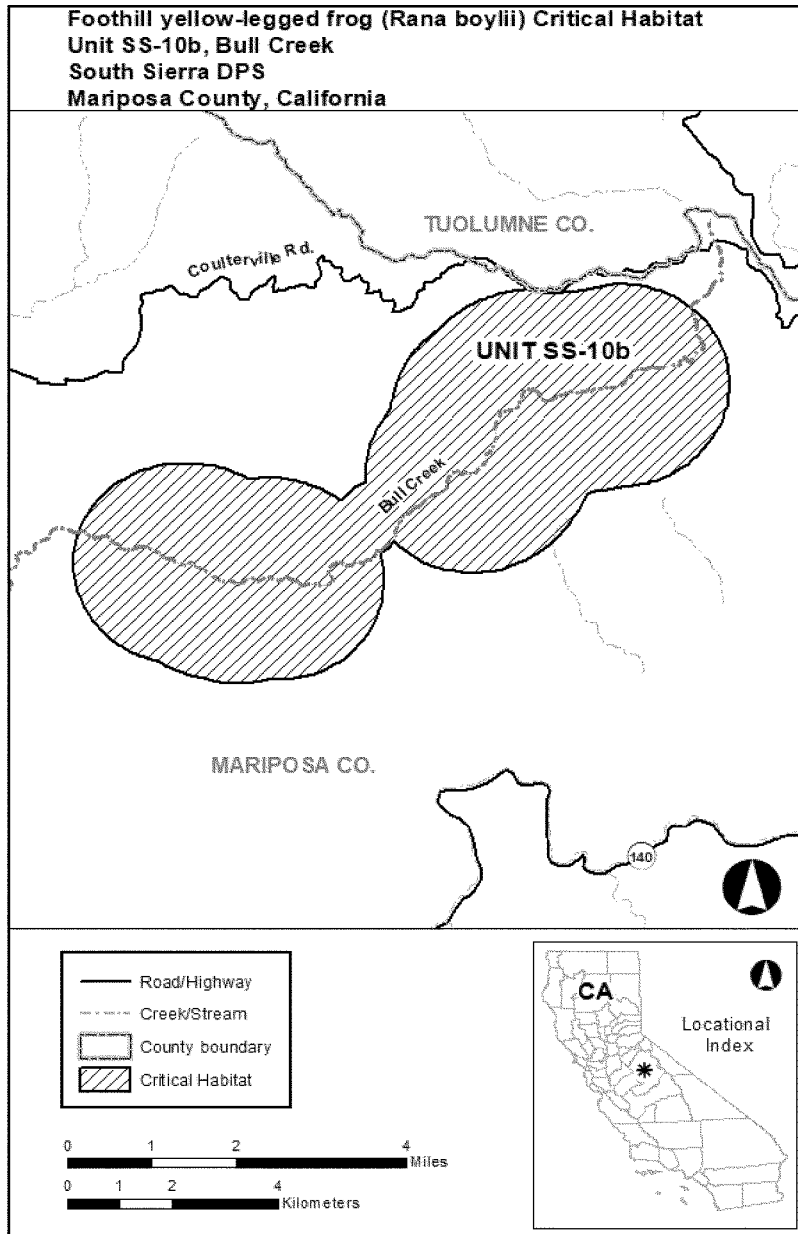
Figure 11 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (15)(ii)



(16) Unit SS-10b: South Sierra DPS—  
Bull Creek, Mariposa County, California.  
(i) Unit SS-10b consists of 12,079 ac  
(4,888 ha) in Mariposa County and is

composed of Federal (11,087 ac (4,487  
ha)) and private (992 ac (402 ha))  
ownership.  
(ii) Map of Unit SS-10b follows:

Figure 12 to South Sierra DPS of the  
foothill yellow-legged frog (*Rana  
boylei*) paragraph (16)(ii)



