

parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. §§ 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Wickett, Channel 224A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG75

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for *Chlorogalum purpureum*, a Plant From the South Coast Ranges of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for two varieties of purple amole: *Chlorogalum purpureum* var. *purpureum* (purple amole) and *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole).

Approximately 8,898 hectares (21,980 acres) of land fall within the boundaries of the proposed critical habitat designation. Proposed critical habitat is located in Monterey and San Luis Obispo counties, California. If this proposal is made final, Federal agencies

must ensure that actions they fund, permit, or carry out are not likely to result in the destruction or adverse modification of critical habitat. State or private actions, with no Federal involvement, would not be affected by this rulemaking action.

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 to incorporate or address new information received during the comment period.

DATES: We will accept comments until January 7, 2002. Public hearing requests must be received by December 24, 2001.

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, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003.

2. You may also send comments by electronic mail (e-mail) to fw1chlorogalum@fws.gov. See the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may hand-deliver comments to our Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

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

FOR FURTHER INFORMATION CONTACT:

Heidi E. D. Crowell, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003 (telephone 805/644-1766; facsimile 805/644-3958).

SUPPLEMENTARY INFORMATION:

Background

The genus *Chlorogalum* is a member of Liliaceae (lily family). *Chlorogalum purpureum* is endemic to clay soils that occur in the south coast ranges of Monterey and San Luis Obispo counties. *Chlorogalum purpureum* var. *purpureum* (purple amole) occurs in the Santa Lucia Range of southern Monterey County on lands managed by the U.S. Army Reserve (Army Reserve) at Fort Hunter Liggett, and in northern San Luis Obispo County on lands managed by the California Army National Guard (CANG) at Camp Roberts. *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole) occurs in one region of the La Panza Range of San Luis Obispo

County on both private lands, and public lands managed by the U.S. Forest Service on the Los Padres National Forest (LPNF) and California Department of Transportation (Caltrans). The two varieties of *Chlorogalum* were listed as threatened species on March 20, 2000 (65 FR 14878).

Chlorogalum purpureum is a low-growing lily that forms a rosette at the base of the plant (basal rosette) that is made up of linear and flat, bright green leaves. It is the only member of the genus *Chlorogalum* with bluish-purple flowers that open during daytime hours. In contrast, *C. pomeridianum* (common soap plant) has white flowers that open in the twilight or at night (Wilken 2000, Jernstedt 1993). *Chlorogalum purpureum* produces a rosette of typically 4 to 7 basal leaves that are 2 to 5 millimeters (mm) (0.1 to 0.2 inch (in)) wide with wavy margins. The bulb is between 2.5 and 3 centimeters (cm) (0.98 to 1.2 in) and is found in the upper few inches of soil. The inflorescence (flower-cluster of a plant or arrangement of the flowers on the flowering stalk) produces bluish-purple flowers in a raceme (single stem with multiple branches). Each flower has six ovules (structure that develops into a seed if fertilized), six tepals (petals and sepals that appear similar), and six stamens (pollen producing male organs) with bright yellow anthers (pollen sacs). Most fruits that have been examined, both in the field and under cultivation, produce between three and six seeds (D. Wilken, Santa Barbara Botanic Garden, *in litt.* 2001). *Chlorogalum purpureum* var. *purpureum* has an inflorescence that is 25 to 40 cm (10 to 16 in) high, in contrast to *C. p.* var. *reductum* which has a shorter inflorescence that is 10 to 20 cm (4 to 8 in) high (Wilken 2000, Hoover 1964, Jernstedt 1993). Studies are currently underway to examine the phylogenetic relationships within *Chlorogalum* species (D. Wilken, *in litt.* 2001).

Chlorogalum purpureum is a summer-dormant perennial herb that forms a bulb. The inflorescence develops during early spring, followed by flowering and fruit development during May and June. By the time the fruit has matured, the leaves wither and the inflorescence dries and turns light brown in color. Reproduction is primarily by seed, and the seed set apparently increases with insect pollination (D. Wilken, *in litt.* 1998). Like other members of the lily family, *C. purpureum* is probably in a mycorrhizal relationship with a fungus (a close association between the plant and soil fungus, where the fungus aids in nutrient and water uptake), which can alter growth and competitive

interactions between species (Allen 1991). The taxon also frequently grows on soils that are cryptogamic or have cryptogamic crusts; cryptogamic crusts consist of nonvascular photosynthetic plants (primarily cyanobacteria, green algae, lichens, and mosses) that protect the soils from erosion, aid in water infiltration, augment sites for seed germination, aid in carbon and nitrogen fixation, and increase soil nutrients (Beymer 1992, Belnap *et al.* 2001). These special crusts may enhance the habitat conditions, thus increasing the likelihood that young bulbs will survive over the long term. Although the relationship is not well understood and more research is needed, cryptogamic crusts are also known to decrease annual weed growth (Belnap *et al.* 2001).

Chlorogalum purpureum var. *purpureum*

Chlorogalum purpureum var. *purpureum* is located on Fort Hunter Liggett and Camp Roberts military lands, which are located on the eastern side of the Santa Lucia Range in southern Monterey County. The known populations primarily exist within an open grassland community, with a smaller number of individuals found within scattered oak woodland communities and open areas within shrubland communities. A low amount of cover of other herbaceous grasses and herbs is present, possibly reducing the competition for resources. Cryptogamic crusts are frequently found in areas where *Chlorogalum purpureum* var. *purpureum* occurs (B. Painter, The Jepson Herbarium, pers. comm. 2001).

The species was first described by Townsend Stith Brandegee in 1893. Following the initial collection and description, historic occurrences of plants were identified at "Milpitas Ranch", "the plain west of Jolon", "near Jolon", "open grassy areas near Jolon", and a number of other locations within what is currently Fort Hunter Liggett property (Hoover 1940; Skinner and Pavlik 1994; Matthews 1997 and Painter 1999 in Wilken 2000). Although currently known to exist only on military property at Fort Hunter Liggett and Camp Roberts, recent surveys along the boundary of Training Area 13 at Fort Hunter Liggett suggest that the species may be found on privately owned property adjacent to Fort Hunter Liggett (Wilken 2000).

While a thorough survey of the installation has not yet been completed, *Chlorogalum purpureum* var. *purpureum* has been found at a number of sites on Fort Hunter Liggett, including the cantonment, Ammunition

Supply Point (ASP), and Training Areas 10, 13, 22, 23, 24, and 25. Surveys of *Chlorogalum purpureum* var.

purpureum conducted at Fort Hunter Liggett have found the plants to occur in scattered clusters. Recent surveys have characterized the species habitat, including topography, microhabitat communities, and general soil types. Depending on the location, plants may occur on both deep and relatively thin soils, which are frequently cryptogamic (dominated by cyanobacteria) (B. Painter, pers. comm. 2001). Most of the soils are loamy and are underlain by clay, but fine gravel, generally less than 5 mm (0.2 in) in diameter, is also sometimes present (Wilken 2000). Cryptogamic crusts with a dominant component of cyanobacteria are observed frequently on the installation, in addition to a substantial number of mosses in the cantonment area (B. Painter, pers. comm. 2001).

Cyanobacterial organisms within a cryptogamic crust may be visible as black filaments on or near the soils surface, primarily when soil conditions are moist (Belnap *et al.* 2001). During surveys conducted in 2000, most (78 percent) of the sites where the species occurs were associated with flat topography, with the majority of the others on slopes of less than 10 percent (Wilken 2000). The sites are most frequently within small basins or along the base of hills, with a few populations occurring along ridge-top terraces (H. Crowell, Service, pers. obs.; D. Wilken, *in litt.*, 2001). These areas are between 300 and 620 meters (m) (1,000 and 2,050 feet (ft)) in elevation. Examination of digital data shows a small percentage of plants occur on slopes up to 50 percent at Fort Hunter Liggett. No strong association appears to exist with respect to slope aspect (Wilken 2000). These characteristics of topography, elevation, and soil type support the following associated species: *Agoseris grandiflora* (bigflower agoseris), *Aira caryophylla* (silver European hairgrass), *Bromus hordeaceus* (soft brome), *Castilleja densiflora* (dense flower Indian paintbrush), *Clarkia speciosa* (redspot clarkia), *Erodium* spp. (storksbill, filaree), *Hypochaeris glabra* (smooth cat's-ear), *Lasthenia californica* (goldfields), *Linantus liniflorus* (narrow flowered flaxflower), *Micropus californicus* (slender cottonweed), and *Navarretia* spp. (pincushion plant). Of the known sites surveyed in 2000, approximately 42 percent were found in grassland communities, 29 percent were found between tree canopies in oak savanna or woodland communities, 13 percent were found to occur along

ecotones between grassland and either oak woodland or shrubland communities, and the remaining were located within open areas between shrub species, most commonly *Eriogonum fasciculatum* (California buckwheat) and *Adenostoma fasciculatum* (chamise) (Wilken 2000). Within the grassland community, the most common grass species (e.g., *A. caryophylla* and *B. hordeaceus*) did not always dominate in terms of frequency or cover; the most frequent species were annual dicotyledons (plants with a pair of embryonic seed leaves that appear at germination) such as *L. californica*, *L. liniflorus*, and *M. californicus* (Wilken 2000).

