

Subject: Proposed Critical Habitat for the Arroyo Toad

1. **Background:**

- U.S. Fish and Wildlife Service (FWS) has proposed critical habitat (CH) for the Arroyo Toad (Tab A).
- The CH designation includes 312 acres at Naval Weapons Station, Seal Beach, Detachment Fallbrook (Approximately 3.7% of the installation).
- Comments are due to the U.S. Fish and Wildlife Service by 28 May 2004. Comments may be faxed to either 760-431-9618 (Carlsbad Office) or 805-644-3958 (Ventura Office). Comments may also be emailed to fwlartoch@rl.fws.gov.

2. **Discussion:**

- Navy opposes the designation of critical habitat for the Arroyo Toad.
- FWS stated in their Federal Register notice that they will evaluate Navy's INRMP during their review to determine if they can utilize Navy's INRMP in lieu of designating critical habitat at Fallbrook.
- Navy is asking FWS to utilize the Current INRMP in lieu of CH designation for the following reasons
 - The INRMP provides a benefit to the species (Section 4(a)(3) of the ESA).
 - Based on FWS criteria for evaluation, the INRMP provides (a) a benefit to the species (b) certainty of implementation, and (c) certainty of effectiveness
 - Critical habitat designation would have an impact on National Security (Section 4(b)(2) of the ESA).
- Navy is updating the existing INRMP in cooperation with FWS. Comments on a draft version have been obtained from FWS and Navy is incorporating into a revised draft. The revised draft will be submitted to FWS within three months, and a final document will be submitted to them for signature in approximately six months. The FWS final decision on designating habitat will occur in twelve months.
- Both the current and draft INRMP under development meet the requirements needed for FWS to avoid designating critical habitat on Fallbrook.

3. **Recommendation:**

N4 sign the attached letter voicing our opposition to CH designation at Detachment Fallbrook.



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
5090
Ser N4/4U745776
4 Jun 04

Ms. Diane Noda, Field Supervisor
U.S. Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, CA 93003

Dear Ms. Noda:

As documented in the Federal Register Notice (Vol 69, No. 82) dated 28 April 2004, the U.S. Fish and Wildlife Service (USFWS) proposes designating approximately 312 acres of Naval Weapons Station, Seal Beach, Detachment Fallbrook as critical habitat for the arroyo toad. The Navy appreciates the opportunity to comment on the proposed designation. The attachment to this letter details concerns highlighted below.

The Navy opposes the designation of critical habitat for the arroyo toad at Detachment Fallbrook for the following reasons:

a. Detachment Fallbrook has an existing Integrated Natural Resources Management Plan (INRMP) that sufficiently benefits the arroyo toad obviating the need for critical habitat designation under Endangered Species Act (ESA) section 4(a)(3)(B). The Navy believes the installation's INRMP satisfies USFWS applicable criteria. Further details in how the plan satisfies these criteria are included in the attachment.

b. Designation of arroyo toad critical habitat is not only unnecessary because of the INRMP, but designation also complicates conservation efforts for other endangered species present such as the coastal California gnatcatcher. The installation's INRMP provides a level of species management flexibility that critical habitat designation does not.

c. Designation of critical habitat on Detachment Fallbrook would have an adverse impact on national security and must be considered under section 4(b)(2) of the ESA. Inability to implement the Fire Management Plan (FMP) would pose a threat to the installation's ability to meet its mission requirements, and due to the installation's unique ordnance storage mission, could potentially create a risk to public health. The USFWS issued a Biological Opinion (BO) regarding the implementation of the FMP. Designation of critical habitat would be contrary to this BO.

We appreciate USFWS support in finalizing the Detachment Fallbrook INRMP update. We invite you to visit the installation to view our conservation program first hand. If you have questions regarding the above, please contact Mr. Robbie Knight,

Wildlife Biologist, Naval Weapons Station, Seal Beach, Detachment
Fallbrook, at (760) 731-3425.



A. L. WHITTEMORE
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Attachment

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ATTACHMENT
NAVY COMMENTS ON THE PROPOSED CRITICAL HABITAT DESIGNATION
ON NAVAL WEAPONS STATION, SEAL BEACH, DETACHMENT FALLBROOK
FOR THE ARROYO TOAD

The following describes specific Navy concerns with, and provides additional information pertinent to, the proposed arroyo toad critical habitat designation on Naval Weapons Station, Seal Beach, Detachment Fallbrook (Detachment Fallbrook). The first section of the below comments details how the 1996 Integrated Natural Resources Management Plan (INRMP), the Biological Opinion (BO) for implementation of the related installation Fire Management Plan, and the current INRMP draft update benefit the arroyo toad so that critical habitat designation is unnecessary under Endangered Species Act Section 4(a)(3)(B). The section identifies how the Detachment Fallbrook INRMP and pending update satisfy the three criteria USFWS has identified for evaluating an INRMP in this regard: (a) provides a benefit to the species (b) provides certainty of implementation and (c) provides certainty of effectiveness. The second section contains a discussion as to why the INRMP provides a greater degree of conservation flexibility than critical habitat designation in managing multiple endangered species. The third section describes how designation of critical habitat on Detachment Fallbrook will impact National Security and why Section 4(b)(2) of the ESA therefore applies.