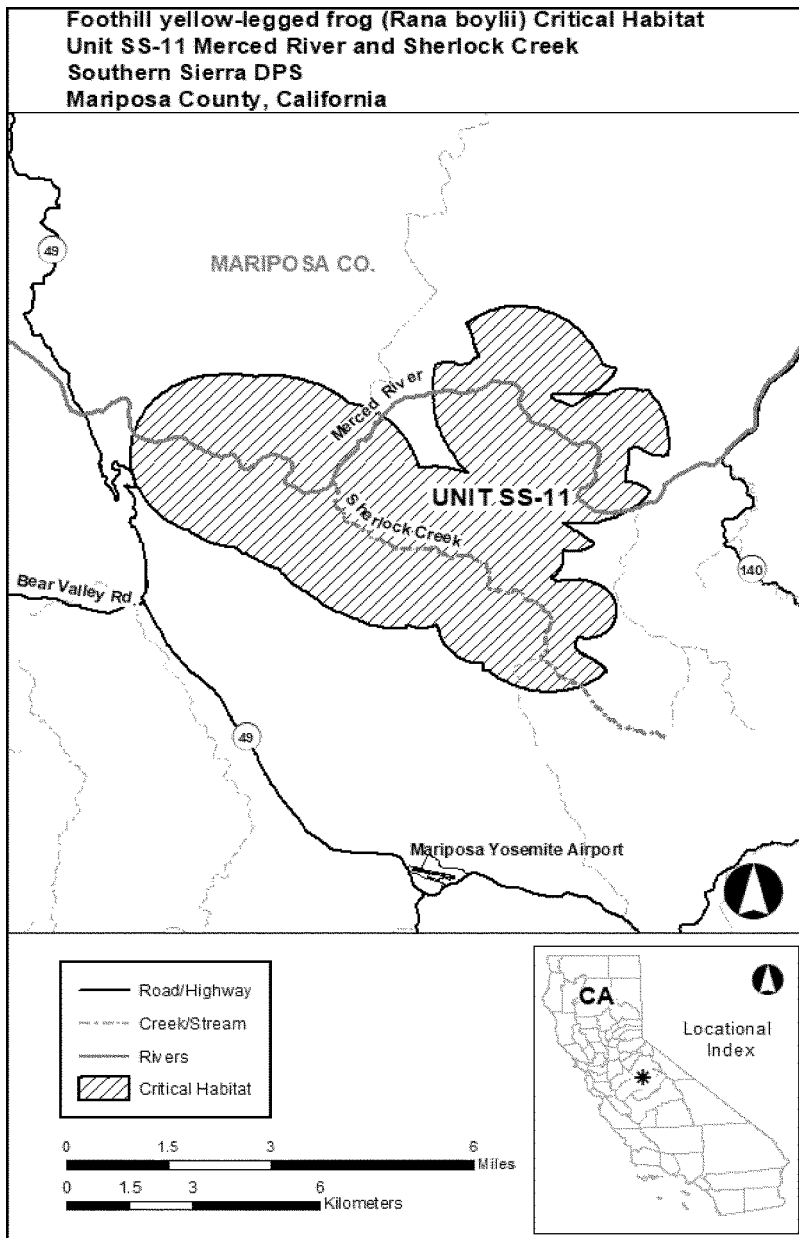
(17) Unit SS-11: South Sierra DPS—Merced River and Sherlock Creek, Mariposa County, California.

(i) Unit SS-11 consists of 16,719 ac (6,766 ha) in Mariposa County and is

composed of Federal (13,267 ac (5,369 ha)) and private (3,451 ac (1,397 ha)) ownership.

(ii) Map of Unit SS-11 follows:

Figure 13 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (17)(ii)



(18) Unit SS-12: South Sierra DPS— Jose Creek, Madera and Fresno Counties, California.

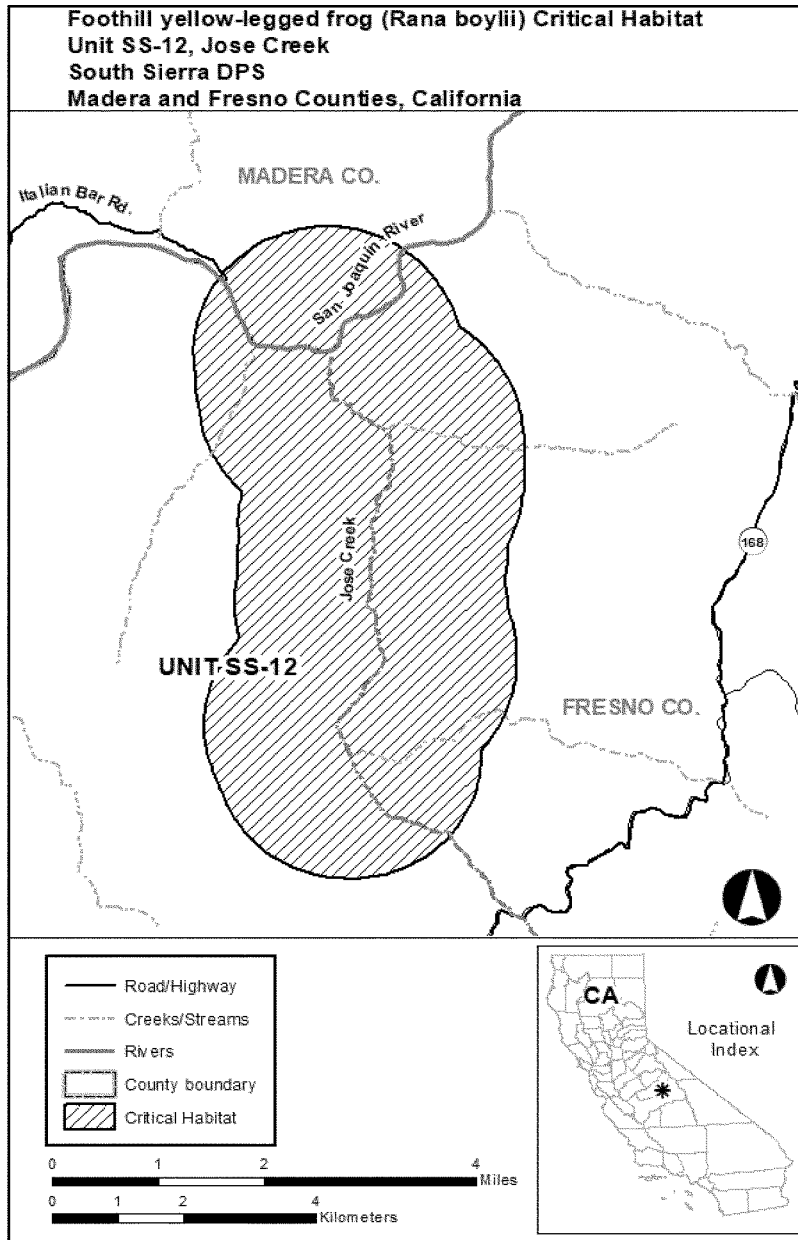
(i) Unit SS-12 consists of 10,182 ac (4,121 ha) in Madera and Fresno

