DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0080]

[4500030113]

RIN 1018-AZ57

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Ivesia webberi*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for *Ivesia webberi* (Webber's ivesia) under the Endangered Species Act (Act). In total, approximately 2,170 acres (879 hectares) in Plumas, Lassen, and Sierra Counties in northeastern California, and in Washoe and Douglas Counties in northwestern Nevada, fall within the

boundaries of the critical habitat designation. The effect of this regulation is to conserve *I. webberi*'s critical habitat under the Act.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION].

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/nevada/*. Comments and materials we received, as well as some supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov*. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; facsimile 775–861–6301.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, and at the Nevada Fish and Wildlife Office (*http://www.fws.gov/nevada*) (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service website and Field Office set out above, and may also be included in the preamble and at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; facsimile 775–861–6301. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act of 1973, as amended (Act), any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule. Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

Elsewhere in today's **Federal Register**, we published a final rule to list *Ivesia webberi* as a threatened species. This is a final rule to designate critical habitat for *I. webberi*. The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for *I. webberi*. In total, we are designating as critical habitat approximately 2,170 acres (ac) (879 hectares (ha)) of land in 16 units for the species.

We have prepared an economic analysis of the designation of critical habitat. In order to consider economic impacts, we have prepared an analysis of the economic impacts of the critical habitat designations and related factors. We announced the availability of the DEA in the **Federal Register** on February 13, 2014 (79 FR 8668), allowing the public to provide comments on our analysis. We have incorporated the comments and have completed the final economic analysis (FEA) concurrently with this final determination.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data and analyses. We requested opinions from three knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and whether or not we had used the best available information. We received no comments or information from these peer reviewers. We also considered all comments and information we received from the public during the comment period.

Previous Federal Actions

The proposed listing rule for *Ivesia webberi* (78 FR 46889; August 2, 2013) contains a detailed description of previous Federal actions concerning this species.

On August 2, 2013, we published in the **Federal Register** a proposed critical habitat designation for *I. webberi* (78 FR 46862). On February 13, 2014, we revised the proposed critical habitat designation and announced the availability of our draft economic analysis (DEA)

(79 FR 8668). Elsewhere in today's **Federal Register**, we published a final rule to list *Ivesia webberi* as a threatened species under the Act (16 U.S.C. 1531 *et seq*.).

Summary of Changes from August 2, 2013, Proposed Rule

In this final critical habitat designation, we make final the minor changes that we proposed in the document that published in the **Federal Register** on February 13, 2014 (79 FR 8668). At that time, we increased the designation (from that proposed on August 2, 2013 (78 FR 46862)) by approximately 159 ac (65 ha), to a total of approximately 2,170 ac (879 ha). This increase occurred in four units as a result of the following: (1) Unit 9 included newly discovered, occupied *Ivesia webberi* habitat (C. Schnurrenberger, unpubl. survey 2013); and (2) the boundaries of Units 12, 13, and 14 were simplified to reduce the number of irregularly shaped lobes and align the boundaries with discernible features such as ridgelines, roads, topographic contours, and vegetation communities. Overall, this increase in proposed critical habitat (as announced on February 13, 2014 (79 FR 8668)) was based on new information received from the U.S. Forest Service (Forest Service) that better defined the physical or biological features along the boundaries of five proposed units, resulting in changes to the acreages for those units.

Critical Habitat

Background

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

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

(a) Essential to the conservation of the species, and

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

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

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

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a

landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that are essential to the conservation of the species. Primary constituent elements are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is

listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

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

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

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to insure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features

In accordance with section 3(5)(A)(i) and 4(b)(1)(A) of the Act and regulations at 50

CFR 424.12, in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features essential to the conservation of the species and which may require special management considerations or protection. These include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for *Ivesia webberi* from studies of this species' habitat, ecology, and life history as described in the **Critical Habitat** section of the proposed rule to designate critical habitat published in the **Federal Register** on August 2, 2013 (78 FR 46862), and in the information presented below. Additional information can be found in the final listing rule published elsewhere in today's **Federal Register**, and the Species Report for this species (Service 2014, entire), which is available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0080. We have determined that *I. webberi* requires the following physical or biological features:

Space for Individual and Population Growth and for Normal Behavior

Plant Community and Competitive Ability—*Ivesia webberi* is primarily associated with

Artemisia arbuscula Nutt. (low sagebrush) and other perennial, rock garden-type plants such as: *Antennaria dimorpha* (low pussytoes), *Balsamorhiza hookeri* (Hooker's balsamroot), *Elymus elymoides* (squirreltail), *Erigeron bloomeri* (scabland fleabane), *Lewisia rediviva* (bitter root), *Poa secunda* (Sandburg bluegrass), and *Viola beckwithii* (Beckwith's violet) (Witham 2000, p. 17; Morefield 2004, 2005, unpubl. survey; Howle and Henault 2009, unpubl. survey; BLM 2011, 2012a, unpubl. survey; Howle and Chardon 2011a, 2011b, 2011c, unpubl. survey). Overall, this plant community is open and sparsely vegetated and relatively short-statured, with *I. webberi* often dominating or co-dominating where it occurs (Witham 2000, p. 17).

Because *Ivesia webberi* is found in an open, sparsely vegetated plant community, it is likely a poor competitor. Nonnative, invasive plant species such as *Bromus tectorum* L. (cheatgrass), *Taeniatherum caput-medusae* (medusahead), and *Poa bulbosa* (bulbous bluegrass) form dense stands of vegetation that compete with native plant species, such as *I. webberi*, for the physical space needed to establish individuals and recruit new seedlings. This competition for space is compounded as dead or dying nonnative vegetation accumulates, eventually forming a dense thatch that obscures the soil crevices used by native species as seed accumulation and seedling recruitment sites (Davies 2008, pp. 110–111; Gonzalez *et al*. 2008, entire; Mazzola *et al*. 2011, pp. 514–515; Pierson *et al*. 2011, entire). Consequently, nonnative species deter recruitment and population expansion of *I. webberi*, as well as the entire *Artemisia arbuscula* (low sagebrush)–perennial bunchgrass–forb community with which *I. webberi* is associated. Therefore, we consider open, sparsely vegetated assemblages of *A. arbuscula* and other perennial grass and forb rock garden species to be a physical or biological feature for *I. webberi*.

Elevation—Known populations of *Ivesia webberi* occur between 4,475 and 6,237 feet (ft) (1,364 and 1,901 meters (m)) in elevation (Steele and Roe 1996, unpubl. survey; Witham 2000, p.16; Howle and Henault 2009, unpubl. survey). Because plants are not currently known to occur outside of this elevation band, we have identified this elevation range as a physical or biological feature for *I. webberi*.

Topography, Slope, and Aspect—*Ivesia webberi* occurs on flats, benches, or terraces that are generally above or adjacent to large valleys. These sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects (Witham 2000, p. 16). Because plants have not been identified outside these landscape features or on slopes greater than 15°, we have identified slightly concave, convex, and gently sloped (0–15°) landscapes to be physical and biological features for *I. webberi*.

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

Soils—Populations of *Ivesia webberi* occur on a variety of soil series types, including, but not limited to: Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll (USDA NRCS (U.S. Department of Agriculture Natural Resources Conservation Service) 2007, 2009a, 2009b, 2012a, 2012b). The majority of soils in which *I. webberi* occurs have an argillic (i.e., clay) horizon within 19.7 inches (in) (50 centimeters (cm)) of the soil surface (USDA NRCS 2007, 2009a, 2009b, 2012a, 2012b). An argillic horizon is defined as a subsurface horizon with a significantly

higher percentage of clay than the overlying soil material (Soil Survey Staff 2010, p. 30). The clay content (percent by weight) of an argillic horizon must be 1.2 times the clay content of an overlying horizon (Soil Survey Staff 1999, p. 31). Agrillic horizons are illuvial, meaning they form below the soil surface, but may be exposed at the surface later due to erosion. Typically there is little or no evidence of illuvial clay movement in soils on young landscapes; therefore, soil scientists have concluded that the formation of an argillic horizon requires at least a few thousand years (Soil Survey Staff 1999, p. 29). This argillic horizon represents a time-landscape relationship that can be locally and regionally important because its presence indicates that the geomorphic surface has been relatively stable for a long period of time (Soil Survey Staff 1999, p. 31).

The shallow, clay soils that *Ivesia webberi* inhabits are very rocky on the surface and tend to be wet in the spring, but dry out as the season progresses (Zamudio 1999, p. 1). The high clay content in the soils creates a shrink-swell behavior as the soils wet and dry, which helps to "heave" rocks in the soil profile to the surface and creates the rocky surface "pavement" (Zamudio 1999, p. 1). The unique soils and hydrology of *I. webberi* sites may exclude competition from other species, including *Bromus tectorum* (Zamudio 1999, p. 1; Witham 2000, p. 16). The shrink-swell of the clay zone, which extends into the subsoil, favors perennials with deep taproots or annuals with shallow roots that can complete their life cycle before the surface soil dries out (Zamudio 1999, p. 1; Witham 2000, pp. 16, 20). The root systems of tap-rooted perennial forbs are suited to soil with clay subsoils because the roots branch profusely under the crown, spread laterally, and penetrate the clay B horizon along vertical cracks (within the horizon) (Hugie *et al.* 1964, p. 200). The roots are flattened, but unbroken by shrink-swell

activity (Hugie *et al.* 1964, p. 200). Early maturing plants, such as *I. webberi*, presumably prefer soils with these heavy clay horizons because of the abundant spring moisture, which essentially saturates the surface horizons with water. Based on the information above, we consider soil with an argillic horizon characterized by shrink-swell behavior to represent a physical or biological feature for *I. webberi*.

Water—*Ivesia webberi* is restricted to sites with soils that are vernally moist (Zamudio 1999a, p. 1; Witham 2000, p. 16). From this finding, we infer that sufficient winter and spring moisture not only contributes to the physical properties of the substrate in which *I. webberi* occurs (i.e., the shrink-swell pattern that contributes to the formation of soil crevices), but also triggers biological responses in *I. webberi*, in the form of stimulating germination, growth, flowering, and seed production. Moisture retention is influenced by site topography as well as soil properties. Therefore, we consider soils that are vernally moist as a physical or biological feature for *I. webberi*.

Light—Although little is known regarding the light requirements of *Ivesia webberi*, inferences are possible from the plant species and the plant community from which *I. webberi* is associated (described under the "Plant Community and Competitive Ability" section of the "*Space for Individual and Population Growth and for Normal Behavior*" discussion, above, and the "*Habitat*" section of the Species Report (Service 2014, pp. 6–7). Generally speaking, co-occurring plant species are short-statured; when assembled into an low sagebrush-perennial bunchgrass-forb community, plants tend to occur widely spaced with intervening patches of rocky, open ground. These factors suggest that *I. webberi* is not shade-tolerant. Therefore, we

assume that *I. webberi* is able to persist, at least in part, due to a lack of light competition with taller plants.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Reproduction—*Ivesia webberi* is a perennial plant species that is not rhizomatous or otherwise clonal. Therefore, like other *Ivesia* species, reproduction in *I. webberi* is presumed to occur primarily via sexual means (i.e., seed production and seedling recruitment). As with most plant species, *I. webberi* does not require separate sites for breeding, rearing, and reproduction other than the locations in which parent plants occur and any area necessary for pollinators and seed dispersal. Seeds of *I. webberi* are relatively large and unlikely to be dispersed by wind or animal vectors; upon maturation of the inflorescence and fruit, seeds are likely to fall to the ground in the immediate vicinity of parent plants (Witham 2000, p. 20). Depressions and crevices in soil frequently serve as seed accumulation or seedling establishment sites in arid ecosystems because they trap seeds and often have higher soil water due to trapped snow and accumulated precipitation (Reichman 1984, pp. 9–10; Eckert *et al.* 1986, pp. 417–420). The cracks of the shrink-swell clay soils that typify *I. webberi* habitat are thought to trap seeds and retain them on-site, and may serve to protect seeds from desiccation from sunlight or wind. Although the long-term viability of these seeds is unknown, *I. webberi* seeds held within these crevices may accumulate and function as a seedbank for *I. webberi* reproduction. Thus, the physical and biological feature of soil with an argillic horizon and shrink-swell behavior identified above under the "*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*" section also has an important reproduction function for *I. webberi.*

Pollination—Pollinators specific to *Ivesia webberi* have not been identified. However, most *Ivesia* species reproduce from seed with insect-mediated pollination occurring between flowers of the same or different plants (Witham 2000, p. 20). Floral visitors have been observed frequenting the flowers of *I. aperta* var. *canina*, which co-occurs with *I. webberi* at one

population (USFWS 5; J. Johnson, unpubl. photos 2007). Although these floral visitors can only represent presumed pollinators because they were not observed to be carrying pollen, they represent the best available information regarding possible pollinators of *I. webberi*. Since no single pollinator or group of pollinators is known for *I. webberi*, we are not able to define habitat requirements for *I. webberi* in terms of the distances that particular orders, genera, or species of insect pollinators are known to travel.