Although a thorough survey of the installation has not been completed, surveys conducted at Camp Roberts have found *Chlorogalum purpureum* var. *purpureum* at one location on the west side of the installation, highly correlated with and almost entirely restricted to claypan soils which are frequently cryptogamic. The *C. p.* var. *purpureum* population (estimated at 10,000 individuals in 2000) at Camp Roberts occupies approximately 81 hectares (ha) (200 acres (ac)) and occurs in annual grasslands north of the Nacimiento River in Training Areas O2 and O3 (CANG 2001). *Chlorogalum purpureum* var. *purpureum* predominately occurs on soils with a high concentration of pebbles or gravel underlain by hard-packed clay (CANG 2001). The claypan soils are of the Placentia complex (sandy loam soils, underlain by clay soils, which become very hard and friable on a 5 to 9 percent slope), with a much smaller percentage of plants occurring on the Arbuckle-Positas complex (very deep, well-drained sandy and gravelly loam soils with a 9 to 15 percent slope) (USDA 2000, CANG 2001). As at Fort Hunter Liggett, the frequently observed cryptogamic soil crusts are composed primarily of cyanobacteria (B. Painter, pers. comm. 2001). The elevation of the *C. p.* var. *purpureum* population is lower than what is found at Fort Hunter Liggett, ranging between 244 and 256 m (800 and 840 ft) at Camp Roberts. At Camp Roberts, *C. p.* var. *purpureum* occupies microhabitat sites found within open grasslands or surrounded by scattered oak woodlands. Little cover by other herbaceous grasses and forbes is present. Common plant associations include *Erodium* spp., *Hemizonia* spp. (tarplant, tarweed), *Trichostema lanceolatum* (vinegar weed), *Eremocarpus setigerus* (turkey mullein, dove weed), *Bromus* spp. (brome), *Amsinckia* spp. (fiddleneck), and

Nassella spp. (needlegrass) (J. Olson in CANG 2001). During recent surveys, *Erodium* spp. was the most common associate (J. Olson in CA ARNG 2001). Based on their recent surveys, Camp Roberts believes grazing by sheep (through a Camp Roberts agricultural lease) may be beneficial to *C. p.* var. *purpureum* by reducing competition from other herbaceous species (CANG 2000). However, more studies are needed to test this hypothesis.

Chlorogalum purpureum var. *reductum*

Chlorogalum purpureum var. *reductum* has been found at only two sites in central San Luis Obispo County. The larger site, located near Camatta Canyon, is adjacent to the two-lane State highway 58 on a narrow, flat-topped ridge that supports blue oak savannah on Forest Service lands within the LPNF. The population continues north of the highway on private lands. A few plants (213 individuals counted in 2000) also exist on the right-of-way along the highway, which is designated as a Botanical Management Area by CalTrans (J. Luchetta, Department of Transportation, in litt. 2001). The taxon occurs on hard, red claypan soils on flat or gently sloping terrain. *Chlorogalum purpureum* var. *reductum* occupies microhabitat sites found within open grasslands, oak woodlands and oak savannah (*Quercus douglasii*), and open areas between shrub species, most commonly *Adenostoma fasciculatum* (chamise) (Borchert 1981, Warner 1991). Cover from other herbaceous species is minimal, with most herbaceous species not growing above 10 cm (4 in) high. As with *C. p.* var. *purpureum*, plants appear to be associated with a cryptogamic crust (B. Painter, pers. comm. 1998). The elevation of the larger site population, located near Camatta Canyon, is between 305 and 625 m (1,000 and 2,050 ft). This population is estimated to cover approximately 3 ha (8 ac) on the south side of the highway, with likely a smaller amount of area on private property on the north side of the highway (USFWS 2001). Site visits during 2001 revealed a decrease in the number of flowering plants compared to 1994 and 1995 (A. Koch, California Department of Fish and Game, pers. comm. 2001). The second site is located approximately 5 to 8 kilometers (km) (3 to 5 miles (mi)) south of the large site and occupies less than 0.1 ha (0.25 ac), consisting of several hundred plants in two or more patches on private land (USFWS 2001; A. Koch, pers. comm. 2001).

On LPNF land, relative cover of other herbaceous grasses and forbes is low, with these associated plants being

generally less than 10 cm (4 in) high (Borchert 1981). The soil type in this area has been described as well-drained red clay that contains a large amount of gravel and pebbles (Hoover 1964, Lopez 1992). A soil survey at LPNF found this general area to be made up of the Modesto-Yorba-Agua Dulce families of soils. Modesto soils (30 percent) are soft, grayish-brown coarse sandy loams with 10 percent pebbles. Yorba soils (30 percent) are slightly hard, light olive-brown loams with 10 percent pebbles. Agua Dulce soils (25 percent) are soft, brown sandy loams with 10 percent pebbles and 2 percent cobbles (USDA 1993). However, this soil survey may have been too general to have captured the exact soil type at this site. A substantial amount of gopher activity has been observed surrounding, but not within, the large *Chlorogalum purpureum* var. *reductum* population, suggesting that the hard soils where the plant occurs are difficult for gophers to move through (M. Borchert, LPNF, pers. comm., 2001). Native plants associated with *Chlorogalum purpureum* var. *reductum* include *Achyrachaena mollis* (blow-wives), *Adenostoma fasciculatum* (chamise), *Allium* spp. (onion, garlic), *Brodiaea coronaria* (crown brodiaea), *Calystegia malacophylla* (morning-glory), Sierra false bindweed), *Clarkia purpurea* (winecup clarkia), *Crassula erecta* (= *Crassula connata* var. *connata*, sand pygmy weed), *Dichelostemma pulchellum* (= *Dichelostemma capitatum* ssp. *capitatum*, blue dicks), *Eriogonum elongatum* (wild or longstem buckwheat), *Eriogonum fasciculatum* (California buckwheat), *Lasthenia chrysostoma* (goldfields), *Layia platyglossa* (tidy-tips), *Lepidium* spp. (peppergrass, pepperwort), *Linanthus liniflorus* (narrow flowered flaxflower), *Lupinus concinnus* (Bajada lupine), *Lupinus* spp. (lupine), *Malacothrix* spp. (desert dandelion), *Matricaria matricarioides* (pineapple weed), *Micropus californicus* (q tips), *Orthocarpus densiflorus* (= *Castilleja densiflora* ssp. *densiflora*, dense flower Indian paintbrush), *Orthocarpus* spp. (Indian paintbrush, owl's clover), *Pinus sabiniana* (gray or foothill pine), *Plagiobothrys nothofulvus* (popcornflower), *Poa* spp. (bluegrass), *Quercus garryana* (Oregon oak), *Sanicula bipinnatifida* (purple sanicle, shoe buttons), *Sanicula* spp. (sanicle), *Vulpia pacifica* (= *Vulpia microstachys* var. *pauciflora*, Pacific fescue), *Vulpia reflexa* (= *Vulpia microstachys* var. *pauciflora*, Pacific fescue), and *Zigadenus* spp. (death camas); and nonnative plants, including *Avena barbata* (slender wild oat), *Bromus*

hordeaceus (soft brome), *Bromus rubens* (red brome), *Erodium botrys* (storksbill, filaree), *Erodium moschatum* (storksbill, filaree), *Hypochaeris glabra* (smooth cat's ear), and *Schismus barbatus* (Mediterranean grass).

Chlorogalum purpureum var. *purpureum* and *C. p.* var. *reductum* appear to be narrowly distributed. Some discontinuities in their distribution are likely due to unsuitable intervening habitat and establishment of roadways that fragment the populations. In addition, *C. p.* var. *purpureum* distribution was likely affected by the settlement of Jolon in Monterey County, row crop farming, establishment of invasive plant species such as *Centuarea solstitialis* (yellow star-thistle) and a number of nonnative grasses, establishment of military training facilities at Fort Hunter Liggett and Camp Roberts, and possibly the establishment of the San Antonio Reservoir in southern Monterey County. Habitats for both varieties of *Chlorogalum* may change as a result of rainfall, fires, and other naturally occurring events. These factors may cause the habitat suitability of given areas to vary over time, thus affecting the distribution of *C. p.* var. *purpureum* and *C. p.* var. *reductum*.

Previous Federal Action

Federal actions for *Chlorogalum purpureum* began when a report (House Doc. No. 94–51) of plants considered to be endangered, threatened, or extinct in the United States was prepared by the Smithsonian Institution and presented to Congress on January 9, 1975. Both *C. p.* var. *purpureum* and *C. p.* var. *reductum* were included as endangered plant species. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) stating its acceptance of the report as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* based on comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. In 1978, amendments to the Endangered Species Act required that all proposals more than two years old be withdrawn. On

December 10, 1979, the Service withdrew the portion of the June 16, 1976 proposal that had not been made final, including *C. p. var. purpureum* and *C. p. var. reductum*.

On December 15, 1980, the Service published an updated Candidate Notice of Review for plants (45 FR 82480) which included *Chlorogalum purpureum* var. *purpureum* and *C. p. var. reductum* as category 2 candidates (species for which data in our possession indicate listing may be appropriate, but for which additional biological information is needed to support a proposed rule). Both *Chlorogalum* taxa were included in the revised plant notices of review that were published on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144) as category 1 candidates (species for which we had on file sufficient information on biological vulnerability and threats to support the preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing proposals of higher priority).

The proposed rule to list both varieties of *Chlorogalum purpureum* as threatened species was published in the **Federal Register** on March 30, 1998 (63 FR 15158). The final rule listing them as threatened was published in the **Federal Register** on March 20, 2000 (65 FR 14878).

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. At the time *Chlorogalum purpureum* was listed, we found that designation of critical habitat was prudent but not determinable, and that we would designate critical habitat once we had gathered the necessary data.

On June 17, 1999, our failure to issue final rules for listing *Chlorogalum purpureum* and eight other plant species as endangered or threatened, and our failure to make a final critical habitat determination for the 9 species was challenged in *Southwest Center for Biological Diversity and California Native Plant Society v. Babbitt* (Case No.

C99–2992 (N.D.Cal.)). On May 22, 2000, the judge signed an order for the Service to propose critical habitat for the species by September 30, 2001. Subsequently, the parties agreed to extend the deadline to submit for publication in the **Federal Register** a proposed critical habitat designation to November 2, 2001.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and, (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Areas outside the geographic area currently occupied by the species shall be designated as critical habitat only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

Conservation is defined in section 3(3) of the Act as the use of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which listing under the Act is no longer necessary. Regulations under 50 CFR 424.02(j) define special management considerations or protection to mean any methods or procedures useful in protecting the physical and biological features of the environment for the conservation of listed species.

In order to be included in a critical habitat designation, the habitat must first be “essential to the conservation of the species.” Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). We also need to determine if the primary constituent elements may require special management considerations or protection.

When we designate critical habitat at the time of listing, as required under Section 4 of the Act, or under short court-ordered deadlines, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be

critical habitat, using the best information available to us.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), which provide essential life cycle needs of the species.