Counties and is composed of Federal (9,204 ac (3,725 ha)), State (30 ac (12 ha)), and private (948 ac (384 ha)) ownership.

(ii) Map of Unit SS-12 follows:

Figure 14 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (18)(ii)





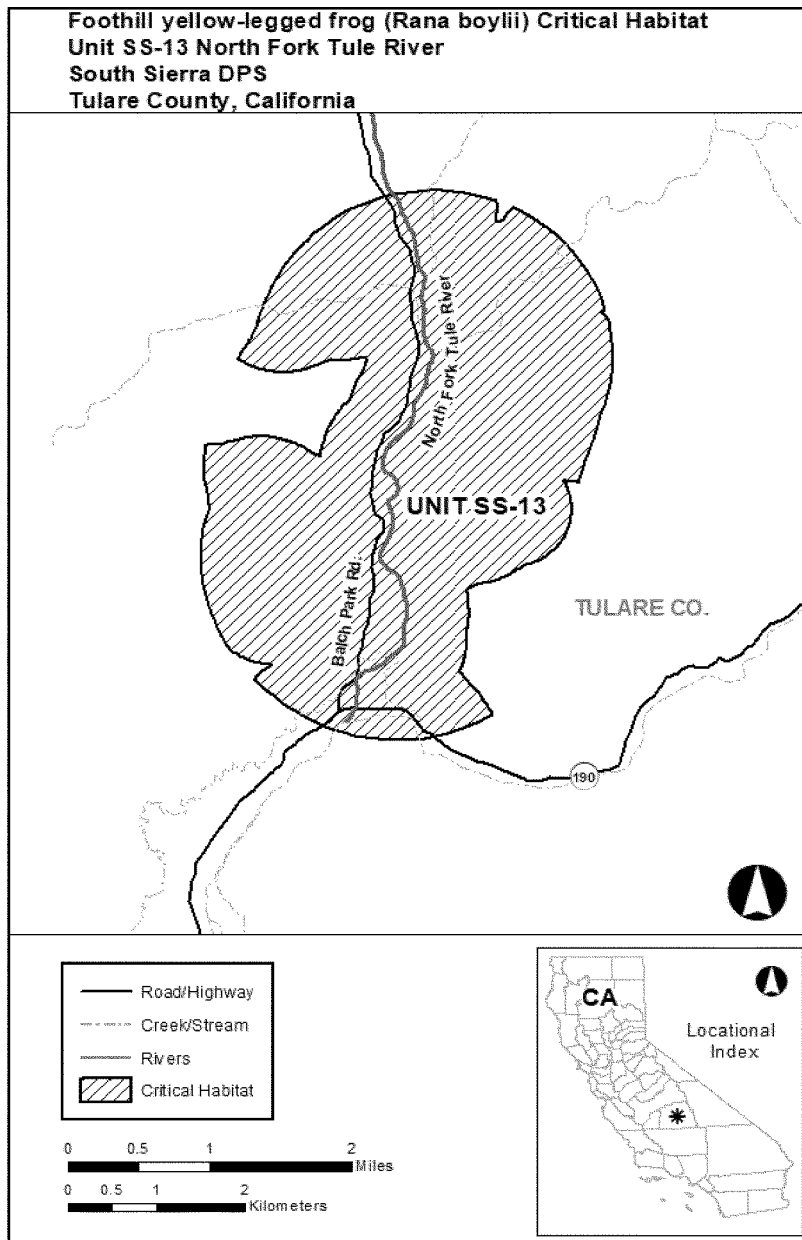
(19) Unit SS-13: South Sierra DPS—North Fork Tule River, Tulare County, California.