Successful transfer of pollen among *Ivesia webberi* populations, therefore, may be inhibited if populations are separated by distances greater than pollinators can travel, or if a pollinator's nesting habitat or behavior is negatively affected (BLM 2012b, p. 2). Some bees such as bumblebees and other social species are able to fly extremely long distances. However, evidence suggests that their habitat does not need to remain contiguous, but it is more important that the protected habitat is large enough to maintain floral diversity to attract these pollinators (BLM 2012b, p. 18). By contrast, most solitary bees remain close to their nest; thus foraging distance tends to be 1,640 ft (500 m) or less (BLM 2012b, p.19). Conservation strategies that strive to maintain not just *I. webberi*, but the range of associated native plant species (many of which are also insect-pollinated) would therefore serve to attract a wide array of insect pollinators, both social and solitary, that may also serve as pollinators of *I. webberi* (BLM 2012b, pp. 5–6, 19). Because annual, nonnative, invasive grasses (such as *Bromus tectorum*) are wind-pollinated, they offer no reward for pollinators; as such nonnative species become established, pollinators are likely to become deterred from visiting areas occupied by *I. webberi*. Therefore, we consider an area of sufficient size with an intact assemblage of native plant species to provide for pollinator foraging and nesting habitat to be a physical or biological feature for *I.*

webberi.

Habitats Protected from Disturbance or Representative of the Historical, Geographical, and Ecological Distributions of the Species

The long-term conservation of *Ivesia webberi* is dependent on several factors, including, but not limited to: Maintenance of areas necessary to sustain natural ecosystem components, functions, and processes (such as light and intact soil hydrology); and sufficient adjacent suitable habitat for vegetative reproduction, population expansion, and pollination.

Disturbance—Soils with a high content of shrink-swell clays, such as those where *Ivesia webberi* is found, often create an unstable soil environment to which this species is presumably adapted (Belnap 2001, p. 183). These micro-scale disturbances are of light to moderate intensity; we are unaware of information to indicate that *I. webberi* has evolved with or is tolerant of moderate to heavy, landscape-scale disturbances. Moderate to heavy soil disturbances such as off-highway vehicle (OHV) use, road corridors, residential or commercial development, and livestock grazing can impact the species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26).

Climate change projections in the Great Basin, where *Ivesia webberi* occurs, include increasing temperatures (Chambers and Pellant 2008, p. 29; Finch 2012, p. 4), earlier spring snow runoff (Stewart *et al*. 2005, p. 1152), declines in snowpack (Knowles *et al*. 2006, p. 4557;

Mote *et al.* 2005, entire), and increased frequencies of drought and fire (Seager *et al.* 2007, pp. 1181–1184; Littell *et al.* 2009, pp. 1014–1019; Abatzoglou and Kolden 2011, pp. 474–475). Nonnative, invasive plant species and modified fire regimes are already impacting the quality and composition of the low sagebrush–perennial bunchgrass–forb plant community where *I. webberi* occurs (BLM 2012c). We anticipate that climate-related changes expected across the Great Basin, such as altered precipitation and temperature patterns, will accelerate the pace and spatial extent of nonnative plant infestations and altered fire regimes. These patterns of climate change may also decrease survivorship of *I. webberi* by causing physiological stress, altering phenology, and reducing recruitment events and seedling establishment.

Managing for appropriate disturbance regimes (in terms of the type or intensity of disturbance) is difficult, because sources of disturbance are numerous and our ability to predict the effects of multiple, interacting disturbance regimes upon species and their habitats is limited. For the reasons discussed above, we identify areas not subject to moderate to heavy, landscape-scale disturbances, such as impacts from vehicles driven off established roads or trails, development, livestock grazing, and frequent wildfire, to be a physical or biological feature for *I. webberi.*

Primary Constituent Elements for Ivesia webberi

Under the Act and its implementing regulations, we are required to identify the physical or biological features essential to the conservation of *Ivesia webberi* in areas occupied at the time of listing, focusing on the features' primary constituent elements. Primary constituent elements

are those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and habitat characteristics required to sustain the species' life-history processes, we determine that the primary constituent elements specific to *Ivesia webberi* are:

(i) *Plant community.*

(A) Open to sparsely vegetated areas composed of generally short-statured associated plant species.

(B) Presence of appropriate associated species that can include (but are not limited to): *Antennaria dimorpha, Artemisia arbuscula, Balsamorhiza hookeri, Elymus elymoides, Erigeron bloomeri, Lewisia rediviva, Poa secunda,* and *Viola beckwithii.*

(C) An intact assemblage of appropriate associated species to attract the floral visitors that may be acting as pollinators of *Ivesia webberi*.

(ii) *Topography.* Flats, benches, or terraces that are generally above or adjacent to large valleys. Occupied sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects.

(iii) *Elevation.* Elevations between 4,475 and 6,237 ft (1,364 and 1,901 m).

(iv) *Suitable soils and hydrology.*

(A) Vernally moist soils with an argillic horizon that shrink and swell upon drying and wetting; these soil conditions are characteristic of known *Ivesia webberi* populations and are likely important in the maintenance of the seedbank and population recruitment.

(B) Suitable soils that can include (but are not limited to): Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. All areas designated as critical habitat contain features that will require some level of management to address the current and future threats. In all units, special management will be required to ensure that the habitat is able to provide for the growth and reproduction of the species.

A detailed discussion of threats to *Ivesia webberi* and its habitat can be found in the *Ivesia webberi* Species Report (Service 2014, pp. 22–32). The features essential to the conservation of *I. webberi* (plant community and competitive ability, and suitable topography, elevation, soils, and hydrology required for the persistence of adults as well as successful reproduction of such individuals and the formation of a seedbank) may require special management considerations or protection to reduce threats. The current range of *I. webberi* is subject to human-caused modifications from the introduction and spread of nonnative invasive species including *Bromus tectorum*, *Poa bulbosa*, and *Taeniatherum caput-medusae*; modified

wildfire regime; increased access and fragmentation of habitat by new roads and OHVs; agricultural, residential, and commercial development; and soil and seedbank disturbance by livestock (Service 2014, pp. 22–32).

Special management considerations or protection are required within critical habitat areas to address these threats. Management activities that could ameliorate these threats include (but are not limited to): Treatment of nonnative, invasive plant species; minimization of OHV access and placement of new roads away from the species and its habitat; regulations or agreements to minimize the effects of development in areas where the species resides; minimization of livestock use or other disturbances that disturb the soil or seeds; and minimization of habitat fragmentation. Where the species occurs on private lands, protection and management could be enhanced by various forms of land acquisition from willing sellers, ranging from the purchase of conservation easements to fee title acquisition. These activities would protect the primary constituent elements for the species by preventing the loss of habitats and individuals, protecting the habitat and soils from undesirable patterns or levels of disturbance, and facilitating the management for desirable conditions, including disturbance regimes.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b) we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the

time of listing that contain the features essential to the conservation of the species. If, after identifying these specific areas, we determine the areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas outside of the geographic area occupied by the species are essential for the conservation of the species. We are not designating any areas outside the geographical area presently occupied by the species because its present range is sufficient to ensure the conservation of *Ivesia webberi.*

We delineated the critical habitat unit boundaries for *Ivesia webberi* using the following steps:

(1) In determining what areas were occupied by *Ivesia webberi*, we used polygon data collected by the Bureau of Land Management (BLM) (BLM 2011, 2012a, unpubl. survey), California Natural Diversity Database (Schoolcraft 1992, 1998, unpubl. survey; Krumm and Clifton 1996, unpubl. survey; Steele and Roe 1996, unpubl. survey), California Department of Fish and Wildlife (Sustain Environmental Inc. 2009, p. III-19), Nevada Natural Heritage Program (Witham 1991, entire; Witham 2000, entire; Morefield 2004, 2005, 2010a, 2010b, unpubl. survey; Picciani 2006, unpubl. survey), Forest Service (Duron 1990, entire; Howle and Henault 2009, unpubl. survey; Howle and Chardon 2011a, 2011b, 2011c, unpubl. survey), and consulting firms (Wood Rogers 2007, Tables 2 and 3, pp. 5–6) to map specific locations of *I. webberi* using ArcMap 10.1. These locations were classified into discrete populations based on mapping standards devised by NatureServe and its network of Natural Heritage Programs (NatureServe 2004, entire).

(2) We extended the boundaries of the polygon defining each population or subpopulation by 1,640 ft (500 m) to provide for sufficient pollinator habitat. This creates an area that is large enough to maintain flora diversity that would protect nesting areas of solitary pollinator species, while creating a large enough patch of flora diversity to attract social, wide-ranging pollinator species (as described above under the "*Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring*" section; BLM 2012b, p. 19).

(3) We then removed areas not containing the physical or biological features essential to the conservation of *I. webberi* within the 1,640-ft-wide (500-m-wide) area surrounding each population. We used a habitat model to identify areas lacking physical or biological features. The habitat model was developed by comparing occupied areas and the known environmental variables of these areas, such as elevation, slope, and soil type that we determined to be physical and biological features for this species. The environmental variables with the highest predictive ability influenced the habitat the model identified. Finally, we used ESRI ArcGIS (Geographic Information Systems) Imagery Basemap satellite imagery to exclude forested areas within the areas the model selected because this is not the vegetation type that is a physical and biological feature for *I. webberi*.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for *Ivesia webberi*. The scale of the maps we prepared under the parameters for publication within the Code of Federal

Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the final rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document in the **Regulation Promulgation** section. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, on our Internet site at *http://www.fws.gov/nevada/*, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

We are designating lands that we have determined are the specific areas within the geographical area presently occupied by the species, that contain the physical or biological features to support life-history processes essential for the conservation of *Ivesia webberi* as critical habitat.

Sixteen units (two of which contain subunits) are designated based on the physical or biological features being present to support *Ivesia webberi*'s life processes. Some units contain

all of the physical or biological features and support multiple life processes. Some segments contain only some of the physical or biological features necessary to support *Ivesia webberi's* particular use of that habitat.

Final Critical Habitat Designation

We are designating 16 units as critical habitat for *Ivesia webberi*, all of which are occupied. The critical habitat areas described below constitute our best assessment at this time of areas that meet the definition of critical habitat. Those 16 units are: (1) Sierra Valley, (2) Constantia, (3) East of Hallelujah Junction Wildlife Area (HJWA), Evans Canyon, (4) Hallelujah Junction Wildife Area (WA), (5) subunit 5a–Dog Valley Meadow and subunit 5b–Upper Dog Valley, (6) White Lake Overlook, (7) subunit 7a–Mules Ear Flat and subunit 7b–Three Pine Flat and Jeffrey Pine Saddle, (8) Ivesia Flat, (9) Stateline Road 1, (10) Stateline Road 2, (11) Hungry Valley, (12) Black Springs, (13) Raleigh Heights, (14) Dutch Louie Flat, (15) The Pines Powerline, and (16) Dante Mine Road. Table 1 lists the critical habitat units and subunits and the area of each.

TABLE 1—Designated critical habitat units for *Ivesia webberi*.

(Area estimates reflect all land within the critical habitat boundary.)

CH Unit and Subunit	Population (USFWS)	Unit or Subunit Name	Federally Owned Land acres (hectares)	State or Local Government Owned Land acres (hectares)	Privately Owned Land acres (hectares)	Total Area Acres (hectares)

1	1	Sierra Valley	51 (21)	44 (18)	179 (73)	274 (111)
2	2	Constantia	155 (63)	—	—	155 (63)
3	3	East of HJWA, Evans Canyon	22 (9)	100 (41)	—	122 (49)
4	4	Hallelujah Junction WA	—	69 (28)	—	69 (28)
5 5a	5	Dog Valley Meadow	386 (156)	—	—	386 (156)
5 5b	5	Upper Dog Valley	12 (5)	—	17 (7)	29 (12)
6	6	White Lake Overlook	98 (40)	—	11 (4)	109 (44)
7 7a	7	Mules Ear Flat	31 (13)	—	34 (14)	65 (27)
7 7b	7	Three Pine Flat; Jeffrey Pine Saddle	3 (1)	—	65 (26)	68 (27)
8	8	Ivesia Flat	62 (25)	—	—	62 (25)
9	9	Stateline Road 1	186 (75)	—	7 (3)	193 (78)
10	10	Stateline Road 2	66 (27)	—	—	66 (27)
11	11	Hungry Valley	56 (23)	—	—	56 (23)
12	12	Black Springs	133	—	30	163

			(54)		(12)	(66)
13	13	Raleigh Heights	229 (93)	—	24 (10)	253 (103)
14	14	Dutch Louie Flat	13 (5)	—	41 (17)	54 (22)
15	15	The Pines Powerline	—	—	32 (13)	32 (13)
16	16	Dante Mine Road	10 (4)	—	4 (2)	14 (6)
TOTAL			**1,513** **(612)**	**214** **(86)**	**444** **(180)**	**2,170** **(879)**

Note: Area sizes may not sum due to rounding.