Our regulations state that, “The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.” (50 CFR 424.12(e)). Accordingly, we do not designate critical habitat in areas outside the geographic area occupied by the species unless the best available scientific and commercial data demonstrate that the unoccupied areas are essential for the conservation needs of the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, unpublished materials, and expert opinion or personal knowledge.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR

424.12) we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the survival and recovery of *Chlorogalum purpureum*. This information included data from the California Natural Diversity Data Base, soil survey maps (Soil Conservation Service 1978, 1979), recent biological surveys, reports and aerial photos, additional information provided by interested parties, and discussions with botanical experts. We also conducted site visits at locations managed by Federal agencies, including Fort Hunter Liggett, Camp Roberts, and LPNF.

Primary Constituent Elements

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

Changes in the habitat of both varieties of *Chlorogalum purpureum* have occurred due to alteration of lands, direct loss of plants due to construction, widening of roads, displacement by nonnative annual grasses, inappropriate livestock grazing, and potentially by alteration of fire cycles. Livestock grazing may be detrimental to this taxon depending on the intensity of livestock use and the extent to which livestock congregate in the population area. Special management for critical habitat may be needed for conditions where indirect, negative impacts from recreation, military activities, and competition from nonnative annual grasses occur. These activities will likely destroy any cryptogamic crusts that are present, thus negatively affecting vascular plant germination and decreasing the amount of nutrients available for proper plant development (Belnap *et al.* 2001). In addition to indirect impacts, direct loss of individual plants can occur due to military training activities at Fort Hunter Liggett and Camp Roberts, and

off-road vehicle (ORV) use at LPNF. The habitat that supports both varieties of *C. purpureum* should have little to no soil surface disturbance. Soil surface disturbance will likely result in the death of seeds, seedlings and adult plants through burial or grinding. Death of seeds, plants and any cryptogamic crust organisms can occur depending on the severity, size, frequency, and timing of soil disturbance. Vehicles and trampling will compress the surface and could influence the ability of seedlings to establish. In addition, tracked vehicles will turn over soils, thus killing any adult plants or seedlings by damaging any bulbs that are in their first years of growth and burying any crustal organisms that were present.

Based on our knowledge to date, the primary constituent elements of critical habitat for *Chlorogalum purpureum* var. *purpureum* consist of, but are not limited to:

(1) Soils that are mostly gravelly to sandy and well drained on the surface, are underlain by clay soils, and are frequently cryptogamic;

(2) Plant communities that support associated species, including valley and foothill grassland (most similar to the needlegrass series and California annual grassland series in Sawyer and Keeler-Wolf (1995)), blue oak woodland (*Quercus douglasii*) or oak savannahs (Holland 1986), and open areas within shrubland communities (most similar to the Chamise series in Sawyer and Keeler-Wolf (1995), although percent cover of chamise at known *Chlorogalum purpureum* var. *purpureum* areas is unknown). Within these vegetation community types, *C. p. var. purpureum* appears where there is little cover of other species which compete for resources available for growth and reproduction; and,

(3) Areas of sufficient size and configuration to maintain ecosystem functions and processes, such as pollinator activity between existing colonies, hydrologic regime, appropriate predator-prey populations to prevent excessive herbivory, and seed dispersal mechanisms between existing colonies and other potentially suitable sites.

Based on our knowledge to date, the primary constituent elements of critical habitat for *Chlorogalum purpureum* var. *reductum* include the following components:

(1) Well-drained, red clay soils with a large component of gravel and pebbles on the upper soil surface, and are frequently cryptogamic;

(2) Plant communities that support the appropriate associated species, including grassland (most similar to the California annual grassland series in

Sawyer and Keeler-Wolf (1995) or the pine bluegrass grassland, non-native grassland and wildflower field descriptions in Holland (1986)), blue oak woodland (*Quercus douglasii*) or oak savannahs (Holland 1986), oak woodland (*Quercus douglasii*), oak savannahs, and open areas within shrubland communities (most similar to the Chamise series in Sawyer and Keeler-Wolf (1995), although percent cover of chamise at known *Chlorogalum purpureum* var. *reductum* areas is unknown). Within these vegetation communities *C. p. var. reductum* appears where there is little cover of other species which compete for resources available for growth and reproduction; and,

(3) Areas of sufficient size and configuration to maintain ecosystem functions and processes, such as pollinator activity between existing colonies, hydrologic regime, appropriate predator-prey populations to prevent excessive herbivory, and seed dispersal mechanisms between existing colonies and other potentially suitable sites.

Criteria Used To Identify Critical Habitat

Critical habitat being proposed for *Chlorogalum purpureum* var. *purpureum* includes the only known two areas where the species currently occurs, the Fort Hunter Liggett Unit and Camp Roberts Unit. These units were delineated with a GIS model using ArcView. The GIS model identified areas with the combination of appropriate soils, a slope of 20 percent or less, and a habitat type of either grassland, oak woodland, oak savannah, or open areas within shrubland communities. We selected only those areas identified in the model which included known populations of *C. p. var. purpureum*. The area boundary was then extended to the nearest ridgeline in order to encompass the land immediately adjacent to and upslope of the area identified by the model. In locations where using a ridgeline was not feasible or was inappropriate, other geographic or man-made structures were used to delineate the critical habitat boundary, such as riverbeds, an abrupt change in elevation, or roads. This ensures that the proposed critical habitat included all the PCEs, especially the maintenance of ecosystem functions and processes essential to the conservation of the species.

It is essential to manage these areas in a manner that provides for the conservation of the species. This includes not only the area where the species is currently present, but providing for the natural population

fluctuations that occur in response to natural and unpredictable events. As described in the Background and Primary Constituent Elements sections, the species is dependant on habitat components beyond the immediate areas on which the plant occurs. These components include the specific soil types, the supporting vegetation communities with which the species is associated, and sufficient habitat areas to support the ecological processes on which the species depends. These ecological processes include hydrologic regimes on which the plant and supporting community depend, maintaining the reproductive capability of the plant by providing a diverse habitat community that supports the appropriate pollinators and seed dispersal mechanisms, providing sufficient areas of appropriate habitat so that the plant can expand and recolonize areas, maintaining natural predator-prey relationships that promote species' survivorship, and reducing competition from exotic species or aggressive species responding to unnatural habitat management practices. Since the species only occurs in the two units, providing for the specific biological needs of the species, as defined by the primary constituent elements, within the units is essential for the conservation of the species.

Critical habitat being proposed for *Chlorogalum purpureum* var. *reductum* includes one unit, the Camatta Canyon unit, which currently supports two known populations of this species. Limited data on soils and habitats were available for delineating the critical habitat boundaries for *C. p.* var. *reductum*. No GIS data layers were available to create a combined soil, slope and vegetation model such as that created for *C. p.* var. *purpureum*. Therefore, the critical habitat designation is based on the existing known populations, and observations of soil characteristics and vegetation community types made by various researchers and agencies. This unit was developed by encompassing the extent of appropriate topography and vegetation community types surrounding the known populations.

As with the *C. p.* var. *purpureum* units, it is essential to manage this area in a manner that provides for the conservation of the species. This includes not only the area where the species is currently present, but providing for the natural population fluctuations that occur in response to natural and unpredictable events. As described in the Background and Primary Constituent Elements sections, the species is dependant on habitat

components beyond the immediate areas on which the plant occurs. These components include the specific soil types, the supporting vegetation communities with which the species is associated, and sufficient habitat areas to support the ecological processes on which the species depends. These ecological processes include hydrologic regimes on which the plant and supporting community depend, maintaining the reproductive capability of the plant by providing a diverse habitat community that supports the appropriate pollinators and seed dispersal mechanisms, providing sufficient areas of appropriate habitat so that the plant can expand and recolonize areas, maintaining natural predator-prey relationships that promote species' survivorship, and reducing competition from exotic species or aggressive species responding to unnatural habitat management practices. Since the only known occurrence of the species is within this unit, providing for the specific biological needs of the species, as defined by the primary constituent elements, within the unit is essential for the conservation of the species.

The Sikes Act Improvements Act of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, because they require no additional special management or protection. Therefore, we generally do not include these areas in critical habitat designations if they meet the following three criteria—(1) a current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that

the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then we generally believe that the lands covered under the plan would not meet the definition of critical habitat.

The CANG has developed a draft INRMP for Camp Roberts to address the requirements of Department of Defense Instruction 4715.3. The INRMP is intended to provide an adaptive management approach to all natural resource issues on the installation. Although the Camp Roberts draft INRMP calls for annual monitoring of *Chlorogalum purpureum*, it does not provide any specific measures that ensure the conservation and recovery of this species. The INRMP is currently being reviewed and revised. However, because such measures are not currently in place, we are including those portions of Camp Roberts that support *C. purpureum* populations or the primary constituent elements in this proposed critical habitat designation. Fort Hunter Liggett is currently preparing a draft INRMP, however, the Service has not yet received a copy for review.

Determining the specific areas that *C. purpureum* occupies is challenging; during good flowering years, presence of this taxon can be difficult to document during the dormant stage of the plant because leaves and inflorescences often break off and disappear. That the taxon is not visible in all years does not mean the taxon does not exist at a site. Therefore, patches of occupied habitat are interspersed with patches of unknown occupancy; our critical habitat units reflect the nature of the habitat, the life history characteristics of this taxon, habitat connectivity between currently known populations, and opportunities for management to maintain habitat/plant association function and integrity on a larger landscape level.

In selecting areas of proposed critical habitat we made an effort to avoid developed areas, such as housing developments, that are unlikely to contain the primary constituent elements or otherwise contribute to the conservation of *C. purpureum*. However, we did not map critical habitat in sufficient detail to exclude all developed areas, or other lands unlikely to contain the primary constituent elements essential for the conservation of *C. purpureum*. Areas within the boundaries of the mapped units, such as buildings, roads, parking lots, railroads,

airport runways and other paved areas, lawns, and other urban landscaped areas will not contain any of the primary constituent elements. Federal actions limited to these areas, therefore would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

In summary, we selected critical habitat areas that provide for the conservation of both varieties of *Chlorogalum purpureum* in three units where it is known to occur. Areas on the perimeter of the critical habitat designation being used for crop production were not proposed for designation; however, we recognize that these areas may include habitat presently or historically occupied by *Chlorogalum purpureum*. In addition, some areas not included in the critical habitat designation, including other areas identified in the GIS model used for *C. p. var. purpureum*, may include habitat appropriate for introduction of *C. purpureum* in the future. If we determine that areas outside of the boundaries of the designated critical habitat are important for the conservation of this species, we may propose these additional areas as critical habitat in the future.

