

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

RIN 1018-A172

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Coastal California Gnatcatcher (*Poliophtila californica californica*) and Determination of Distinct Vertebrate Population Segment for the California Gnatcatcher (*Poliophtila californica*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U. S. Fish and Wildlife Service (Service), propose designation of critical habitat for the coastal California gnatcatcher (*Poliophtila californica californica*) pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 200,595 hectares (ha) (495,795 acres (ac)) of gnatcatcher habitat in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties, California are within the boundaries of proposed critical habitat.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4 of the Act requires us to consider economic and other relevant impacts when specifying any particular area as critical habitat.

We are also considering revising the table of endangered and threatened wildlife published under 50 CFR 17.11 with respect to the coastal California gnatcatcher. We originally identified the coastal California gnatcatcher as a subspecies of the California gnatcatcher. However, new genetic information raises questions about the distinctiveness of the subspecies. Accordingly, we are considering whether and how the listing of the coastal California gnatcatcher should be amended.

We are soliciting data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation. We may revise this proposal prior to final designation to incorporate or address new information received during the comment period.

DATES: We will accept comments until June 23, 2003. Public hearing requests must be received by June 9, 2003.

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

(1) You may submit written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, California 92009.

(2) You may also send comments by electronic mail (e-mail) to fw1cfwocagn@r1.fws.gov. See the "Public Comments Solicited" section below for file format and other information about electronic submission of comments.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (e-mail: fw1cfwocagn@r1.fws.gov; telephone: 760/431-9440; facsimile 760/431-9618). For information about Ventura and western Los Angeles counties, contact the Field Supervisor, Ventura Fish and Wildlife Office, U. S. Fish and Wildlife Service, 2493 Portola Road Suite B, Ventura, California 93003 (telephone: 805/644-1766; facsimile 805/644-3958).

SUPPLEMENTARY INFORMATION:**Public Comments Solicited**

It is our intent that any final action resulting from this proposal will be as accurate as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Based on public comment, the final rule could find areas not essential, appropriate for exclusion under either 3(5)(A) or 4(b)(2), or not appropriate for exclusion, in which case, they would be made part of the designation. We particularly seek comments concerning:

(1) The reasons why any particular habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(2) Specific information on the amount and distribution of coastal California gnatcatchers and what habitat is essential to the conservation of the species and why;

(3) Whether habitat currently preserved in various conservation areas within the coastal California gnatcatcher range is sufficient for the conservation of the species;

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

and the possible impacts of the proposed critical habitat;

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or businesses;

(6) We have considered, but have not proposed the following areas as critical habitat: mission-essential training areas on Camp Pendleton and lands on Marine Corps Air Station Miramar (MCAS, Miramar); reserve lands in the San Diego Multiple Species Conservation Program (MSCP) and the Orange County Central-Coastal Natural Communities Conservation Program (NCCP), and tribal lands of the Pala Band of Mission Indians because we believe that: (1) Their value for conservation has been addressed by existing protective actions, or (2) they are appropriate for exclusion pursuant to the "other relevant impact" provisions of section 4(b)(2). We specifically solicit comment, however, on the inclusion or exclusion of such areas and: (a) Whether these areas are essential; (b) whether these areas warrant exclusion; and (c) the basis for not designating these areas as critical habitat (section 3(5)(A) or section 4(b)(2)).

(7) Any economic or other impacts associated with designating critical habitat on reserve, preserve, or other conservation lands within the boundaries of approved HCPs that have been developed through cooperative, voluntary partnerships.

(8) The benefits of including or excluding military lands covered by an adequate Integrated Natural Resource Management Plan and tribal lands, NCCP lands, HCP lands, or any other lands covered by an adequate management plan.

(9) With respect to our consideration of listing of the coastal California gnatcatcher subspecies as a distinct vertebrate population segment (DPS) rather than a subspecies on the endangered species list, we are particularly soliciting comments on the following:

(a) Do the recent genetic findings referenced in this report justify a review of the taxonomy of the subspecies of the coastal California gnatcatcher?

(b) Is there any other new information that the Service should consider in this context?

(10) In its consideration of the U.S. population of the California gnatcatcher as a DPS, the Service has presented a proposed five factor analysis of the status of the U.S. population. With respect to this analysis, the Service is