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

Unit 1: Sierra Valley

Unit 1 consists of 274 ac (111 ha) of Federal, State, and private lands. This unit is located near the junction of State Highway 49 and County Highway A24 in Plumas County, California. Nineteen percent of this unit is on Federal lands managed by the BLM, 16 percent is on California State land, and 65 percent is on private lands. This unit is currently occupied and is the most western occupied unit within the range of *Ivesia webberi*. The Sierra Valley Unit is important to the recovery of *I. webberi* because it supports 44.8 ac (18.1 ha), or nearly one-third (27.2 percent), of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species'

range. Threats to *I. webberi* in this unit include nonnative, invasive species; wildfire; OHV use; roads; livestock grazing; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 2: Constantia

Unit 2 consists of 155 ac (63 ha) of Federal land. This unit is located east of U.S. Highway 395, southeast of the historic town of Constantia, in Lassen County, California. One hundred percent of this unit is on Federal lands managed by the BLM. This unit is currently occupied and is the most northern occupied unit within the range of *Ivesia webberi*. The Constantia Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Not a lot is known about the current condition of *I. webberi* and its habitat at this site; however, wildfire and any other forms of vegetation or ground-disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a

lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 3: East of Hallelujah Junction Wildlife Area (HJWA)–Evans Canyon

Unit 3 consists of 122 ac (49 ha) of Federal and State lands. This unit is located east of U.S. Highway 395 on the border of HJWA in Lassen County, California. Eighty-two percent of this unit is on California State land managed as the HJWA, and 18 percent is on Federal land managed by the BLM. This unit is currently occupied and is approximately 1.6 mi (2.6 km) away from Unit 4, which may allow for social pollinator dispersal between these two units. Additionally, this is the only place where *Ivesia webberi* is found as a co-dominant in an *Artemisia tridentata* Nutt. (big sagebrush) community instead of an *Artemisia arbuscula* (low sagebrush) community. The perennial bunchgrass and forb components of the *Artemisia tridentata* community found within this unit are the same as those occurring in locations where *A. arbuscula* is co-dominant with *I. webberi*. The East of HJWA–Evans Canyon Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Wildfire and any other forms of vegetation or ground-

disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 4: Hallelujah Junction Wildlife Area (HJWA)

Unit 4 consists of 69 ac (28 ha) of State lands. This unit is located west of U.S. Highway 395 within HJWA in Sierra County, California. One hundred percent of this unit is on California State land managed as the HJWA. It is currently occupied and is approximately 1.6 mi (2.6 km) away from Unit 3, which may allow for social pollinator dispersal between these two units. The HJWA Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Wildfire and any other forms of vegetation or ground-disturbing activities are threats to *I. webberi* in this unit. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special*

Management Considerations or Protection" section.

Unit 5: Subunit 5a–Dog Valley Meadow and Subunit 5b–Upper Dog Valley

Subunit 5a–Dog Valley Meadow

Subunit 5a consists of 386 ac (156 ha) of Federal lands. This subunit is located east of Long Valley Road in Dog Valley in Sierra County, California. One hundred percent of this subunit is on Federal lands managed by the Forest Service. It is currently occupied and is 0.5 mi (0.8 km) away from Subunit 5b, which may allow for social pollinator dispersal between these two subunits. The Dog Valley Meadow Subunit is important to the recovery of *Ivesia webberi* because it supports 71.58 ac (28.97 ha), or nearly half (43.5 percent), of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species' range and 100,000 plants, or approximately 2 to 10 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range (Service 2014, pp. 15–16). Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV and other recreational use; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 16). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Subunit 5b–Upper Dog Valley

Subunit 5b consists of 29 ac (12 ha) of Federal and private lands. This subunit is located west of Long Valley Road and south of the Dog Valley campground in Dog Valley in Sierra County, California. Forty-one percent of this subunit is on Federal lands managed by the Forest Service, and 59 percent is on private lands. It is currently occupied and is 0.5 mi (0.8 km) away from Subunit 5a, which may allow for social pollinator dispersal between these two subunits. The Upper Dog Valley Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment is currently vacant (Service 2014, p. 16). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 6: White Lake Overlook

Unit 6 consists of 109 ac (44 ha) of Federal and private lands. This unit is located north of Long Valley Road in Sierra County, California. Ninety percent of this unit is on Federal lands managed by the Forest Service and 10 percent is on private lands. This unit is currently occupied and is 1 mi (1.6 km) or less away from Units 7 and 9, which may allow for social pollinator dispersal between these units. The White Lake Overlook Unit is important to the recovery of *Ivesia webberi* because it supports 13.56 ac (5.49 ha), or 8.2 percent, of all habitat (165 ac (66.8 ha)) that is occupied by *I. webberi* across the species' range. Threats to *I. webberi* in this unit include wildfire and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 7: Subunit 7a–Mules Ear Flat and Subunit 7b–Three Pine Flat and Jeffrey Pine Saddle

Subunit 7a–Mules Ear Flat

Subunit 7a consists of 65 ac (27 ha) of Federal and private lands. This subunit is located west of the California–Nevada border and southeast of Long Valley Road in Sierra County, California. Forty-eight percent of this subunit is on Federal land managed by the Forest Service, and 52 percent is on private lands. This subunit is currently occupied and is 1 mi (1.6 km) or less

away from Units 6 and 9, which may allow for social pollinator dispersal between these units. The Mules Ear Flat Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 17). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Subunit 7b–Three Pine Flat and Jeffrey Pine Saddle

Subunit 7b consists of 68 ac (27 ha) of Federal and private lands. This subunit is located east of the California–Nevada border in Washoe County, Nevada. Four percent of this subunit is on Federal lands managed by the Forest Service, and 96 percent is on private lands. It is currently occupied and is 1 mi (1.6 km) or less away from Units 6, 8, and 9, which may allow for social pollinator dispersal between these units. The Three Pine Flat and Jeffery Pine Saddle

Subunit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this subunit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this subunit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 17). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this subunit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 8: Ivesia Flat

Unit 8 consists of 62 ac (25 ha) of Federal land. This unit is located south of U.S. Highway 395 in Washoe County, NV. One hundred percent of this unit is on Federal land managed by the Forest Service. It is currently occupied and is 1 mi (1.6 km) away from Subunit 7b, which may allow for social pollinator dispersal between these two units. The Ivesia Flat Unit is important to the recovery of *Ivesia webberi* because it supports 100,000 plants (Service 2014, p. 17), or approximately between 2 and 10 percent (i.e., dependent on which population estimate

range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, pp. 17–18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 9: Stateline Road 1

Unit 9 consists of 193 ac (78 ha) of Federal and private lands. This unit is located along the California–Nevada border in Sierra County, California, and Washoe County, Nevada. Ninety-six percent of this unit is on Federal land managed by the Forest Service, and 4 percent is on private lands. It is currently occupied and is 1 mi (1.6 km) or less away from Units 6, 7, and 10, which may allow for social pollinator dispersal between these units. The Stateline Road 1 Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive

plant species; wildfire; development; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 10: Stateline Road 2

Unit 10 consists of 66 ac (27 ha) of Federal land. This unit is located along the California–Nevada border in Sierra County, California, and Washoe County, Nevada. One hundred percent of this unit is on Federal land managed by the Forest Service. It is currently occupied and is less than 1 mi (1.6 km) away from Unit 9, which may allow for social pollinator dispersal between these units. The Stateline Road 2 Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; development; and any other forms of vegetation or ground-disturbing activities. Additionally,

this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 18). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 11: Hungry Valley

Unit 11 consists of 56 ac (23 ha) of Federal land. This unit is located west of Eagle Canyon Drive in Washoe County, Nevada. One hundred percent of this unit is on Federal land managed by the BLM. It is currently occupied and is the eastern most occupied unit within the range of *Ivesia webberi*. The Hungry Valley Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use and other recreational use; roads; livestock grazing; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be

addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 12: Black Springs

Unit 12 consists of 163 ac (66 ha) of Federal and private lands. This unit is located northwest of North Virginia Street and south of U.S. Highway 395 in Washoe County, Nevada. Eighty-two percent of this unit is on Federal land managed by the Forest Service, and 18 percent is on private lands. It is currently occupied and is approximately 1 mi (1.6 km) away from Unit 13, which may allow for social pollinator dispersal between these units. The Black Springs Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. Additionally, this unit historically was grazed, but the grazing allotment currently is vacant (Service 2014, p. 19). While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 13: Raleigh Heights

Unit 13 consists of 253 ac (103 ha) of Federal and private lands. This unit is located northwest of North Virginia Street and south of U.S. Highway 395 in Washoe County, Nevada. Ninety-one percent of this unit is on Federal land managed by the Forest Service, and 9 percent is on private lands. It is currently occupied and is approximately 1 mi (1.6 km) away from Unit 12, which may allow for social pollinator dispersal between these units. The Raleigh Heights Unit is important to the recovery of *Ivesia webberi* because it supports between 100,000 to 4,000,000 plants (Service 2014, p. 19), or approximately 10 to 79.5 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV use; roads; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 14: Dutch Louie Flat

Unit 14 consists of 54 ac (22 ha) of Federal and private lands. This unit is located southwest of South McCarran Boulevard in Washoe County, Nevada. Twenty-four percent of this unit is on Federal lands managed by the Forest Service, and 76 percent is on private lands. It

is currently occupied and is approximately 0.5 mi (0.8 km) away from Unit 15, which may allow for social pollinator dispersal between these units. The Dutch Louie Flat Unit is important to the recovery of *Ivesia webberi* because it supports between 600,000 to 693,795 plants (Service 2014, pp. 19–20), or approximately 14 to 61 percent (i.e., dependent on which population estimate range is used for the calculation) of individuals known to exist across the species' range. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV and other recreational use; roads; development; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 15: The Pines Powerline

Unit 15 consists of 32 ac (13 ha) of private lands. This unit is located southwest of South McCarran Boulevard in Washoe County, Nevada. One hundred percent of this unit is on private lands. It is currently occupied and is approximately 0.5 mi (0.8 km) away from Unit 14, which may allow for social pollinator dispersal between these two units. The Pines Powerline Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby

buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; OHV and other recreational use; roads; development; and any other forms of vegetation or ground-disturbing activities. While these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Unit 16: Dante Mine Road

Unit 16 consists of 14 ac (6 ha) of Federal and private lands. This unit is located east of U.S. Highway 395 in Douglas County, Nevada. Seventy-three percent of this unit is on Federal land managed by the BLM, and 27 percent is on private lands. It is currently occupied and is the southernmost unit within the range of *Ivesia webberi*. The Dante Mine Road Unit is important to the recovery of *I. webberi* primarily because it represents one of relatively few locations within the Great Basin where the species is known to exist. Given the increasing prevalence of both site-specific and landscape-scale threats operating throughout this region and specifically within areas occupied by *I. webberi* (Service 2014, entire), this location and most others where the species occurs confer redundancy within the species' distribution, thereby buffering the species against the risk of extirpation likely to result from these threats or other less-predicable stochastic events. Threats to *I. webberi* in this unit include nonnative, invasive plant species; wildfire; roads; development; and any other forms of vegetation or ground-disturbing activities. While

these lands currently have the physical and biological features essential to the conservation of *I. webberi*, because of a lack of cohesive management and protections, special management will be required to maintain these features in this unit. These threats should be addressed as detailed above in the "*Special Management Considerations or Protection*" section.

Effects of Critical Habitat Designation

Section 7 Consultation

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

Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of "destruction or adverse modification" (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir. 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al*., 245 F.3d 434, 434 (5th Cir. 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the provisions of the Act, we determine destruction or adverse

modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

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. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq*.) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

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

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

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we

provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define "reasonable and prudent alternatives" (at 50 CFR 402.02) as alternative actions identified during consultation that:

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

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

(3) Are economically and technologically feasible, and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or

designated critical habitat.

Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of critical habitat for *Ivesia webberi*. As discussed above, the role of critical habitat is to support life-history needs of the species and provide for the conservation of the species.

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

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for *Ivesia webberi*. These activities include, but are not limited to:

(1) Actions that would lead to the destruction or alteration of plants, their seedbank, or their habitat; or actions that destroy or result in continual or excessive disturbance of the clay soils where *Ivesia webberi* is found. Such activities could include, but are not limited to:

Activities associated with road construction and maintenance; excessive OHV use; activities associated with commercial and residential development, including roads and associated infrastructure; utility corridors or infrastructure; and excessive livestock grazing. These activities could lead to the loss of individuals; reduce plant numbers by prohibiting recruitment; remove the seedbank; fragment the habitat; introduce nonnative, invasive species; and alter the soil such that important shrink and swell processes no longer occur.

(2) Actions that would result in the loss of pollinators or their habitat, such that reproduction could be diminished. Such activities could include, but are not limited to: Destroying ground nesting habitat; habitat fragmentation that prohibits pollinator movement from one area to the next; spraying pesticides that would kill pollinators; and eliminating other plant species on which pollinators are reliant for floral resources (this could include the replacement of native forb species with nonnative, invasive annual grasses, which do not provide floral resources for pollinators). These activities could result in reduced reproduction, fruit production, and recruitment in *Ivesia webberi*.

(3) Actions that would result in excessive plant competition at *Ivesia webberi* populations. These activities could include, but are not limited to, using highly competitive species in restoration efforts or creating disturbances that allow establishment of nonnative, invasive species such as *Bromus tectorum*, *Poa bulbosa*, and *Taeniatherum caput-medusae*. These activities could cause *I. webberi* to be outcompeted and subsequently either lost or reduced in numbers of individuals.

Exemptions

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

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: "The Secretary shall not designate as critical habitat any lands or other geographic areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation." There are no Department of Defense lands with a completed INRMP within this final critical habitat designation.

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

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

to any factor.

Consideration of Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis (DEA) of the proposed critical habitat designation and related factors (composed of three documents, i.e., Industrial Economics, Inc. (IEc) 2013; IEc 2014; and Service 2013). The DEA was made available for public review from February 13, 2014, through March 17, 2014 (79 FR 8668); no new information was received during that comment period. Following the close of the comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. We took into consideration one public comment we received and the revision to the proposed critical habitat designation as outlined in the February 13, 2014, publication (79 FR 8668). Although we conducted a review of the revisions to the *Ivesia webberi* proposed critical habitat (as announced on February 13, 2014, at 79 FR 8668), we do not anticipate that those revisions to proposed critical habitat changed the findings as outlined in our DEA (Lee 2014, pers. comm.). A summary of our complete evaluation is presented below.