Proposed Critical Habitat Designation

The proposed critical habitat areas described below constitute our best assessment at this time of the areas essential for the conservation of *Chlorogalum purpureum*. The areas being proposed as critical habitat are within or surrounding Fort Hunter Liggett in southern Monterey County, within or surrounding Camp Roberts in northern San Luis Obispo County, and on both the north and south sides of Highway 58 near Camatta Canyon in central San Luis Obispo County. We propose to designate approximately 6,965 ha (17,210 ac) of land as critical habitat for *C. p. var. purpureum* and 1,933 ha (4,770 ac) of land as critical habitat for *C. p. var. reductum*. Approximately 68 percent of this total area consists of Federal lands, private lands comprise approximately 32 percent of the proposed critical habitat,

and State lands comprise less than 0.1 percent.

A brief description of each critical habitat unit is given below:

Fort Hunter Liggett Unit

This unit consists of two separate areas that encompass both Fort Hunter Liggett property and private property. Fort Hunter Liggett Unit A (5,930 ha (14,660 ac)) includes portions of training areas 10, 13, 22, 25, 29, the ASP, and the cantonment of Fort Hunter Liggett property, in addition to private property east of Jolon Road. The critical habitat boundary generally follows the San Antonio River bed on the south from the cantonment buildings southeast to training area 29 near Tule Canyon. The boundary heads north, excluding crop lands or tilled agricultural lands, west following a ridgeline into Fort Hunter Liggett training area 10, and back to the area just north of the cantonment buildings. Fort Hunter Liggett Unit B (60 ha (145 ac)) occurs at the boundary of training areas 23, 24 and 27.

The Fort Hunter Liggett critical habitat unit includes one of only two areas where *Chlorogalum purpureum* var. *purpureum* is known to occur. It is likely that this population is a remnant of a much larger population that historically extended far beyond the Fort Hunter Liggett boundaries. The protection and recovery of this area is essential for maintaining the remaining genetic variability of this plant and connectivity between patches of plants at Fort Hunter Liggett is essential to facilitate the gene flow within this unit. Fort Hunter Liggett also has favorable habitat conditions for population expansion and persistence; with the reduction of threats through appropriate management, this area could support a larger population.

Camp Roberts Unit

This unit consists of one area that encompasses both Camp Roberts property and private property. The Camp Roberts Unit (975 ha (2,405 ac)) boundary generally follows the Nacimiento River bed along Tower Road to the area just south of the Camp Roberts machine gun range. The boundary then follows Tower Road

southwest to Avery Road, west to San Antonio Road, and north to a ridgeline that extends onto private property that is northwest of the Camp Roberts installation boundary. The Camp Roberts unit excludes those areas currently classified as dedicated impact areas for high-explosive ordnance. This critical habitat unit includes one of only two areas where *Chlorogalum purpureum* var. *purpureum* is known to occur. The unit contains large patches of plants that are capable of producing large numbers of seeds in good years, which is important for this species to survive through natural and human-caused changes or events. The protection and recovery of this area are essential because it is occupied and it contains favorable habitat conditions for population increases with appropriate habitat management.

Camatta Canyon Unit

This unit consists of one area that encompasses the similar topographic and vegetative community types that surround the current population. The Camatta Canyon Unit (1,933 ha (4,770 ac)) encompasses the plateau area on both the north and south sides of Highway 58 near Camatta Canyon, extending south approximately 5 km (3 mi) to include two private inholding areas within the LPNF boundaries. This critical habitat unit includes the known population area and adjacent surrounding areas as described above in the "Criteria Used to Identify Critical Habitat" section. This critical habitat unit is the only area where *Chlorogalum purpureum* var. *reductum* is known to occur. It is essential to protect this population from further loss of individual plants and loss of genetic diversity, as well as safeguard the population against random natural or human-caused events.

Lands proposed are under private, State, and Federal jurisdiction, with State lands managed by CalTrans, and Federal lands managed by the CANG at Camp Roberts, Army Reserve at Fort Hunter-Liggett, and the Forest Service (i.e., LPNF). The approximate areas of proposed critical habitat by land ownership are shown in Table 1.

TABLE 1.—APPROXIMATE AREAS, GIVEN IN HECTARES (HA) AND ACRES (AC)¹ OF PROPOSED CRITICAL HABITAT FOR *Chlorogalum purpureum* BY LAND OWNERSHIP

Unit name	Private	State	Federal	Total
Fort Hunter Liggett	1,200 ha (2,965 ac)	4,790 ha (11,840 ac) ..	5,990 ha (14,805 ac)
Camp Roberts	195 ha (475 ac)	780 ha (1,930 ac)	975 ha (2,405 ac)
Camatta Canyon	1,450 ha	8 ha	475 ha	1,933 ha

TABLE 1.—APPROXIMATE AREAS, GIVEN IN HECTARES (HA) AND ACRES (AC)¹ OF PROPOSED CRITICAL HABITAT FOR *Chlorogalum purpureum* BY LAND OWNERSHIP

Unit name	Private	State	Federal	Total
Total	(3,580 ac) 2,845 ha (7,020 ac)	(20 ac) 8 ha (20 ac)	(1,170 ac) 6,045 ha (14,940 ac) ..	(4,770 ac) 8,898 ha (21,980 ac)

¹ Approximate acres have been converted to hectares (1 ha = 2.47 ac). Based on the level of precision of mapping of each unit, hectares and acres greater than 10 have been rounded to the nearest 5; hectares and acres less than or equal to 10 have been rounded to the nearest whole number. Totals are sums of units.

Effects of Critical Habitat Designation

Section 7 Consultation

Critical habitat receives protection under section 7 of the Act through the consultation requirement and the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.” Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist Federal agencies in eliminating conflicts that

may be caused by their proposed actions. The conservation measures in a conference report are advisory. If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation we would ensure that the permitted actions do not jeopardize the continued existence of the species or destroy or adversely modify critical habitat.

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

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and

the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat, or adversely modify or destroy proposed critical habitat.

We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

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

Habitat is often dynamic, and populations may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not

signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) of the Act jeopardy standard and the prohibitions of section 9 of the Act, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe within any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that appreciably reduce the value of critical habitat for both the survival and recovery of *Chlorogalum purpureum*. Within critical habitat, this pertains only to those areas containing the primary constituent elements. We note that such activities may also jeopardize the continued existence of the species.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to "jeopardize the continued existence" of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to "destroy or adversely modify" critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species. Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species.

Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. Designation of critical habitat in areas occupied by *Chlorogalum purpureum* is not likely to result in a regulatory burden above that already in place due to the presence of the listed species. Designation of critical habitat in areas not occupied by *C. purpureum* may result in an additional regulatory burden when a federal nexus exists.

Activities that, when carried out, funded, or authorized by a Federal agency, may directly or indirectly destroy or adversely modify critical habitat include, but are not limited to the following:

(1) Degradation or destruction of grassland, oak woodland, and oak savannah communities, and open areas found within shrubland communities, including but not limited to, off-road vehicle use, introduction of nonnative species, heavy recreational use, military bivouacking activities, maintenance of an unnatural fire regime, development, road maintenance, agricultural activities, discing, mowing, or chaining;

(2) Soil compaction or disturbance of upper soil surfaces, including the biological soil crusts. These activities include but are not limited to grazing; fire management; oil spills; mechanical disturbance such as by tracked or heavy wheeled vehicles; trampling by livestock and people;

(3) Application or runoff of pesticides, herbicides, fertilizers, or other chemical or biological agents.

Designation of critical habitat could affect the following agencies and/or actions: development on private lands requiring permits from Federal agencies, such as authorization from the Corps, pursuant to section 404 of the Clean Water Act, or a section 10(a)(1)(B) permit from the Service, or some other Federal action that includes Federal funding that will subject the action to the section 7 consultation process (e.g., from the Federal Highway Administration, Federal Emergency Management Agency, or the Department of Housing and Urban Development); military activities of the U.S. Department of Defense (Army Reserve and California Army National Guard) on their lands or lands under their jurisdiction; activities of the Forest Service on their lands or lands under their jurisdiction; the release or authorization of release of biological control agents by the U.S. Department of Agriculture; regulation of activities

affecting point source pollution discharges into waters of the United States by the Environmental Protection Agency under section 402 of the Clean Water Act; construction of communication sites licensed by the Federal Communications Commission; and authorization of Federal grants or loans. Where federally listed wildlife species occur on private lands proposed for development, any habitat conservation plans submitted by the applicant to secure an incidental take permit to take according to section 10(a)(1)(B) of the Act would be subject to the section 7 consultation process.

Several other species that are listed under the Act have been documented to occur in the same general areas as the current distribution of *Chlorogalum purpureum*. Listed wildlife species identified either on Fort Hunter Liggett or Camp Roberts, or in close proximity to these areas include San Joaquin kit fox (*Vulpes macrotis mutica*), vernal pool fairy shrimp (*Branchinecta lynchi*), California red-legged frog (*Rana aurora draytonii*), arroyo toad (*Bufo californicus*), bald eagle (*Haliaeetus leucocephalus*), California condor (*Gymnogyps californianus*), and least Bell's vireo (*Vireo bellii pusillus*). In addition, a candidate wildlife species (taxon for which the Service has sufficient biological information to support a proposal to list as endangered or threatened), California tiger salamander (*Ambystoma tigrinum californiense*), has been documented at Fort Hunter Liggett and has potential to occur at Camp Roberts. Species that are listed under the Act that may occur in the same general area as *C. p.* var. *reductum* include *Branchinecta lynchi*, longhorn fairy shrimp (*Branchinecta longientenna*), *Rana aurora draytonii*, and *Gymnogyps californianus*.

If you have questions regarding whether specific activities will likely constitute adverse modification of critical habitat, contact the Field Supervisor, Ventura Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, OR 97232-4181 (503/231-6131, FAX 503/231-6243).

Economic Analysis and Exclusions Under Section 4(b)(2)

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other

relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a comment period at that time.

Relationship to Habitat Conservation Plans

We also considered the status of habitat conservation plan (HCP) efforts in proposing areas as critical habitat. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed wildlife species incidental to otherwise lawful activities. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. Although take of listed plants is not prohibited by the Act, listed plant species may also be covered in an HCP for wildlife species. Currently, there are no habitat conservation plans (HCPs) that include *Chlorogalum purpureum* as a covered species. Subsection 4(b)(2) of the Act allows us to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We believe that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. In the event that future HCPs are developed within the boundaries of proposed or designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the critical habitat.