(i) Unit SS-13 consists of 5,149 ac (2,084 ha) in Tulare County and is

composed of Federal (217 ac (88 ha)) and private (4,932 ac (1,996 ha)) ownership.

(ii) Map of Unit SS-13 follows:

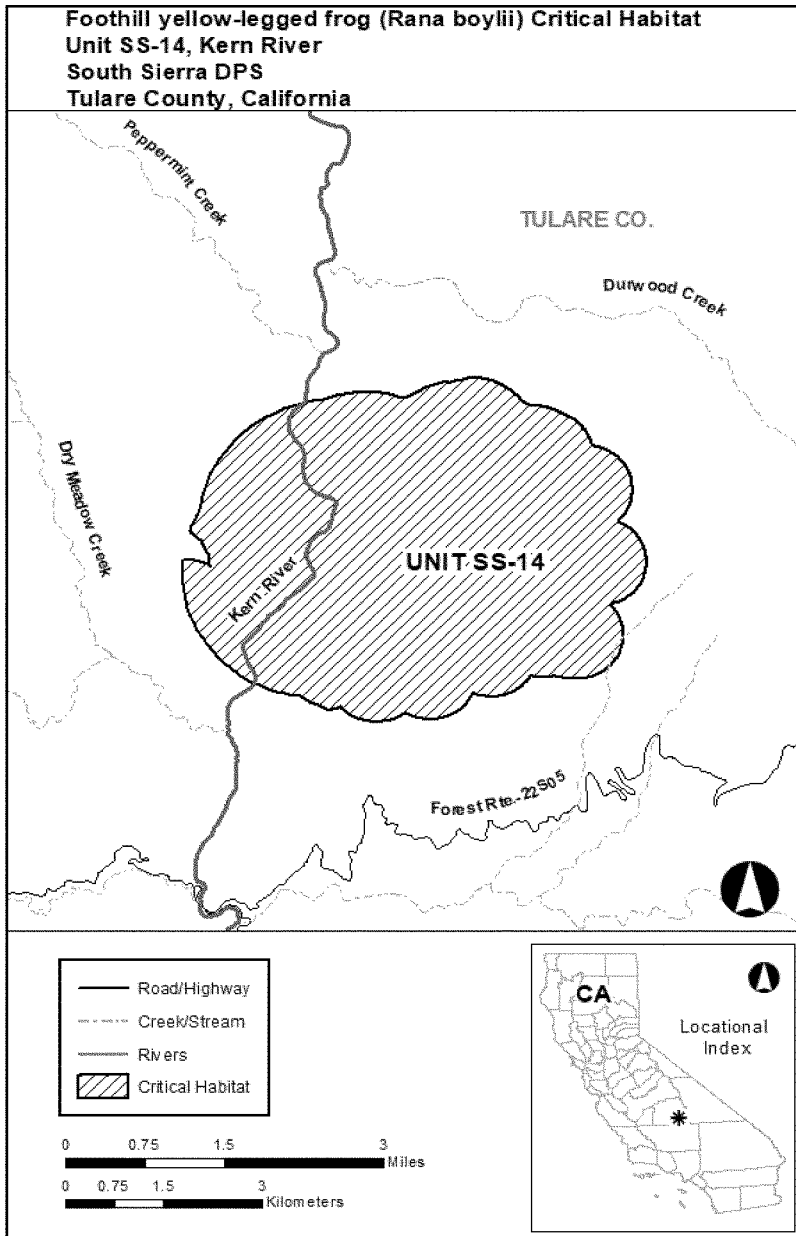
Figure 15 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (19)(ii)



(20) Unit SS-14: South Sierra DPS—Kern River, Tulare County, California.  
 (i) Unit SS-14 consists of 7,344 ac (2,972 ha) in Tulare County and is

composed of Federal (7,327 ac (2,965 ha)) and private (17 ac (7 ha)) ownership.  
 (ii) Map of Unit SS-14 follows:

Figure 16 to South Sierra DPS of the foothill yellow-legged frog (*Rana boylei*) paragraph (20)(ii)



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**Stephen Guertin,**  
*Acting Director, U.S. Fish and Wildlife  
Service.*

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**BILLING CODE 4333-15-C**