Our economic analysis quantifies economic impacts of *Ivesia webberi* conservation efforts associated with the following categories of activity: (1) Federal lands management (Forest Service and BLM); (2) commercial or residential development; (3) livestock grazing; (4)

OHV and other recreational activities; (5) wildfire; (6) vegetation management, including fuels reduction activities and management for invasive species; and (7) vegetation or ground-disturbing activities associated with construction, maintenance or use of roads, trails, transmission lines, or other infrastructure corridors (Service 2013, pp. 3–10). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement.

We determined that the section 7-related costs of designating critical habitat for *Ivesia webberi* are likely to be limited to the additional administrative effort required to consider adverse modification in a small number of consultations. This finding is based on:

(1) All units are considered occupied, providing baseline protection resulting from the listing of the species as threatened under the Act.

(2) Activities occurring within designated critical habitat with a potential to affect the species' habitat are also likely to adversely affect the species, either directly or indirectly.

(3) Project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy in occupied habitat.

(4) Federal agencies operating in critical habitat areas are already aware of the presence of *Ivesia webberi* and also are experienced with consulting with us under section 7 of the Act on other federally listed species.

Thus, in the baseline, they are likely to consult even in buffer areas surrounding the species included in the designation to ensure protection of pollinator habitat.

The incremental administrative burden resulting from the designation is unlikely to reach $100 million in a given year based on the small number of anticipated consultations (i.e., less than two consultations per year) and per-consultation costs. Furthermore, it is unlikely that the designation of critical habitat will trigger additional requirements under State or local regulations. Costs resulting from public perception of the effect of critical habitat, if they occur, are unlikely to reach $100 million in a given year, based on the small number of acres possibly affected and average land values in the vicinity of those acres.

Also as announced in our February 13, 2014, publication (79 FR 8668), we added 16 ac (6 ha) of private lands to the proposed critical habitat designation within Unit 12 (Black Springs) and Unit 13 (Raleigh Heights). In our DEA, we considered the potential for public perception effects that may result from the designation on four units located close to the Reno/Sparks metropolitan area, which included Units 12 and 13. Assuming that the additional private lands are also potentially developable, this increased the total number of acres that may be subject to development pressure in the foreseeable future to 125 ac (51 ha), as compared to the 114 ac (46 ha) presented in our DEA. We do not anticipate this revised amount of private, potentially developable land changes the conclusions presented in IEc (2014) (pp. 8–11).

As a result of this reevluation (Lee 2014, pers. comm.) of the information analyzed in our DEA (IEc 2013; IEc 2014; Service 2013), we reaffirm that we did not identify any disproportionate costs that are likely to result from the designation. Consequently, the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for *Ivesia webberi* based on economic impacts.

Exclusions Based on National Security Impacts or Homeland Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that no lands within the designation of critical habitat for *Ivesia webberi* are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security or homeland security. Consequently, the Secretary is not exercising her discretion to exclude any areas from this final designation based on impacts on national security or homeland security.

Exclusions Based on Other Relevant Impacts

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

In preparing this final rule, we have determined that there are currently no permitted HCPs or other management plans for *Ivesia webberi*, and the final designation does not include

any tribal lands or tribal trust resources. We anticipate no impact on tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising her discretion to exclude any areas from this final designation based on other relevant impacts.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for *Ivesia webberi* during two comment periods. The first comment period associated with the publication of the proposed rule (78 FR 46862) opened on August 2, 2013, and closed on October 1, 2013. We also requested comments on the proposed critical habitat designation and associated draft economic analysis during a comment period that opened February 13, 2014, and closed on March 17, 2014 (79 FR 8668). We did not receive any requests for a public hearing. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during these comment periods.

During the first comment period, we received 10 comment letters directly addressing the proposed critical habitat designation. During the second comment period, we received four comment letters addressing the proposed critical habitat designation or the draft economic analysis. All substantive information provided during comment periods has either been incorporated directly into this final determination or is addressed below. Comments we received are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We did not receive any responses from the peer reviewers.

Comments from States

Section 4(i) of the Act states, "the Secretary shall submit to the State agency a written justification for [her] failure to adopt regulations consistent with the agency's comments or petition." We did not receive any comments from the States of California or Nevada.

Comments from Federal Agencies

(1) Comment: The Forest Service recommends simplifying the boundaries of the critical habitat polygons to reduce the number of irregularly shaped lobes and aligning the boundaries with discernible features such as ridgelines, roads, topographic contours, and vegetation communities. They state that aligning the boundaries in this manner would be consistent with species conservation to provide more uncomplicated management under the Act. The Forest Service identified Units 12, 13, and 14 as highest priority for adjustment.

Our Response: We agree with this comment, and have simplified the boundaries of these

critical habitat units accordingly. Additionally, per 2013 survey information provided to us from the Forest Service, we have expanded the boundary of Unit 9 to include newly discovered, occupied *Ivesia webberi* habitat (C. Schnurrenberger, unpubl. survey 2013).

(2) Comment: The Forest Service recommends that the final critical habitat rule identify *Ivesia webberi* populations that would be particularly vulnerable to stochastic events. The Forest Service recommends indicating such populations occur in Units 6, 7 (Subunits 7a and 7b), 9, 10, and 12, which occur on Forest Service lands.

Our Response: Plant species (such as *Ivesia webberi*) that have a restricted range, specialized habitat requirements, and limited recruitment and dispersal have a higher risk of extinction due to demographic uncertainty and random environmental events (Shaffer 1987, pp. 69–75; Lande 1993, pp. 911–927; Hawkins *et al*. 2008, pp. 41–42). We regard all populations of *I. webberi* to be vulnerable to stochastic events because they are generally small, relatively isolated, and (in many cases) subject to one or more threats (Service 2014, pp. 31–33).

(3) Comment: The Forest Service recommends we consider the possible relevance of historical and potential habitats for the full recovery of *Ivesia webberi.*

Our Response: We agree with this comment; these factors will receive full consideration during recovery planning and implementation.

Public Comments

(4) Comment: One commenter recognized that the law requires the Service to designate critical habitat for listed species, but expressed the view that proposing critical habitat concurrent with listing was "pre-decisional" and "counterintuitive."

Our Response: When prudent and determinable, the Act requires the Service to designate any habitat considered to be critical habitat concurrently with making a determination that a species is an endangered or threatened species. The Act's section 4(a)(3)(A)(i) states that the Secretary "shall, concurrently with making a determination… that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat."

(5) Comment: One commenter stated that it was a contradiction to state that critical habitat (as discussed under the **Background** section of the proposed rule) does not affect land ownership (or establish a similar type of refuge or conserved area) and then indicate (under the *Special Management Considerations or Protection* section of the proposed rule) that special management would be required to conserve the species' habitat. This commenter asked why the identification of special management considerations does not, in effect, create a conservation area.

Our Response: Section 3 of the Act defines critical habitat, in part, as those specific areas that "may require special management considerations or protection." The identification of

special management considerations, however, does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. As stated in the proposed rule, the designation of critical habitat, and specifically the identification of management that may be required to maintain physical and biological features for a given a species, does not impose a legally binding duty on non-Federal government entities or private parties. The designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners, nor is any conserved or preserved area created. Under section 7 of the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests with the Federal agency.

(6) Comment: Multiple commenters asked how the critical habitat designation would affect private property and private property owners. One commenter specifically asked whether special management considerations were required to be implemented by private property owners.

Our Response: As stated in the proposed rule, the designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties, or require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. See additional discussion above in our response to Comment (5).

(7) Comment: One commenter asked whether critical habitat designation represents a taking of private property.

Our Response: We analyzed the potential takings implications of designating critical habitat for *Ivesia webberi* and concluded that this final designation will not have significant takings implications (see *Takings—Executive Order 12630* under the **Required Determinations** section). A person wishing to develop private land that has been designated as critical habitat, in accordance with State law, and with no Federal jurisdiction involved does not violate the Act. Critical habitat receives protection under section 7 of the Act through requiring Federal agencies to consult with us to ensure that action they carry out, fund, or authorize does not result in the destruction or adverse modification of critical habitat. If there is no Federal nexus, the critical habitat designation of private lands itself does not restrict any private activities. See also response to Comment 14.

(8) Comment: One commenter asked if property owners have been notified.

Our Response: The Act does not require us to notify individual property owners affected by a proposed listing or critical habitat designation. However, we conducted extensive outreach in accordance with 50 CFR 424.16, including giving notice of the proposed regulation to the public, Federal agencies, and State agencies; publishing a summary of the proposed regulation in the Reno Gazette Journal; and holding a public informational meeting.

(9) Comment: Several comments were received related to road closures and anticipated

impacts upon recreational activities, particularly the use of OHVs (including 4-wheel drive vehicles). One commenter asked how road closures would protect *Ivesia webberi*. Another commenter stated that OHVs are used as their primary mode of transportation, and recommended that this be taken into consideration when roads or trails are considered for closure. One commenter asked how the species would be protected or affected if hiking is still allowed.

Our Response: Final rules designating critical habitat do not automatically eliminate or place restrictions on any recreational activities, such as hiking or OHV use, within critical habitat. A critical habitat designation does not establish any closures of roads or trails. Rather, once critical habitat is designated on Federal lands, it becomes the responsibility of the Federal agency with jurisdiction over those lands included in the designation to review the various kinds of recreational activities allowed on its lands to determine in consultation with the Service if these activities may result in the destruction or adverse modification of designated critical habitat. The decision to close or restrict recreational activities (OHV, hiking, or other) to potentially protect or reduce impacts to a listed species or its critical habitat is made by that Federal agency.

With regard to the question of how road closures would protect *Ivesia webberi,* we first reiterate that critical habitat designation does not establish road closures. However, road closures represent a means of addressing and reducing the patterns of disturbance to *I. webberi* habitat that are associated with road corridors subject to heavy use. Road corridors experiencing heavy use, and particularly those roads that serve to provide access (via off-road travel) into habitats occupied by *I. webberi*, are likely to eliminate conditions required by the species for

persistence and reproduction. As noted in the *Physical or Biological Features* section above, moderate to heavy soil disturbances such as OHV use, road corridors, residential or commercial development, and livestock grazing can impact the species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26). For more information, please see "*Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*" under the *Physical or Biological Features* section, above).

(10) Comment: One commenter requested that any location within the proposed critical habitat designation that has an adopted route travel management system be excluded from the final critical habitat designation, with a 50-ft (15-m) from centerline corridor established to allow space for parking.

Our Response: Travel or route planning documents, and any accompanying evaluations of the legal status of existing or potential travel routes, are planning and management actions within the jurisdiction of land management agencies. Critical habitat designations do not establish any planning documents or management plans; rather, the designation of critical habitat identifies those physical and biological features that may be essential to the conservation of a species and may require special management considerations and protections, and the land area on which those features are found. To the extent that certain areas within our critical habitat designation contain roads and other manmade structures (e.g., fences, houses, paved areas, and other structures), these features are not included within the critical habitat designation because they do not contain the primary constituent elements and because they do not meet the definition

of critical habitat under the Act.

(11) Comment: One commenter stated that, in 2006, a 4-wheel drive club successfully blockaded about 1,000 linear ft (305 m) on the west edge of Dutch Louie Flat meadow with used utility poles to prevent vehicles and people from going into the meadow. This commenter then states that if Service, Forest Service, and Nevada Department of Wildlife employees have been walking through the Dutch Louie Flat meadow, they have been trampling the plant.

Our Response: We are aware of this action having been undertaken in "Dutch Louie Flat meadow"; however, this area (the meadow) is not located within our critical habitat designation and does not contain *Ivesia webberi*. Unit 14 (Dutch Louie Flat, as described under the **Final Critical Habitat Designation** section, above) is located approximately 1.4 mi (2.3 km) northwest of the "Dutch Louie Flat meadow" where the 4-wheel drive club conducted their activities.

(12) Comment: Two commenters made specific reference to the old road between Hoge Road and North Virginia Street (in apparent reference to Unit 13 of the critical habitat designation), and stated that *Ivesia webberi* does not grow on this road, is 40 or 50 yards (37 or 46 m) or more away from the road, and is in very limited places, and the road is not composed of suitable soils.

Our Response: Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into

consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. While we cannot be certain from the comment which road is being referenced here, we are aware that Unit 13 contains many roads that receive varied levels of use. The best available information indicates that *Ivesia webberi* grows sporadically within some of the road corridors in Unit 13, and along the shoulders of other road corridors within this unit (S. Kulpa, J. Johnson, E. Bergstrom, and K. O'Conner, unpublished field notes 2013). The presence of the species within or along these road corridors indicates that the physical or biological features, and thus the primary constituent elements required by the species are still currently present in these areas. Along most road corridors within this species' range, and within our critical habitat designation, frequent (historical or current) OHV use most often results in a well-established corridor in which vegetation is absent and soils have been compacted to a degree that discourages or precludes the re-establishment of vegetation (including *I. webberi*).

(13) Comment: A commenter asked if any scientific studies have been conducted that indicate if livestock use within the critical habitat areas has an adverse effect on *Ivesia webberi*. The commenter believes the presence of the species within grazed areas should serve as an indication that livestock have not adversely affected the plant.