We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of *Chlorogalum purpureum* and appropriate management for those lands. Furthermore, we will complete

intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of *Chlorogalum purpureum* var. *purpureum* habitat and *C. p.* var. *reductum* habitat, and what habitat is essential to the conservation of the species and why;

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

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

(5) Economic and other values associated with designating critical habitat for *Chlorogalum* such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, "existence values", and reductions in administrative costs);

(6) The methodology we might use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat; and

(7) The effects of *Chlorogalum purpureum* critical habitat designation on military lands and how it would affect military activities, particular military activities at Fort Hunter Liggett and Camp Roberts.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods. You may mail comments to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may also comment via the internet to

fw1chlorogalum@r1.fws.gov. Please submit internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: RIN-1018-AG75 and your name and return address in your internet message." If you do not receive a confirmation from the system that we have received your internet message, contact us directly by calling our Ventura Fish and Wildlife Office at phone number 805-644-1766. Please note that the internet address fw1chlorogalum@r1.fws.gov will be closed out at the termination of the public comment period. Finally, you may hand-deliver comments to our Ventura office at 2493 Portola Road, Suite B, Ventura, CA.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

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

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will solicit the expert opinions of three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final

rulemaking. Accordingly, the final determination may differ from this proposal.

Public Hearings

The Endangered Species Act provides for one or more public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, etc.) aid or reduce its

clarity? (4) Is the description of the notice in the "Supplementary Information" section of the preamble helpful in understanding the notice? (5) What else could we do to make this proposed rule easier to understand?

Send any comments that concern how we could make this rule easier to understand to the office identified in the **ADDRESSES** section at the beginning of this document.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order (EO) 12866, this document is significant rule and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below. We are preparing a draft analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific areas as critical habitat. The availability of the draft economic analysis will be announced in the **Federal Register** so that it is available for public review and comments.

(a) While we will prepare an economic analysis to assist us in considering whether areas should be excluded pursuant to section 4 of the Act, we do not believe this rule will have an annual effect on the economy

of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. Therefore, we do not believe a cost benefit and economic analysis pursuant to EO 12866 is required.

Under the Act, critical habitat may not be adversely modified by a Federal agency action. Critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 2). Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based on our experience with the species and its needs, we believe that any Federal action or authorized action that could potentially cause an adverse modification of the proposed critical habitat would be considered as jeopardy under the Act in areas occupied by the species. Accordingly, we do not expect the designation of currently occupied areas as critical habitat to have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding.

TABLE 2.—IMPACTS OF *Chlorogalum Purpureum* LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only	Additional activities potentially affected by critical habitat designation ¹
Federal Activities Potentially Affected ² .	Activities such as field maneuvers by troops or vehicles, training, bivouacking, construction and facility development conducted by the Army Reserve at Fort Hunter Liggett and the California Army National Guard at Camp Roberts. Activities authorized or conducted by the Forest Service at Los Padres National Forest, such as livestock grazing, road maintenance or construction, and recreation.	Activities by these Federal agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.
Private or other non-Federal Activities Potentially Affected ³ .	Activities that require a Federal action (permit, authorization, or funding) and may remove or destroy habitat for <i>Chlorogalum purpureum</i> by mechanical, chemical, or other means or appreciably decrease habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals, fragmentation of habitat).	Funding, authorization, or permitting actions by Federal agencies in designated areas where section 7 consultations would not have occurred but for the critical habitat designation.

¹ This column represents activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.

² Activities initiated by a Federal agency.

³ Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation, may have impacts that are not attributable to the species listing on what actions may or may not be conducted by Federal agencies or non-Federal persons who

receive Federal authorization or funding. We will evaluate any impact through our economic analysis (under section 4 of the Act; see Economic Analysis section of this rule). Non-Federal persons who do not have a Federal sponsorship of their actions are

not restricted by the designation of critical habitat.

(b) This rule is not expected to create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of *Chlorogalum*

purpureum since its listing in 2000. The prohibition against adverse modification of critical habitat is expected to impose few, if any, additional restrictions to those that currently exist in the proposed critical habitat on currently occupied lands. We will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation through our economic analysis. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This proposed rule, if made final, is not expected to significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition resulting from critical habitat designation will have any incremental effects in areas of occupied habitat on any Federal entitlement, grant, or loan programs. We will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation through our economic analysis.

(d) OMB has determined that this rule may raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In

today's rule, we are certifying that the rule will not have a significant effect on a small number of small entities. The following discussion explains our rationale.

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

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect *Chlorogalum purpureum*. If this critical habitat designation is

finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants because consultation would already be required due to the presence of the listed species, and the duty to avoid adverse modification of critical habitat would not trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where the species is present, designation of critical habitat could result in an additional economic burden on small entities due to the requirement to reinstate consultation for ongoing Federal activities. However, since *Chlorogalum purpureum* has only been listed since March 2000, and there have only been two formal consultations involving the species, neither of which involved small entities, the requirement to reinstate consultations for ongoing projects will not affect a substantial number of small entities.

When the species is clearly not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. Because *Chlorogalum purpureum* has been listed only a relatively short time and there have been few activities with Federal involvement in these areas during this time, there is not a detailed history of consultations based on the listing of this species. Therefore, for the purposes of this review and certification under the Regulatory Flexibility Act, we are assuming that any future consultations in the area proposed as critical habitat will be due to the critical habitat designation.

Approximately, sixty-eight percent of the designation is on Federal lands. On Federal lands included in this proposed critical habitat designation, grazing is the only activity identified as possibly having an economic effect on small entities. Grazing occurs on Camp Roberts and on the Los Padres National Forest and may be reinstituted on Fort Hunter Liggett in the future. There are currently two grazing permittees on all Federal lands included in this rule, so this rule will not affect a substantial number of small entities involved in grazing or other activities on Federal lands.

Most of the remainder of the proposed designation is on private land. On private lands, activities that lack Federal involvement would not be affected by the critical habitat designation. Current activities of an economic nature that

occur on private lands in the area encompassed by this proposed designation are primarily agricultural, such as live-stock grazing and farming. Because these areas are zoned rural and not near cities or towns, multiple-unit residential or commercial development is unlikely. Therefore, Federal agencies such as the Economic Development Administration, which is occasionally involved in funding municipal projects elsewhere, is unlikely to be involved in projects in these areas. In rural regions of San Luis Obispo and Monterey counties, previous consultations under section 7 of the Act between us and other Federal agencies most frequently involved the Army Corps of Engineers (ACOE) or the Federal Highway Administration (FHWA). In FHWA consultations, the applicant is either the California State Department of Transportation or the County, neither of which is considered a small entity as defined here. ACOE consultations involve wetlands or waterways and occur due to the presence of species (or their critical habitat) that spend at least part of their life in aquatic habitats. *Chlorogalum purpureum* is an upland plant species and unlikely to be the subject of consultations with the ACOE. In agricultural areas, the Natural Resources Conservation Service (NRCS) occasionally funds activities on farms or ranches that require consultation with us. These consultations are infrequent, however. In the last decade, in all of Monterey and San Luis Obispo counties combined, the NRCS has completed only four formal consultations with the Service. San Luis Obispo and Monterey counties encompass about 4 million acres of land and support over 40 listed species. Based on the low level of past activity, we expect few consultations with the NRCS or other federal agencies on the approximately 7000 acres of non-federal lands proposed in this rule. For these reasons, the Service determines that the number of small entities likely to be affected by this rule will not be substantial.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer "reasonable and prudent alternatives." Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would

avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. However, the Act does not prohibit the take of listed plant species or require terms and conditions to minimize adverse effect to critical habitat. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a very limited consultation history for *Chlorogalum purpureum*, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, especially as described in the final listing rule and in this proposed critical habitat designation, as well as our experience with similar listed plants in California. In addition, the State of California listed *Chlorogalum purpureum* var. *reductum* as a rare species under the California Endangered

Species Act in 1978, and we have also considered the kinds of actions required through State consultations for this species. The kinds of actions that may be included in future reasonable and prudent alternatives include conservation set-asides, management of competing non-native species, restoration of degraded habitat, construction of protective fencing, and regular monitoring. These measures are not likely to result in a significant economic impact to project proponents.

As required under section 4(b)(2) of the Act, we will conduct an analysis of the potential economic impacts of this proposed critical habitat designation, and will make that analysis available for public review and comment before finalizing this designation. However, court deadlines require us to publish this proposed rule before the economic analysis can be completed. In the absence of this economic analysis, we have reviewed our previously published analyses of the likely economic impacts of designating critical habitat for other California plant species, such as *Chorizanthe robusta* var. *hartwegii* (Scotts Valley spineflower). Like *Chlorogalum purpureum*, *C. robusta* var. *hartwegii* is a native species restricted to certain specific habitat types along the central coast of California and may require similar protective and conservation measures. *Chorizante robusta* var. *hartwegii* differs from *Chlorogalum purpureum*, in that it occurs closer to the coast, in an area experiencing greater residential and commercial development. Our high-end estimate of the economic effects of designating one critical habitat unit of *C. robusta* var. *hartwegii* ranged from \$82,500 to \$287,500 over ten years. We believe that the effects of the proposed rule for *Chlorogalum purpureum* will be lower than the economic effects identified for other California plant critical habitat designations, such as *C. robusta* var. *hartwegii*, that occur in regions with higher population densities where commercial, residential, and infrastructure development is more likely. We believe that the effects of the proposed rule for *Chlorogalum purpureum* are likely to be lower than those identified above, due to the greater human population densities and economic activity that is occurring in southern Santa Cruz County where *C. robusta* var. *hartwegii* occurs.