Our Response: We are not aware of studies specifically examining the effects of livestock grazing upon *Ivesia webberi*. However, as noted elsewhere in the proposed critical habitat designation and this final rule, moderate to heavy soil disturbances such as OHV use, road corridors, residential or commercial development, and livestock grazing can impact the

species and its seedbank through habitat loss, fragmentation, and degradation due to soil compaction and altered soil hydrology (Witham 2000, Appendix 1, p. 1; Bergstrom 2009, pp. 25–26). We have specifically identified vernally moist soils with an argillic horizon that shrink and swell upon wetting and drying as a physical and biological feature essential for the conservation of *I. webberi*. Excessive or inadequately managed livestock grazing has the potential to eliminate these conditions that are required by the species for persistence and reproduction. See the **Summary of Biological Status and Threats** section of the proposed listing rule (78 FR 46889; August 2, 2013) and the Species Report (Service 2014, pp. 29–30) for additional discussion on the potential effects of grazing to *I. webberi* habitat.

(*14) Comment:* One commenter stated that a portion of the private lands within Unit 1 has historically been used for livestock grazing, and asked who would determine whether special management considerations or protection would be required in this area, and how that special management or protections would be enforced.

Our Response: The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under section 7 of the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action (i.e., a Federal nexus exists), may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests with the Federal agency. Therefore, there is no requirement or enforcement of

special management considerations or protections on the private lands within Unit 1 or any other private lands (without a Federal nexus) within the critical habitat designation for *Ivesia webberi*.

(15) Comment: One commenter advocated for public education to users of motorized recreational vehicles.

Our Response: We agree that public education is a vital component of any conservation program and will promote outreach for *Ivesia webberi* and its critical habitat through avenues such as (but not limited to) our continued coordination with partners and future recovery planning efforts.

(16) Comment: One commenter recommended that we consider geothermal energy sources as a threat to Unit 16 because it occurs near an active exploration area that is on Forest Service land. The commenter believe that exploitation of geothermal energy resources in this area could have impacts on hydrological processes in Unit 16.

Our Response: Per our coordination with the Forest Service, we are not aware of any geothermal energy projects within the vicinity of Unit 16.

Comments Related to the Draft Economic Analysis (DEA)

(17) Comment: One commenter stated that the DEA did not assess the economic benefits that may result from the designation of 114 ac (46 ha) of private, vacant lands as critical habitat

in the Reno/Sparks metropolitan area. In particular, the commenter suggested that critical habitat designation may increase the likelihood that these areas remain in an open and undeveloped condition. Further, this commenter noted that a significant body of literature suggests that proximity to conserved, open space generates economic benefits to surrounding landowners and communities through improvements in water management, increases in revenues from recreational activities, increases in revenues to local municipalities, and increases in housing prices.

Our Response: The primary goal of critical habitat designation for *Ivesia webberi* is to promote the conservation of the species. Critical habitat designation may also generate ancillary benefits, which are defined as favorable impacts of a rulemaking that are typically unrelated, or secondary, to the statutory purpose of the rulemaking (Office of Management and Budget (OMB) 2003). Critical habitat aids in the conservation of species specifically by protecting the physical or biological features on which the species depends. To this end, management actions undertaken to conserve a species or habitat may have coincident, positive social welfare implications, such as increased recreational opportunities in a region or improved property values on nearby parcels.

As described in our DEA (IEc 2014, p. 2), incremental changes in land management as a result of the designation of critical habitat are unlikely. This finding is based primarily on the fact that all areas designated as critical habitat are considered occupied by the species and therefore receive baseline protection from the listing of the species under the Act. Thus, in this instance, critical habitat designation will likely add a slight incremental conservation benefit to

that already provided by baseline conservation efforts (e.g., efforts resulting from the listing of the species as threatened under the Act). For the same reason, it follows that the critical habitat designation will likely add slight incremental ancillary benefits above those provided in the baseline.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

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

under this designation as well as types of project modifications that may result. In general, the term “significant economic impact” is meant to apply to a typical small business firm’s business operations.

The Service’s current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried by the Agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7 only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we

affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared to not taking the regulatory action under consideration.

Based on information in the economic analysis, energy-related impacts associated with *Ivesia webberi* conservation activities within critical habitat are not expected. As such, the designation of critical habitat 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*.), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments" with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under

section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act . Our economic analysis concludes that the economic costs of implementing the rule through section 7 of the Act will most likely be limited to
the additional administrative effort required to consider adverse modification. This finding is based on the following factors:

(a) All units are considered occupied, providing baseline protection;

(b) Activities occurring within designated critical habitat with a potential to affect critical habitat are also likely to adversely affect the species, either directly or indirectly;

(c) In occupied habitat, project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy; and

(d) Federal agencies operating in designated critical habitat areas are already aware of the presence of the species and are also experienced consulting with the Service under section 7 of the Act on other federally listed species. Thus, they are likely to consult even in buffer areas applied to occupied habitat, included in the designation to ensure the protection of pollinator habitat.

Consequently, we do not believe that the critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (‘‘Government Actions and Interference with Constitutionally Protected Private Property Rights’’), we have analyzed the potential takings implications of designating critical habitat for *Ivesia webberi* in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Our DEA found (and our FEA reaffirms) that no significant economic impacts are likely to result from the designation of critical habitat for *Ivesia webberi.* Because the Act’s critical habitat protection requirements apply only to Federal agency

actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the DEA and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for *I. webberi* does not pose significant takings implications.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in California and Nevada. We did not receive comments from California or Nevada in response to our request for information on the proposed rule. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may

occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of *Ivesia webberi*. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

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

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

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 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to

communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by *Ivesia webberi* at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by *I. webberi* that are essential for the conservation of the species. Therefore, we are not designating critical habitat for *I. webberi* on tribal lands.

References Cited

A complete list of all references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rulemaking are the staff members of the Pacific Southwest Regional Office and Nevada Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. In § 17.96, amend paragraph (a) by adding an entry for *Ivesia webberi* (Webber's ivesia), in alphabetical order under Family Rosaceae, to read as follows:

§ 17.95 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Rosaceae: *Ivesia webberi* (Webber's ivesia)

(1) Critical habitat units are depicted for Plumas, Lassen, and Sierra Counties, California, and Washoe and Douglas Counties, Nevada, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of *Ivesia webberi* consist of four components:

(i) *Plant community.*

(A) Open to sparsely vegetated areas composed of generally short-statured associated plant species.

(B) Presence of appropriate associated species that can include (but are not limited to): *Antennaria dimorpha, Artemisia arbuscula, Balsamorhiza hookeri, Elymus elymoides, Erigeron bloomeri, Lewisia rediviva, Poa secunda,* and *Viola beckwithii.*

(C) An intact assemblage of appropriate associated species to attract the floral visitors that may be acting as pollinators of *Ivesia webberi*.

(ii) *Topography.* Flats, benches, or terraces that are generally above or adjacent to large valleys. Occupied sites vary from slightly concave to slightly convex or gently sloped (0–15°) and occur on all aspects.

(iii) *Elevation.* Elevations between 4,475 and 6,237 feet (1,364 and 1,901 meters).

(iv) *Suitable soils and hydrology.*

(A) Vernally moist soils with an argillic horizon that shrink and swell upon drying and

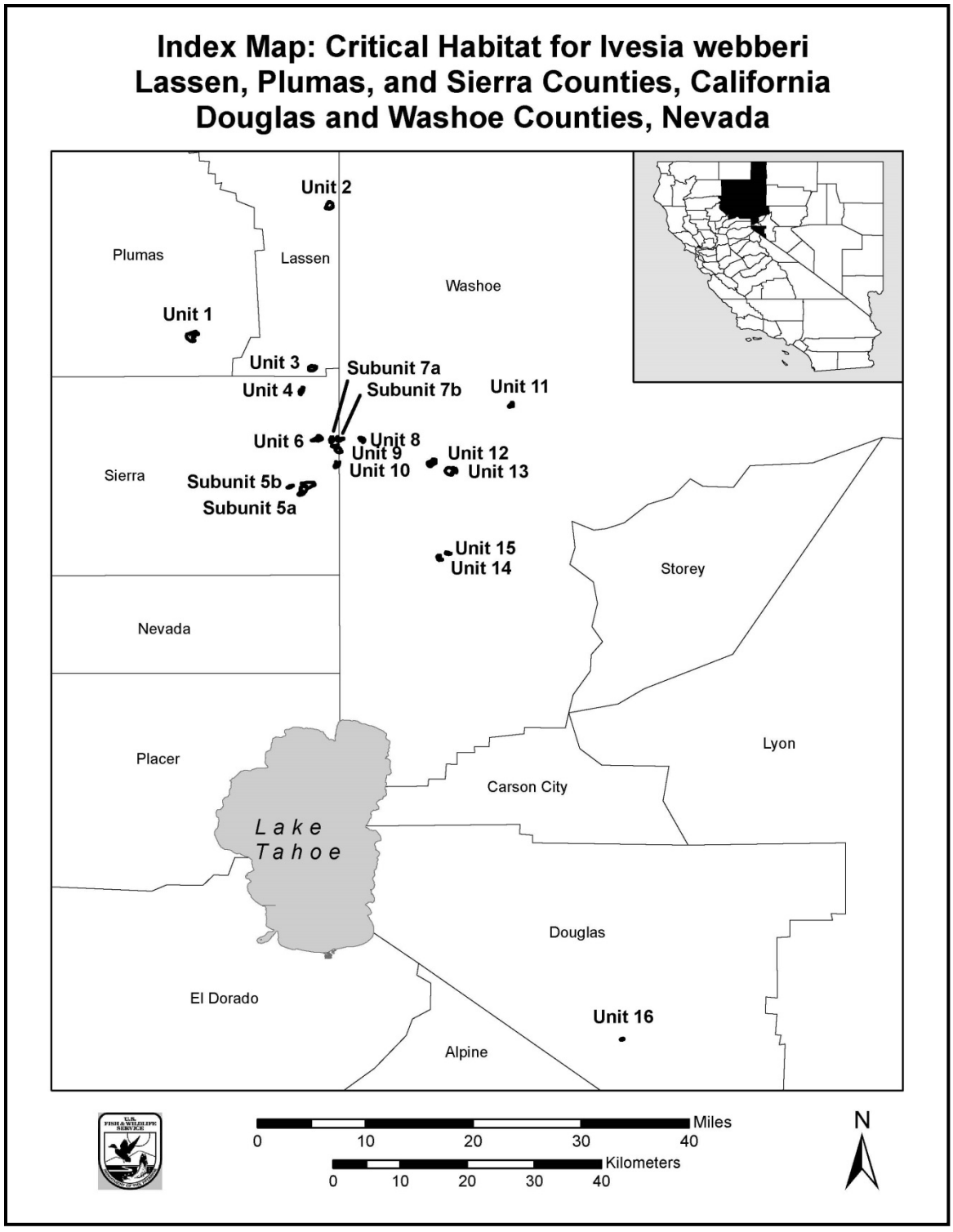
wetting; these soil conditions are characteristic of known *Ivesia webberi* populations and are likely important in the maintenance of the seedbank and population recruitment.

(B) Suitable soils that can include (but are not limited to): Reno—a fine, smectitic, mesic Abruptic Xeric Argidurid; Xman—a clayey, smectitic, mesic, shallow Xeric Haplargids; Aldi—a clayey, smectitic, frigid Lithic Ultic Argixerolls; and Barshaad—a fine, smectitic, mesic Aridic Palexeroll.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on [INSERT DATE 30 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION].

(4) *Critical habitat map units.* Data layers defining map units were created on the base of both satellite imagery (ESRI ArcGIS Imagery Basemap) as well as USGS geospatial quadrangle maps and were mapped using NAD 83 Universal Transverse Mercator (UTM), zone 11N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0080, and at the field office responsible for this designation (i.e., Nevada Fish and Wildlife Office (*http://www.fws.gov/nevada/*)). You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

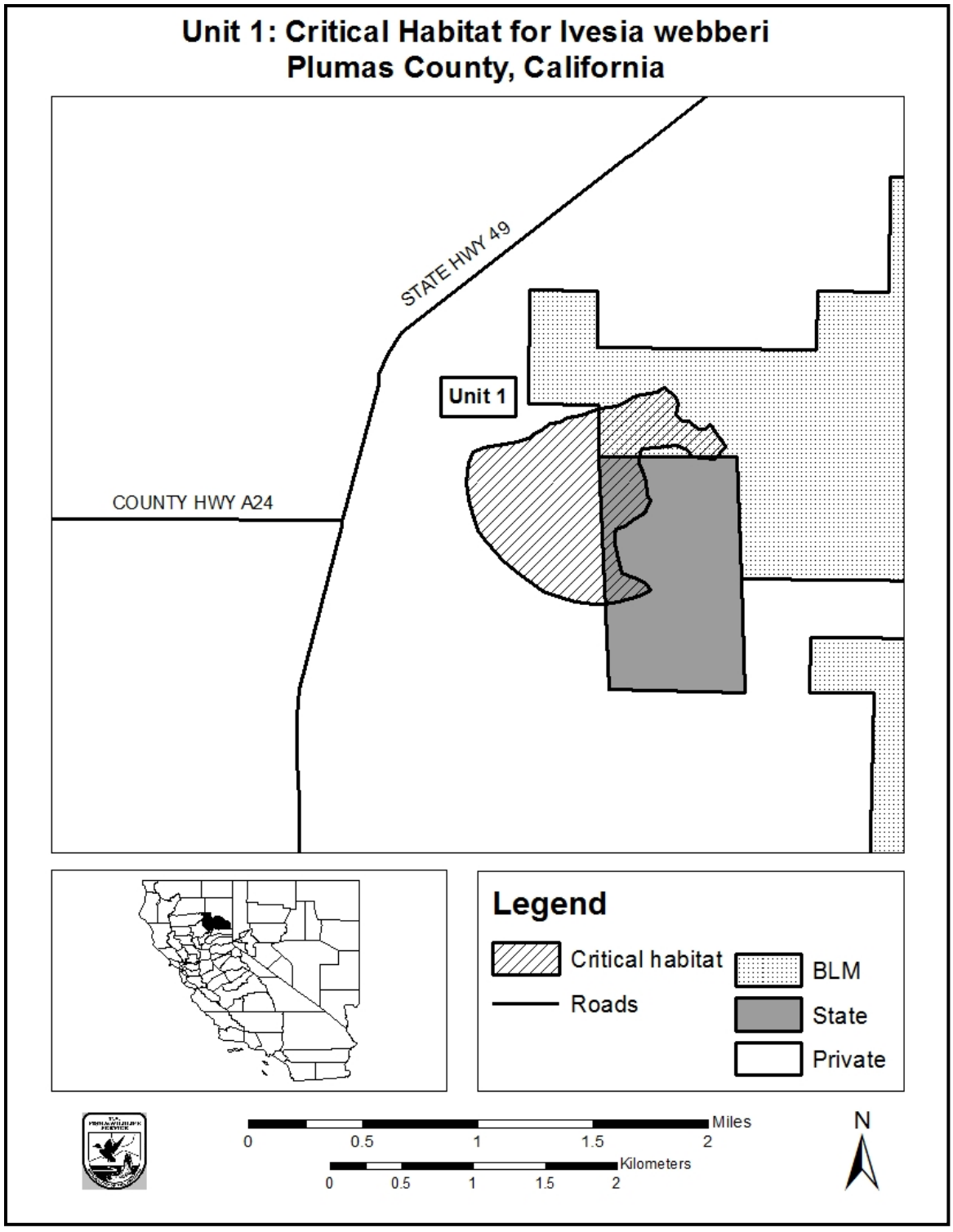
(5) Index map follows:


Index Map: Critical Habitat for Ivesia webberi
Lassen, Plumas, and Sierra Counties, California
Douglas and Washoe Counties, Nevada
Unit 2
Plumas
Lassen
Washoe
Unit 1
Unit 3
Subunit 7a
Unit 4
Subunit 7b
Unit 11
Unit 6
Unit 8
Unit 9
Unit 12
Unit 10
Unit 13
Sierra
Subunit 5b
Subunit 5a
Unit 15
Unit 14
Storey
Nevada
Placer
Lyon
Carson City
Lake Tahoe
Douglas
El Dorado
Unit 16
Alpine
Miles
0 10 20 30 40
Kilometers
0 10 20 30 40
N

(6) Unit 1: Sierra Valley, Plumas County, California.

(i) Unit 1 includes 274 ac (111 ha).

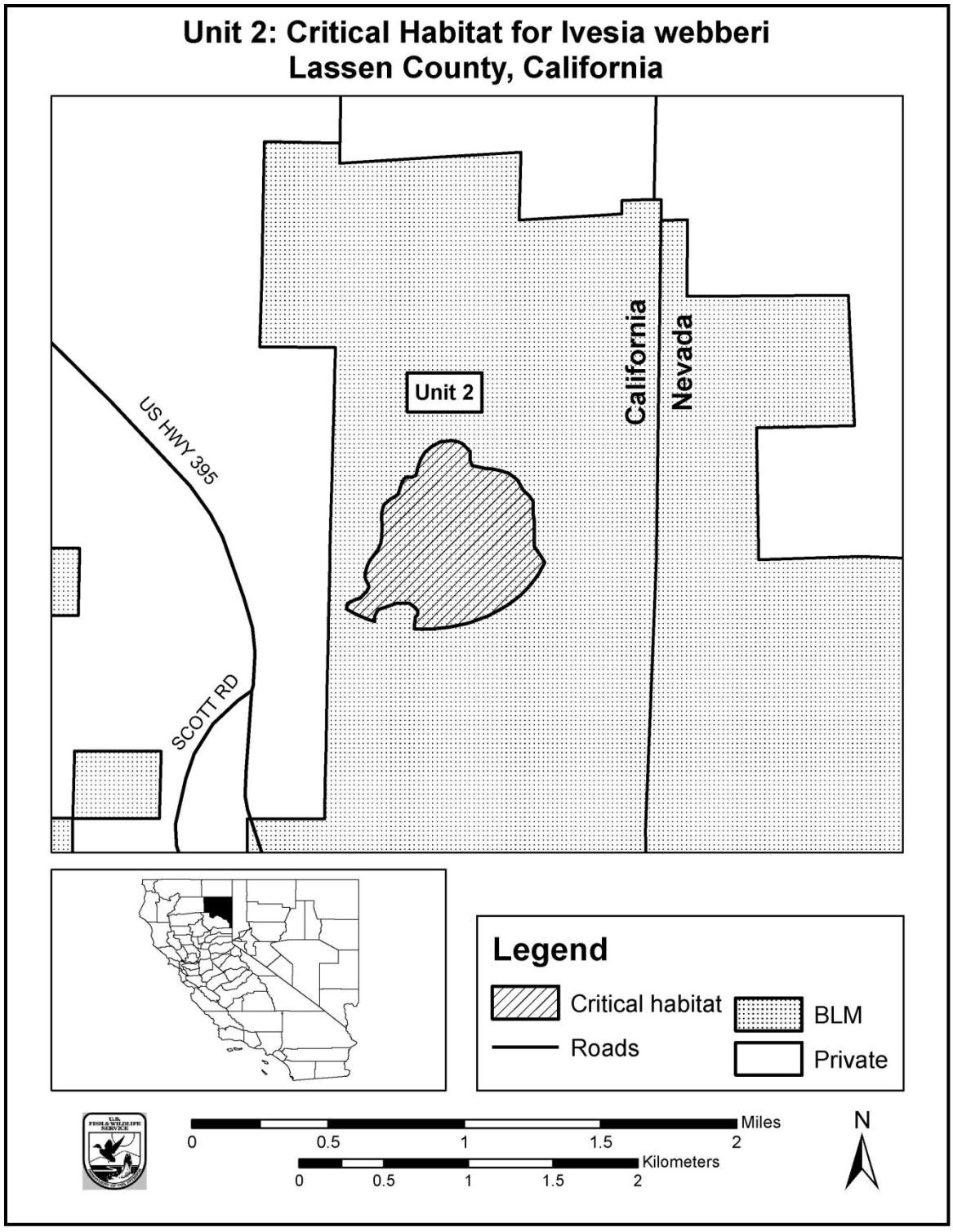
(ii) Map of Unit 1 follows:


Unit 1: Critical Habitat for Ivesia webberi
Plumas County, California
STATE HWY 49
Unit 1
COUNTY HWY A24
Legend
Critical habitat
Roads
BLM
State
Private
Miles
0
0.5
1
1.5
2
Kilometers
0
0.5
1
1.5
2
N

(7) Unit 2: Constantia, Lassen County, California.

(i) Unit 2 includes 155 ac (63 ha).

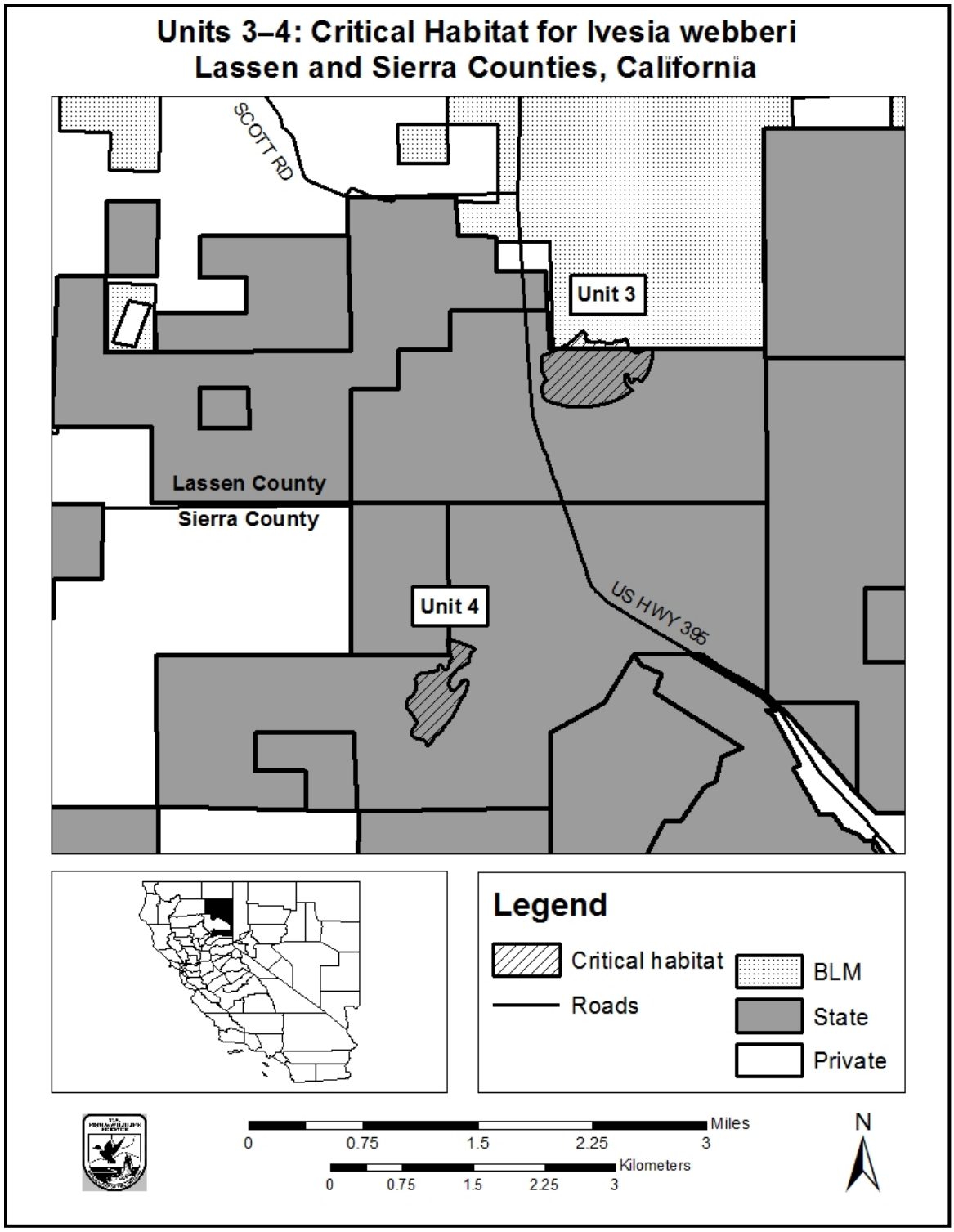
(ii) Map of Unit 2 follows:


Unit 2: Critical Habitat for Ivesia webberi
Lassen County, California
US HWY 395
SCOTT RD
Unit 2
California
Nevada
Legend
Critical habitat
Roads
BLM
Private
0
0.5
1
1.5
2
Miles
0
0.5
1
1.5
2
Kilometers
N

(8) Unit 3: East of Hallelujah Junction Wildlife Area, Evans Canyon; Lassen County, California.

(i) Unit 3 includes 122 ac (49 ha).

(ii) Map of Units 3 and 4 follows:


Units 3–4: Critical Habitat for Ivesia webberi
Lassen and Sierra Counties, California
SCOTT RD
Unit 3
Lassen County
Sierra County
Unit 4
US HWY 395
Legend
Critical habitat
Roads
BLM
State
Private
Miles
0
0.75
1.5
2.25
3
Kilometers
0
0.75
1.5
2.25
3
N

(9) Unit 4: Hallelujah Junction Wildlife Area, Sierra County, California.