In summary, we have considered whether this proposed rule would result in a significant economic effect on a substantial number of small entities. It would not affect a substantial number of small entities. The entire designation likely involves fewer than 100 privately

owned parcels; many of these parcels are located in areas where likely future land uses are not expected to result in Federal involvement or section 7 consultations. As discussed earlier, most of the private parcels within the proposed designation are currently being used for agricultural purposes and, therefore, are not likely to require any Federal authorization. In the remaining areas, Federal involvement—and thus section 7 consultations, the only trigger for economic impact under this rule—would be limited to a subset of the area proposed. The most likely Federal involvement would be through the 2 grazing allotments that currently occur on Federal lands that overlap with the proposed designation, or through ACOE or NRCS activities. We anticipate projects involving these agencies will be infrequent within the proposed designation due to the species biology, proximity to military bases, and (for NRCS) the low level of previous consultation activity in these counties. This rule would result in project modifications only when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. The kinds of measures we anticipate we would provide can usually be implemented at low cost. Therefore, we are certifying that the proposed designation of critical habitat for *Chlorogalum purpureum* will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis we will determine whether designation of critical habitat would cause (a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions in the economic analysis, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on

regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

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

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, et seq.):

(a) This rule, as proposed, will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. Small governments will not be affected unless they propose an action requiring Federal funds, permits or other authorization. Any such activity will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat.

(b) This rule, as proposed, will not produce a Federal mandate on State, local, or tribal governments or the private sector of \$100 million or greater in any year, that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications, and a takings implication assessment is not required. This rule would not take private property. As discussed above, the designation of critical habitat affects only Federal agency actions; it does not provide additional protection for the species on non-Federal lands or regarding actions that lack any Federal involvement. Furthermore, the Act provides mechanisms, through section 7 consultation, to resolve apparent conflicts between proposed Federal actions, including Federal funding or permitting of actions on private land, and the conservation of the species, including avoiding the destruction or adverse modification of designated critical habitat. We recognize that Federal projects that also affect private property may be proposed in the future. We fully expect that, through section 7 consultation, such projects can be implemented consistent with the conservation of *Chlorogalum*

purpureum; therefore, this rule would not result in a takings.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of this critical habitat designation, with appropriate State resource agencies in California. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation if they lack any Federal nexus. In areas occupied by *Chlorogalum purpureum*, Federal agencies funding, permitting, or implementing activities are already required, through consultation with us under section 7 of the Act, to avoid jeopardizing the continued existence of *Chlorogalum purpureum*. If this critical habitat designation is finalized, Federal agencies also must ensure, also through consultation with us, that their activities do not destroy or adversely modify designated critical habitat.

In unoccupied areas, or areas of uncertain occupancy, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act, and may result in additional requirements on Federal activities to avoid destroying or adversely modifying critical habitat. Any development that lacked Federal involvement would not be affected by the critical habitat designation. Should a federally funded, permitted, or implemented project be proposed that may affect designated critical habitat, we will work with the Federal action agency and any applicant, through section 7 consultation, to identify ways to implement the proposed project while minimizing or avoiding any adverse effect to the species or critical habitat. In our experience, the vast majority of such projects can be successfully implemented with at most minor changes that avoid significant economic impacts to project proponents.

The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of these species are specifically identified. While this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for

case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Chlorogalum purpureum*.

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

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an

Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations With Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of 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. The proposed designation of critical habitat for *Chlorogalum purpureum* does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Heidi E. D. Crowell, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003 (805/644-1766).

List of Subjects in 50 CFR part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. In § 17.12(h) revise the entry for *Chlorogalum purpureum* under "FLOWERING PLANTS" to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species			Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name							
FLOWERING PLANTS								
*	*	*	*		*			*
<i>Chlorogalum purpureum</i>	Purple amole		U.S.A.	(CA) Liliaceae— Lily.	T		17.96(b)	NA
*	*	*	*		*			*

3. In § 17.96, as proposed to be amended at 65 FR 66865, November 7, 2000, amend paragraph (b) by adding an entry for *Chlorogalum purpureum* under Family Liliaceae to read as follows:

§ 17.96 Critical habitat—plants.

* * * * *

(b) * * *

Family Liliaceae: *Chlorogalum purpureum* (purple amole)

(1) Critical habitat units are depicted for Monterey and San Luis Obispo counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Chlorogalum*

purpureum var. *purpureum* are the habitat components that provide:

(i) Soils that are mostly gravelly to sandy and well drained on the surface, are underlain by clay soils, and are frequently cryptogamic;

(ii) Plant communities that support the appropriate associated species, including valley and foothill grassland (most similar to the needlegrass series in Sawyer and Keeler-Wolf (1995)), blue oak woodland (*Quercus douglasii*) or oak savannahs (Holland 1986), and open areas within shrubland communities (most similar to the Chamise series in

Sawyer and Keeler-Wolf (1995), although percent cover of chamise at known *Chlorogalum purpureum* var. *purpureum* areas is unknown). Within these vegetation community types, *C. p. purpureum* appears where there is little cover of other species which compete for resources available for growth and reproduction; and,

(iii) Areas of sufficient size and configuration to maintain ecosystem functions and processes, such as pollinator activity between existing colonies, hydrologic regime, appropriate predator-prey populations to prevent excessive herbivory, and seed dispersal

mechanisms between existing colonies and other potentially suitable sites.

(3) The primary constituent elements of critical habitat for *Chlorogalum purpureum* var. *reductum* are the habitat components that provide:

(i) Well-drained, red clay soils with a large component of gravel and pebbles on the upper soil surface, and are frequently cryptogamic;

(ii) Plant communities that support the appropriate associated species, including grassland (most similar to the California annual grassland series in Sawyer and Keeler-Wolf (1995) or the pine bluegrass grassland, non-native grassland and wildflower field

descriptions in Holland (1986)), blue oak woodland (*Quercus douglasii*) or oak savannahs (Holland 1986), and open areas within shrubland communities (most similar to the Chamise series in Sawyer and Keeler-Wolf (1995), although percent cover of chamise at known *Chlorogalum purpureum* var. *reductum* areas is unknown). Within these vegetation community types, *C. p.* var. *reductum* appears where there is little cover of other species which compete for resources available for growth and reproduction; and

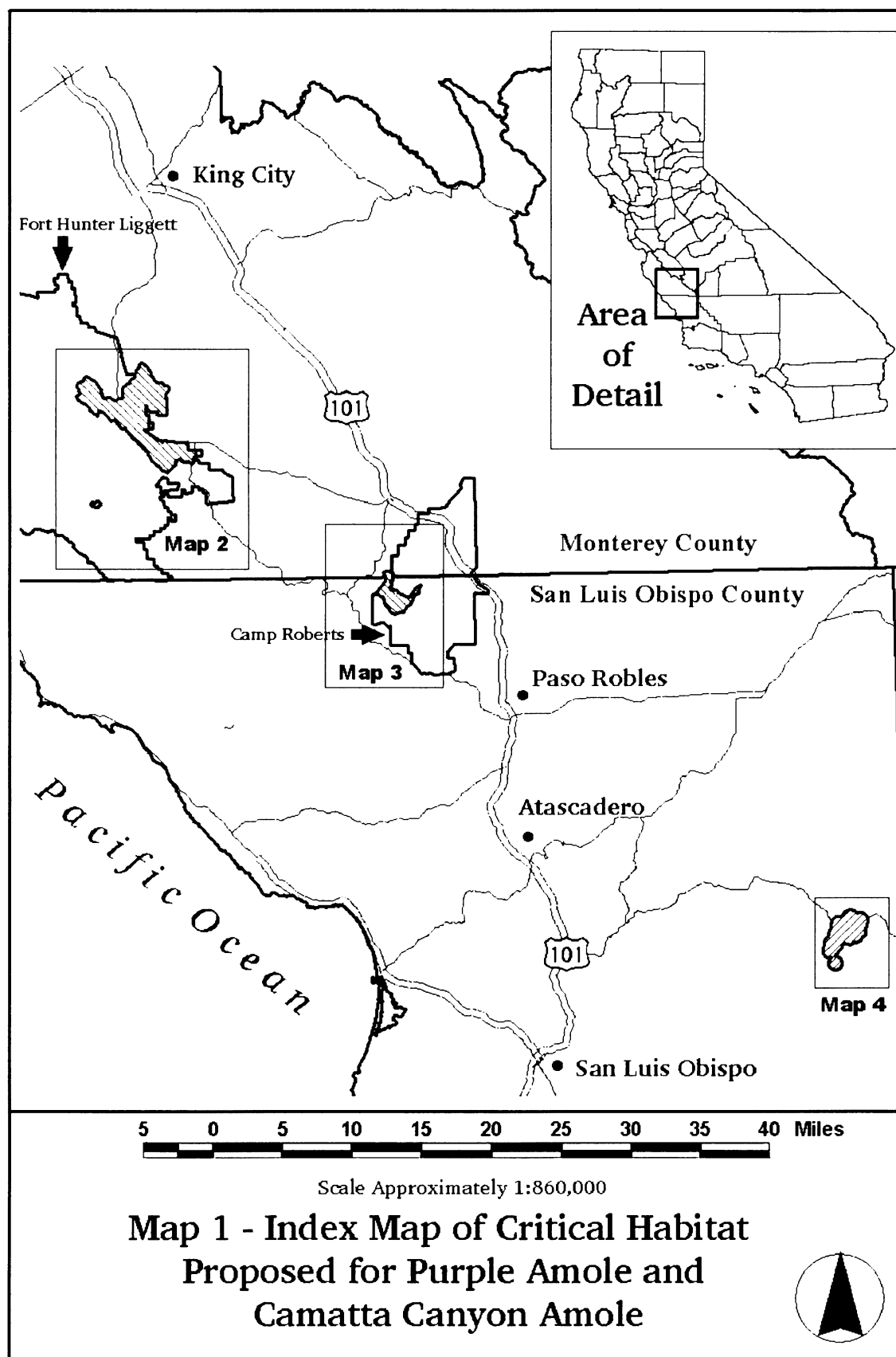
(iii) Areas of sufficient size and configuration to maintain ecosystem functions and processes, such as

pollinator activity between existing colonies, hydrologic regime, appropriate predator-prey populations to prevent excessive herbivory, and seed dispersal mechanisms between existing colonies and other potentially suitable sites.

(4) Critical habitat does not include existing features and structures, such as buildings, roads, aqueducts, railroads, airport runways and buildings, other paved areas, lawns, and other urban landscaped areas not containing one or more of the primary constituent elements.

(5) Map 1 follows.

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(6) *Fort Hunter Liggett Unit:*

(i) *Chlorogalum purpureum* var. *purpureum*. Fort Hunter Liggett (A) Unit: Monterey County, California.

From USGS 1:24,000 quadrangle map Cosio Knob, Espinosa Canyon, Jolon, and Williams Hill. Lands bounded by UTM zone 10 NAD83 coordinates (E,N):

668926, 3975810; 668823, 3975890; 668632, 3975980; 668577, 3976120; 668472, 3976230; 668110, 3976530; 667976, 3976680; 667821, 3977100; 667616, 3977300; 667568, 3977460; 667528, 3977590; 667386, 3977730; 667365, 3977860; 667257, 3977910; 667000, 3977990; 666915, 3978050; 666819, 3978190; 666701, 3978240; 666612, 3978330; 666478, 3978570; 666421, 3978750; 666290, 3978900; 666100, 3979000; 665920, 3979070; 665725, 3979340; 665606, 3979460; 665499, 3979630; 665432, 3979740; 665378, 3979850; 665196, 3980060; 665074, 3980330; 664849, 3980230; 664708, 3980260; 664592, 3980300; 664493, 3980360; 664376, 3980430; 664239, 3980560; 664329, 3980710; 664252, 3980770; 664087, 3980890; 663934, 3981020; 664052, 3981180; 663834, 3981360; 663678, 3981230; 663599, 3981270; 663556, 3981220; 663441, 3981140; 663325, 3981220;

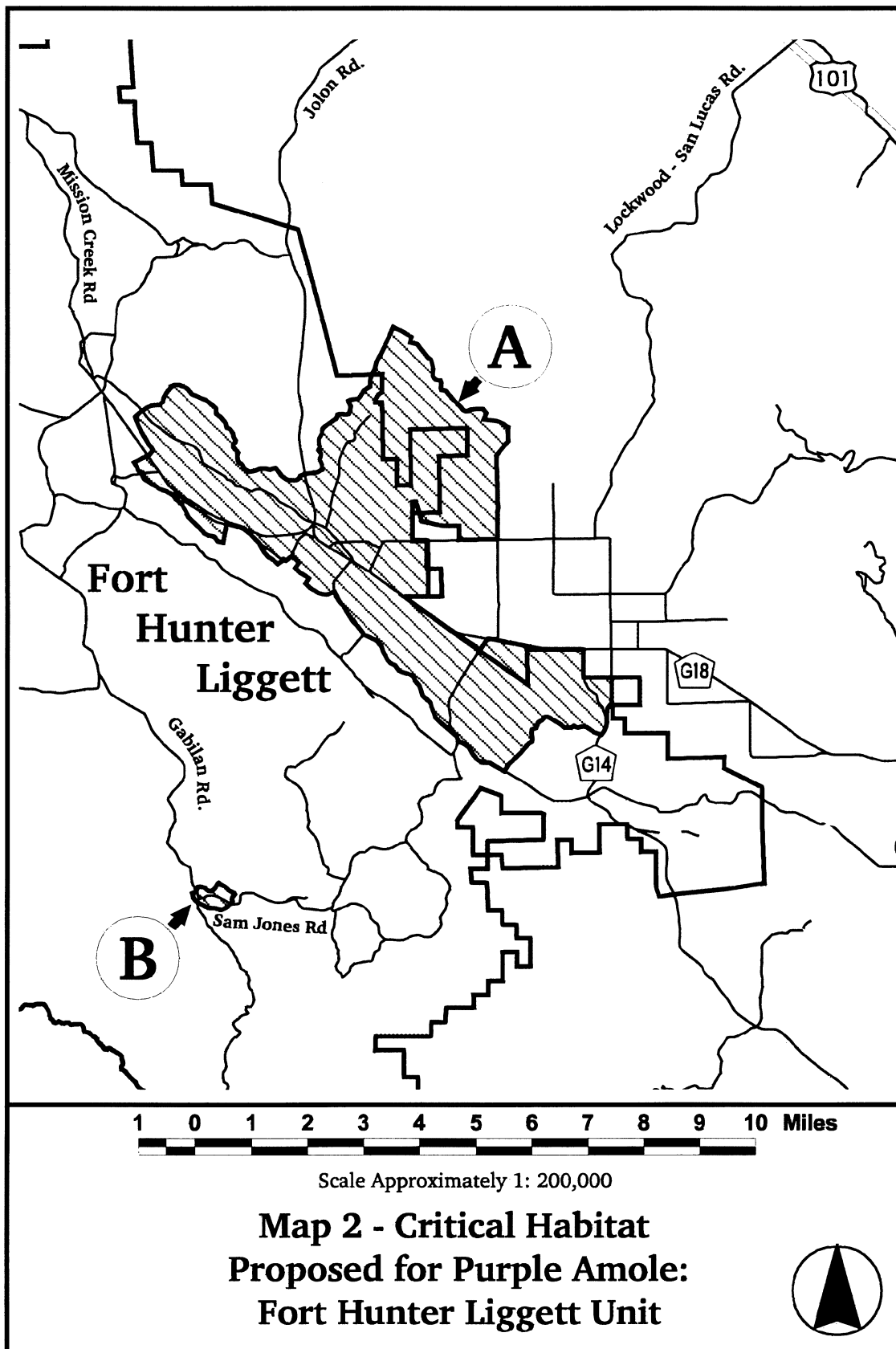
663157, 3981350; 663024, 3981510; 662926, 3981730; 662478, 3982170; 662061, 3982300; 661979, 3982300; 661873, 3981750; 661740, 3981780; 661634, 3981930; 661555, 3981940; 661471, 3981950; 661340, 3982010; 661216, 3982180; 661046, 3982330; 660894, 3982490; 660821, 3982650; 660715, 3982860; 660603, 3982950; 660437, 3983130; 660284, 3983240; 660061, 3983300; 659953, 3983400; 659631, 3983590; 659574, 3983710; 659572, 3983790; 659479, 3983780; 659443, 3983880; 659409, 3983940; 659344, 3984070; 659774, 3984290; 659867, 3984390; 659872, 3984440; 659826, 3984500; 659779, 3984570; 659712, 3984680; 659631, 3984840; 659577, 3984930; 659468, 3985130; 659362, 3985400; 659521, 3985550; 659626, 3985610; 659724, 3985670; 659817, 3985720; 659924, 3985730; 660090, 3985750; 660114, 3985790; 660169, 3985830; 660169, 3985880; 660269, 3986090; 660382, 3986220; 660384, 3986270; 660509, 3986320; 660607, 3986320; 660766, 3986270; 660825, 3986240; 660881, 3986190; 660931, 3986120; 660996, 3986060; 661133, 3985990; 661249, 3985930; 661367, 3985890; 661576, 3985740;

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(ii) *Chlorogalum purpureum* var. *purpureum*. Fort Hunter Liggett (B) Unit: Monterey County, California. From USGS 1:24,000 quadrangle map Jolon, and Burnett Peak. Lands bounded by UTM zone 10 NAD83 coordinates (E,N): 661019, 3971490; 661018, 3971520; 661017, 3971550; 661008, 3971580; 661063, 3971610; 661102, 3971620; 661130, 3971660; 661171, 3971770; 661255, 3971780; 661268, 3971760; 661280, 3971750; 661320, 3971750; 661371, 3971740; 661404, 3971690; 661464, 3971660; 661510, 3971660; 661571, 3971640; 661637, 3971700; 661693, 3971790; 661725, 3971850; 661767, 3971880; 661850, 3971810; 661916, 3971790; 661962, 3971740; 662041, 3971670; 662101, 3971640; 662166, 3971610; 662206, 3971590; 662225, 3971550; 662157, 3971470; 662142, 3971410; 662159, 3971360; 662149, 3971320; 662064, 3971240; 662053, 3971220; 662038, 3971200; 662015, 3971190; 661986, 3971170; 661938, 3971140; 661881, 3971120; 661826, 3971090; 661741, 3971110; 661650, 3971170; 661596, 3971160; 661534, 3971170; 661464, 3971150; 661431, 3971190; 661394, 3971200; 661362, 3971210; 661329, 3971230; 661289, 3971250; 661244, 3971270; 661211, 3971300; 661158, 3971330; 661095, 3971380; 661042, 3971460; 661026, 3971470; 661019, 3971490.

(iii) Map 2 follows.