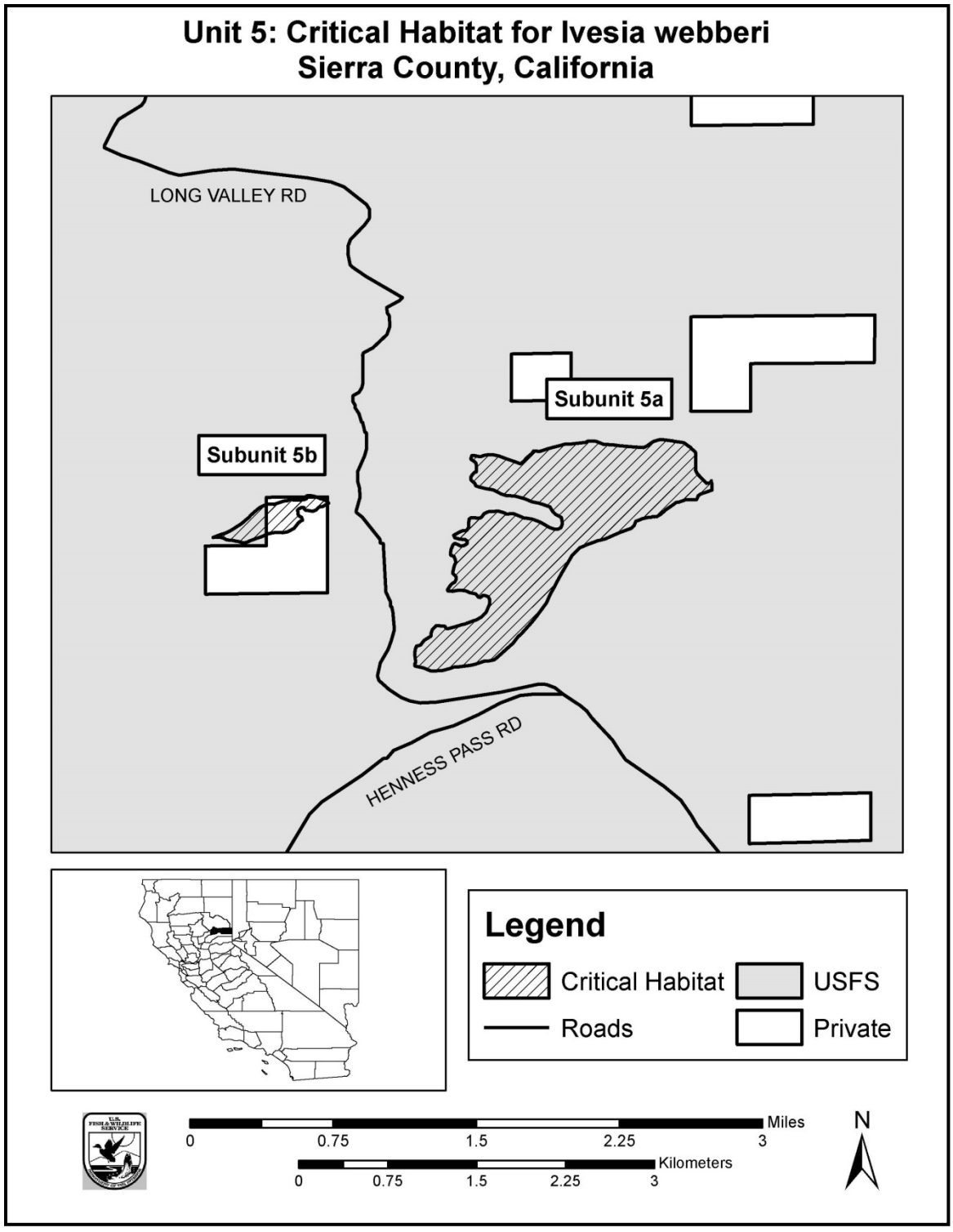
(i) Unit 4 includes 69 ac (28 ha).

(ii) Map of Unit 4 is provided at paragraph (8)(ii) of this entry.

(10) Unit 5: Subunit 5a, Dog Valley Meadow, and Subunit 5b, Upper Dog Valley; Sierra County, California.

(i) Subunit 5a includes 386 ac (156 ha), and subunit 5b includes 29 ac (12 ha). Combined, Unit 5 includes 415 ac (168 ha).

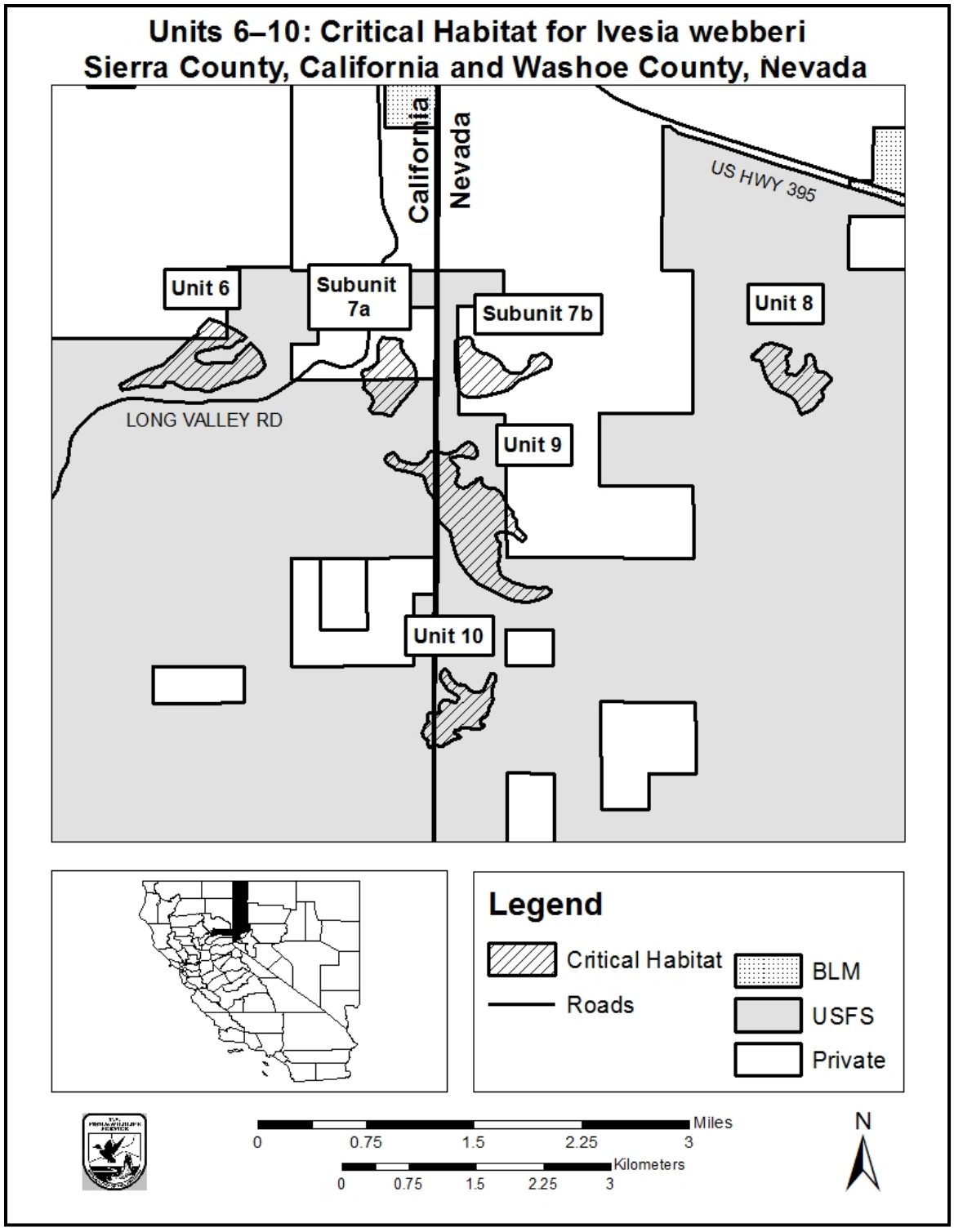
(ii) Map of Unit 5 (Subunits 5a and 5b) follows:


Unit 5: Critical Habitat for Ivesia webberi
Sierra County, California
LONG VALLEY RD
Subunit 5a
Subunit 5b
HENNESS PASS RD
Legend
Critical Habitat
USFS
Roads
Private
Miles
0
0.75
1.5
2.25
3
Kilometers
0
0.75
1.5
2.25
3
N

(11) Unit 6: White Lake Overlook, Sierra County, California.

(i) Unit 6 includes 109 ac (44 ha).

(ii) Map of Units 6, 7, 8, 9, and 10 follows:


Units 6–10: Critical Habitat for Ivesia webberi
Sierra County, California and Washoe County, Nevada
California
Nevada
US HWY 395
Unit 6
Subunit 7a
Subunit 7b
Unit 8
LONG VALLEY RD
Unit 9
Unit 10
Legend
Critical Habitat
Roads
BLM
USFS
Private
Miles
0
0.75
1.5
2.25
3
Kilometers
0
0.75
1.5
2.25
3
N

(12) Unit 7: Subunit 7a, Mules Ear Flat, Sierra County, California; Subunit 7b, Three Pine Flat and Jeffery Pine Saddle, Washoe County, Nevada.

(i) Subunit 7a includes 65 ac (27 ha), and subunit 7b includes 68 ac (27 ha).

(ii) Map of Unit 7 is provided at paragraph (11)(ii) of this entry.

(13) Unit 8: Ivesia Flat, Washoe County, Nevada.

(i) Unit 8 includes 62 ac (25 ha).

(ii) Map of Unit 8 is provided at paragraph (11)(ii) of this entry.

(14) Unit 9: Stateline Road 1, Sierra County, California, and Washoe County, Nevada.

(i) Unit 9 includes 193 ac (78 ha).

(ii) Map of Unit 9 is provided at paragraph (11)(ii) of this entry.

(15) Unit 10: Stateline Road 2, Sierra County, California, and Washoe County, Nevada.

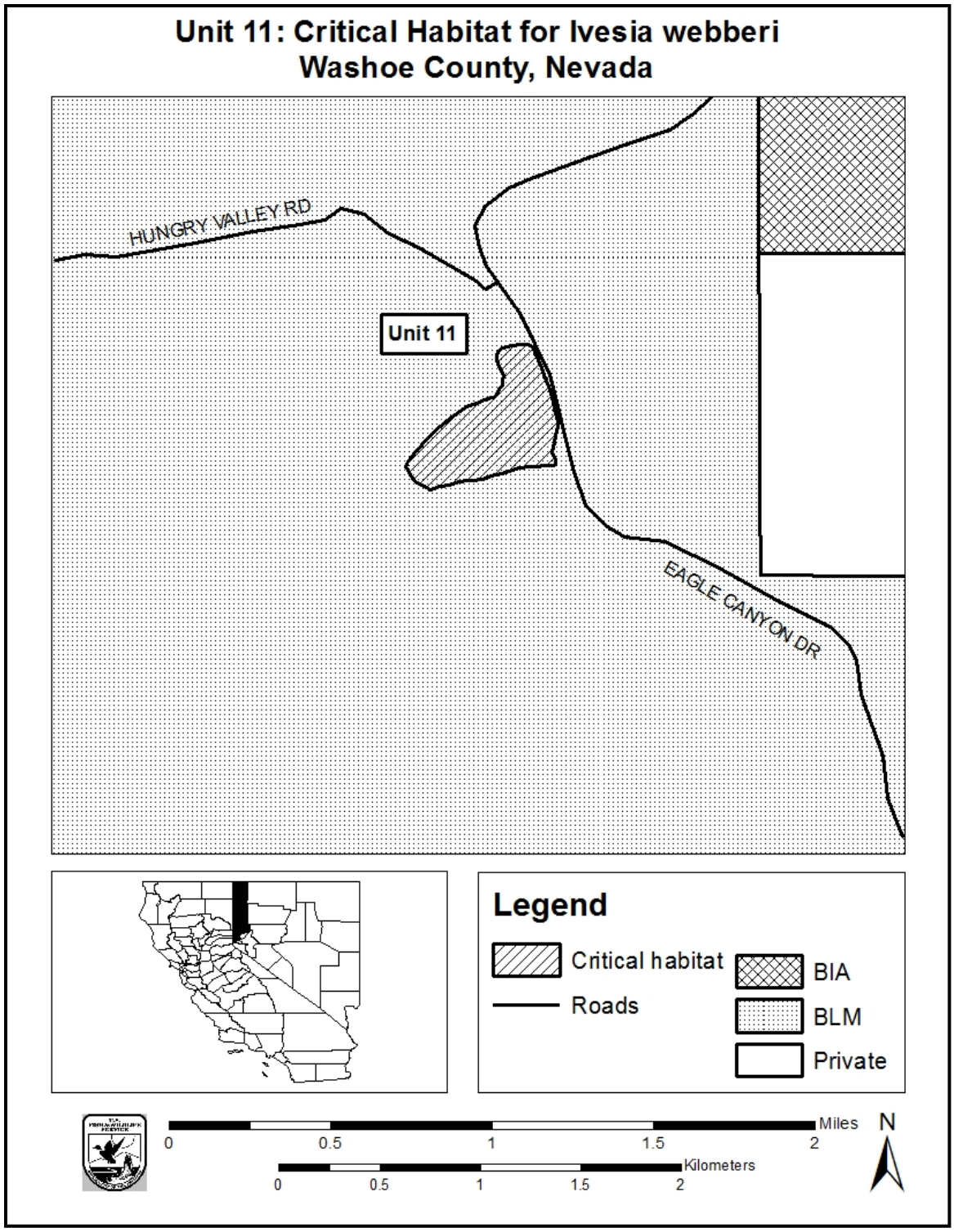
(i) Unit 10 includes 66 ac (27 ha).

(ii) Map of Unit 10 is provided at paragraph (11)(ii) of this entry.

(16) Unit 11: Hungry Valley, Washoe County, Nevada.

(i) Unit 11 includes 56 ac (23 ha).