(7) *Camp Roberts Unit:*

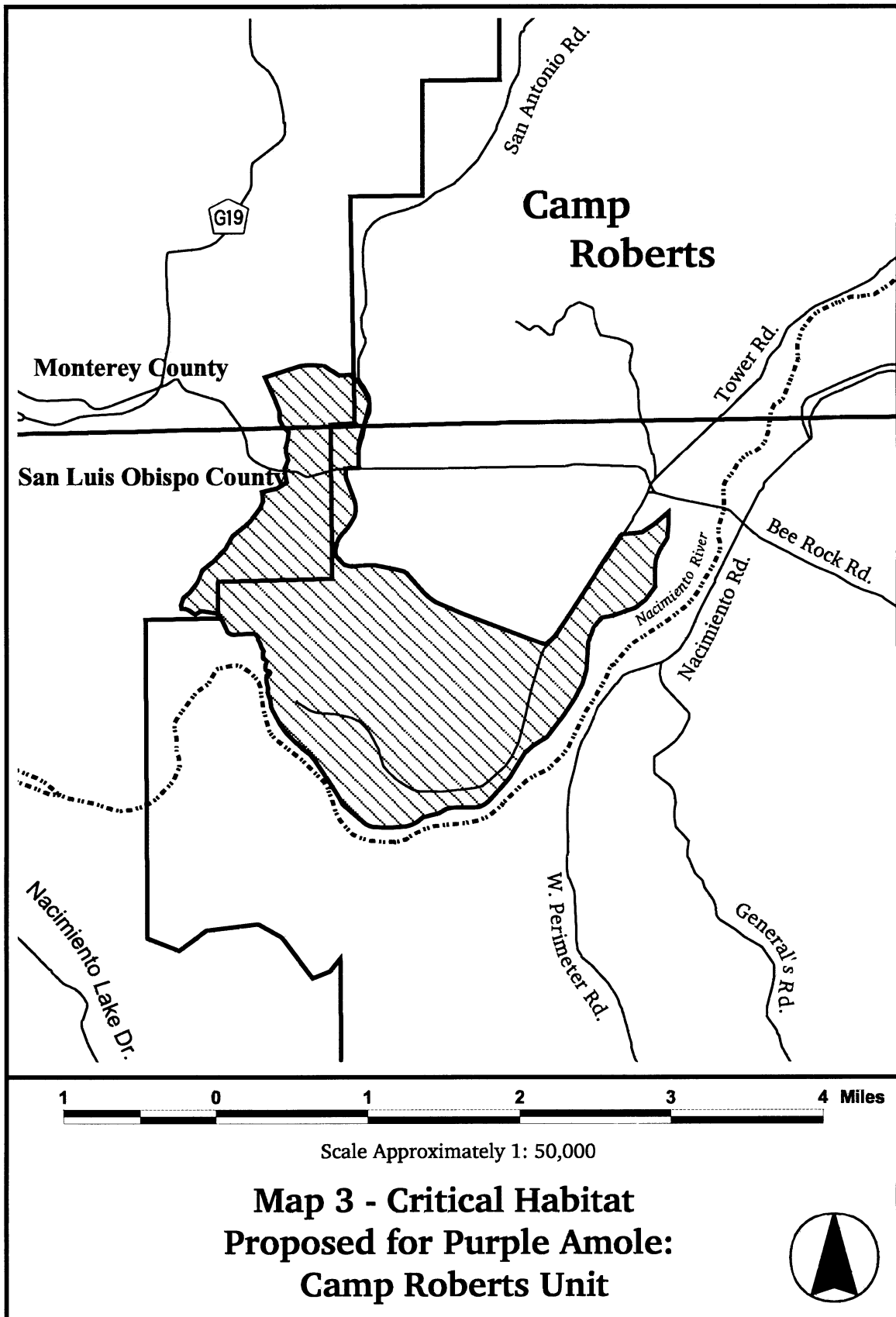
(i) *Chlorogalum purpureum* var. *purpureum*. San Luis Obispo County, California. From USGS 1:24,000 quadrangle map Bradley. Lands bounded by UTM zone 10 NAD83 coordinates (E,N): 698578, 3961870; 698597, 3961870; 698803, 3961890; 698938, 3961980; 699082, 3962110; 699085, 3961960; 699071, 3961830; 698992, 3961710; 698954, 3961600; 698943, 3961500; 698945, 3961310; 698840, 3961170; 698739, 3961090; 698496, 3961000; 698381, 3960980; 698287, 3960880; 698229, 3960720; 698211, 3960420; 698165, 3960270; 698080, 3960100; 697976, 3959940; 697789, 3959700; 697632, 3959600; 697553, 3959530; 697462, 3959380; 697395, 3959270; 697310, 3959170; 697180, 3959020; 697132, 3958980; 697076, 3958960; 697034, 3958950; 696952, 3958950; 696778, 3958950; 696727, 3958940; 696647, 3958890; 696528, 3958860; 696481, 3958850; 696417, 3958800; 696367, 3958770; 696306, 3958750; 696155, 3958740; 696030, 3958740; 695945, 3958740; 695909, 3958750; 695871, 3958770; 695738, 3958890; 695699, 3958920; 695630, 3958990; 695579, 3959070; 695493, 3959220; 695333, 3959450; 695283, 3959520; 695228, 3959560;

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(ii) Map 3 follows.

BILLING CODE 4310-55-P



(8) *Camatta Canyon Unit:*

(1) *Chlorogalum purpureum* var. *reductum*. San Luis Obispo County, California. From USGS 1:24,000 quadrangle maps Camatta Ranch, La Panza Ranch, and Pozo Summit. Lands bounded by the following UTM zone 10 NAD83 coordinates (E, N). 747772, 3918070; 747772, 3918050; 747772, 3918040; 747772, 3918020; 747771, 3918010; 747771, 3918000; 747770, 3917980; 747769, 3917970; 747767, 3917950; 747766, 3917940; 747764, 3917930; 747762, 3917910; 747759, 3917900; 747757, 3917890; 747754, 3917870; 747751, 3917860; 747747, 3917840; 747744, 3917830; 747740, 3917820; 747736, 3917800; 747732, 3917790; 747727, 3917780; 747723, 3917760; 747718, 3917750; 747712, 3917740; 747707, 3917730; 747701, 3917710; 747696, 3917700; 747689, 3917690; 747683, 3917680; 747677, 3917660; 747670, 3917650; 747663, 3917640; 747656, 3917630; 747649, 3917610; 747641, 3917600; 747633, 3917590; 747625, 3917580; 747617, 3917570; 747609, 3917560; 747600, 3917550; 747591, 3917540; 747582, 3917520; 747573, 3917510; 747564, 3917500; 747555, 3917490; 747545, 3917480; 747535, 3917470; 747525, 3917460; 747515, 3917450; 747505, 3917450; 747494, 3917440; 747483, 3917430; 747473, 3917420; 747462, 3917410; 747450, 3917400; 747439, 3917390; 747428, 3917380; 747416, 3917380; 747405, 3917370; 747393, 3917360; 747381, 3917350; 747369, 3917350; 747357, 3917340; 747344, 3917330; 747332, 3917330; 747319, 3917320; 747307, 3917320; 747294, 3917310; 747281, 3917300; 747268, 3917300; 747255, 3917290; 747242, 3917290; 747229, 3917280; 747216, 3917280; 747202, 3917280; 747189, 3917270; 747175, 3917270; 747162, 3917270; 747148, 3917260; 747135, 3917260; 747121, 3917260; 747107, 3917250; 747093, 3917250; 747079, 3917250; 747066, 3917250; 747052, 3917250; 747038, 3917240; 747024, 3917240; 747010, 3917240; 746996, 3917240; 746982, 3917240; 746968, 3917240; 746954, 3917240; 746940, 3917240; 746926, 3917240; 746912, 3917240; 746898, 3917250; 746884, 3917250; 746870, 3917250; 746857, 3917250; 746843, 3917250; 746829, 3917250; 746815, 3917260; 746802, 3917260; 746788, 3917260; 746774, 3917270; 746761, 3917270; 746748, 3917270; 746734, 3917280; 746721, 3917280; 746708, 3917290; 746694, 3917290; 746681, 3917300; 746668, 3917300; 746656, 3917310; 746643, 3917310; 746630, 3917320; 746617, 3917320; 746605,

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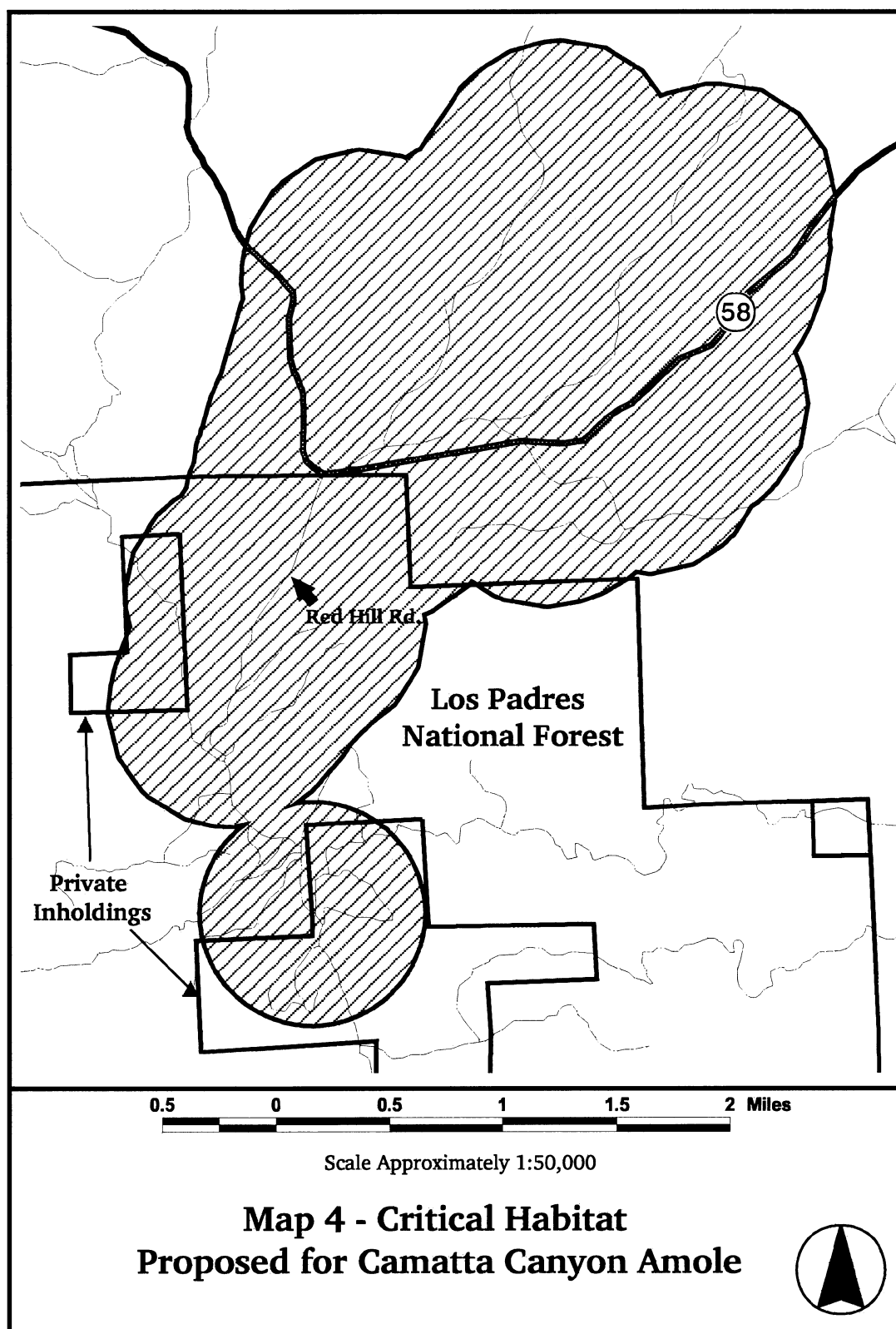
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3918080; 747772, 3918070.

(ii) Map 4 follows.

BILLING CODE 4310-55-P



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Joseph E. Doddridge,
*Assistant Secretary for Fish and Wildlife and
Parks.*

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