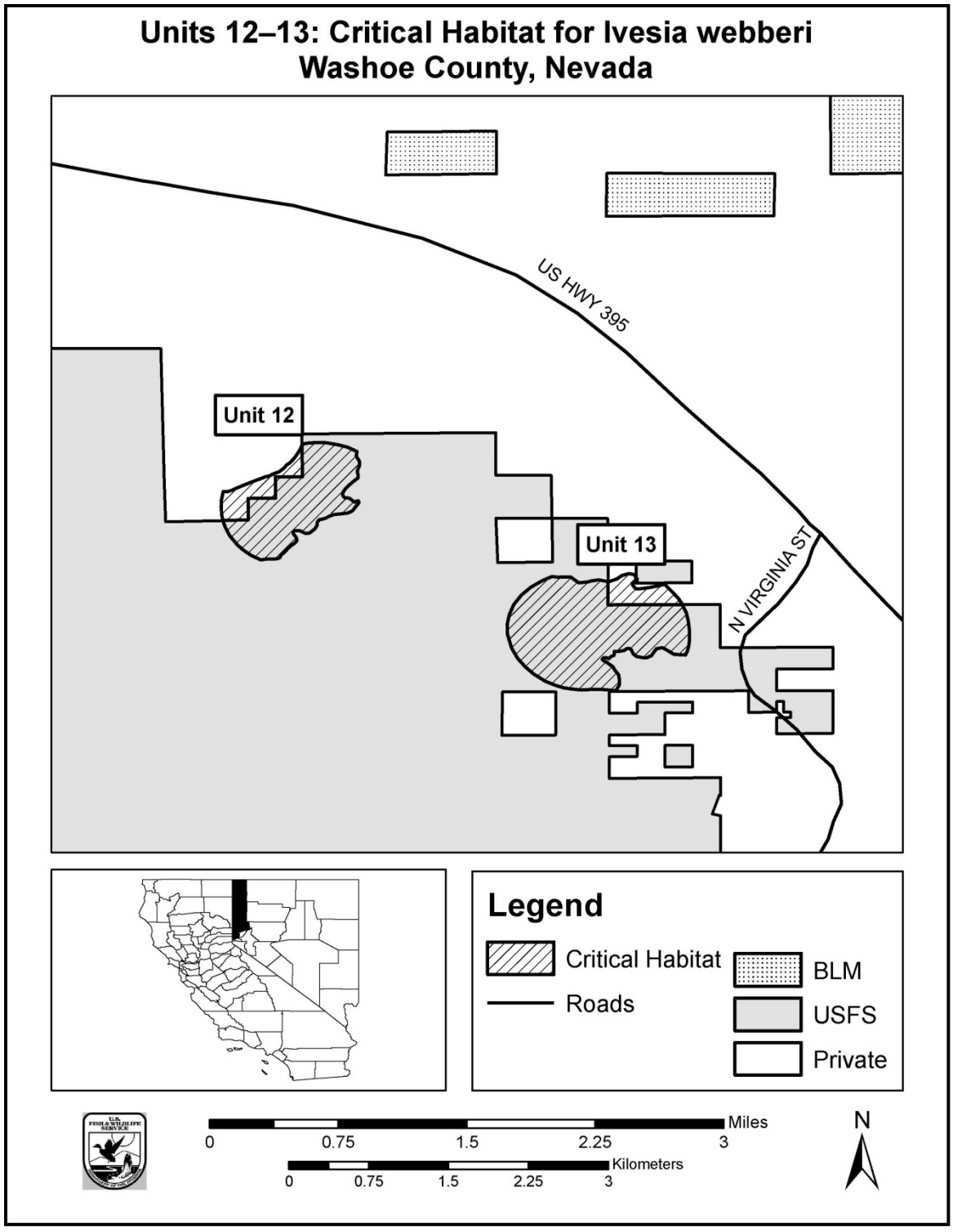
(ii) Map of Unit 11 follows:


Unit 11: Critical Habitat for Ivesia webberi
Washoe County, Nevada
HUNGRY VALLEY RD
Unit 11
EAGLE CANYON DR
Legend
Critical habitat
Roads
BIA
BLM
Private
Miles
0
0.5
1
1.5
2
Kilometers
0
0.5
1
1.5
2
N

(17) Unit 12: Black Springs, Washoe County, Nevada.

(i) Unit 12 includes 163 ac (66 ha).

(ii) Map of Units 12 and 13 follows:


Units 12–13: Critical Habitat for Ivesia webberi
Washoe County, Nevada
US HWY 395
Unit 12
Unit 13
N VIRGINIA ST
Legend
Critical Habitat
Roads
BLM
USFS
Private
Miles
0
0.75
1.5
2.25
3
Kilometers
0
0.75
1.5
2.25
3
N

(18) Unit 13: Raleigh Heights, Washoe County, Nevada.

(i) Unit 13 includes 253 ac (103 ha).

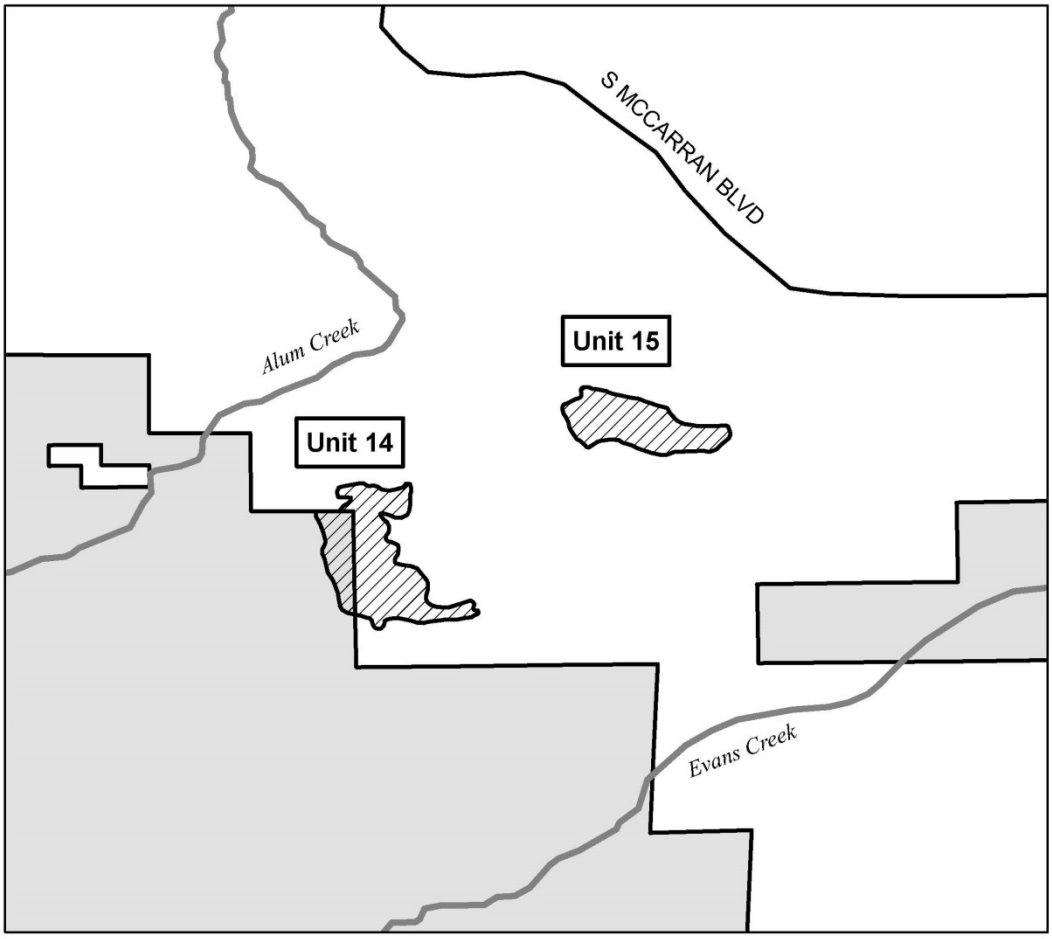
(ii) Map of Unit 13 is provided at paragraph (17)(ii) of this entry.

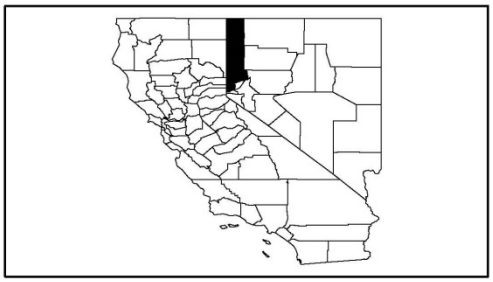
(19) Unit 14: Dutch Louie Flat, Washoe County, Nevada.

(i) Unit 14 includes 54 ac (22 ha).

(ii) Map of Units 14 and 15 follows:

Units 14–15: Critical Habitat for Ivesia webberi
Washoe County, Nevada





Legend

- Critical Habitat
- USFS
- Roads
- Private
- Streams

0 0.5 1 1.5 2 Miles

0 0.5 1 1.5 2 Kilometers

N

(20) Unit 15: The Pines Powerline, Washoe County, Nevada.

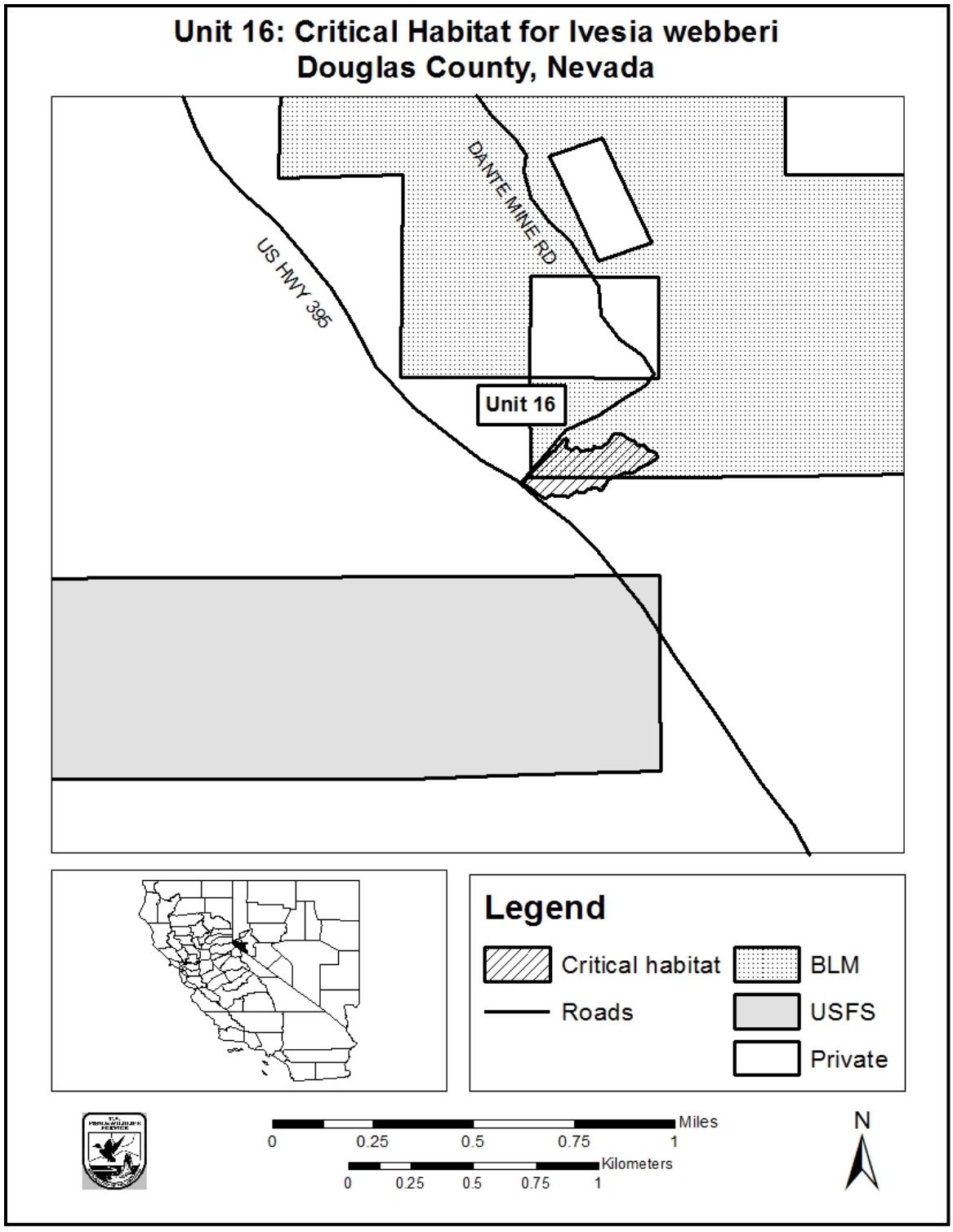
(i) Unit 15 includes 32 ac (13 ha).

(ii) Map of Unit 15 is provided at paragraph (19)(ii) of this entry.

(21) Unit 16: Dante Mine Road, Douglas County, Nevada.

(i) Unit 16 includes 14 ac (6 ha).

(ii) Map of Unit 16 follows:


Unit 16: Critical Habitat for Ivesia webberi
Douglas County, Nevada
DANTE MINE RD
US HWY 395
Unit 16
Legend
Critical habitat
Roads
BLM
USFS
Private
Miles
0
0.25
0.5
0.75
1
Kilometers
0
0.25
0.5
0.75
1
N

* * * * *

Dated: **May 21, 2014.**

Signed: _____Rachel Jacobson_____

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

Billing Code 4310-55-P

[FR Doc. 2014-12629 Filed 06/02/2014 at 8:45 am; Publication Date: 06/03/2014]