Section I.

Existing and Updated INRMP Provides a Benefit to the Arroyo Toad:

Section 318 of the Fiscal Year (FY) 2004 National Defense Authorization Act (Public Law 108-136) amended the ESA prohibiting the USFWS from designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an 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.

Detachment Fallbrook has had an INRMP in place since 1996. Additionally, the detachment has convened a working group consisting of Navy resource managers, regulatory/conservation agencies (including USFWS), special interest groups, and other resource specialists to develop and update the INRMP and to ensure that biologically based, ecologically sound management strategies are incorporated in the daily management of the installation. Such cooperative efforts facilitate the long-term conservation of threatened and endangered species and their habitat, as intended under the ESA. This workgroup is currently in the process of updating the Detachment Fallbrook INRMP, a draft of which has been commented on by USFWS. The Navy has incorporated the USFWS comments and will be working with the established INRMP workgroup to finalize the INRMP update within the next 6 months. The final updated INRMP will also incorporate the conservation measures agreed to during the section 7 consultation for implementation of the fire management plan on Detachment Fallbrook.

Specific measures defined in the 1996 INRMP that provide a benefit to the species are detailed in Section 3.2.3.4. Select measures include:

- I. Protect the stream and riparian habitat of the arroyo toad.
 - a. Identify the shallow pools used for the reproduction and the over-summering sites along the riverbanks occupied by the southwestern arroyo toad. Protect and enhance, if possible.
 - b. Continue participating in the Santa Margarita River watershed program to eradicate or control the giant reed (*Arundo donax*), since upstream sources continue to colonize and alter arroyo toad habitat.
 - c. Support implementation of erosion and sediment control measures through the Santa Margarita River watershed program to minimize sedimentation of pool habitat.
- II. Protect and maintain the arroyo toad population
 - a. Determine in the arroyo toad is located in any other drainage on the detachment besides the Santa Margarita River channel.
 - b. Seek life history information on this species.
 - c. Continue to monitor the arroyo toad population on the Santa Margarita River for population trends. If the population declines are noted, initiate a study to determine the cause of the decline in order to conserve the Detachment Fallbrook population.
 - d. Evaluate the need for a bullfrog eradication effort to reduce impacts from predation. If deemed necessary, implementing and budgeting such a program for several years on a watershed-wide basis may be the most effective approach.

Current management for the arroyo toad has been developed based on information gathered through effective implementation of the 1996 INRMP. Current management efforts are detailed in section 4.8.7.1 of the draft 2003 INRMP update. The objective of section 4.8.7.1 is to implement management strategies that benefit the viability of the arroyo toad and other sympatric species. Select management measures are identified below:

- I. Conduct arroyo toad breeding surveys every five years in the Santa Margarita River, or after major alteration of the flow regime (natural or anthropogenic).
- II. Prevent erosion and provide erosion control during mission-related activities in uplands associated with occupied areas of the Santa Margarita River. Sedimentation within the riparian area itself shall be stringently avoided in the breeding season (15 February –15 July) when egg masses of the arroyo toad are especially vulnerable
- III. Firebreak maintenance and fire suppression efforts, when necessary within the Santa Margarita River, should be located so as to avoid occupied arroyo toad habitat.

Additionally, as agreed to in the December 2003 BO (FWS-SD-3506.3), the Navy will continue systematic removal of giant reed (*Arundo donax*) and other invasive exotic plants as necessary and as funds become available. Removal of invasive exotic plants will not occur during the breeding season within 300 feet of breeding location of protected species, including the arroyo toad.

INRMP provides for a certainty of Implementation: Management of natural resources at Detachment Fallbrook has been integrated into installation standard operating procedures, thereby ensuring effective implementation. Fire management is integral to the safety and success of the installation meeting its mission requirements. Natural resource managers at the installation have successfully integrated fire management with the protection of occupied and unoccupied habitat for several endangered species found on the installation, including the arroyo toad. Additionally, the Detachment Fallbrook wildlife biologist is a qualified ESA section 10(a)(1)(A) permit holder for the arroyo toad. Thus, if deemed necessary, the detachment biologist can take such conservation measures as trapping, handling, studying, and/or conduct breeding, night or day surveys for the toad.

Section 7 consultation under the ESA for implementation of the Fire Management Plan for Detachment Fallbrook was successfully completed in December 2003 (FWS-SD-3506.3). Three years of arroyo toad and toad habitat monitoring data were utilized to support the management scheme developed for the installation. Specifically, the installation has established land management units (LMUs) and a listing of allowable land management practices for each LMU. This management approach meets the needs of all protected species located on Detachment Fallbrook, including the arroyo toad.

INRMP provides certainty that conservation efforts will be effective: Both the 1996 and pending 2003 INRMP update embrace adaptive management techniques in their conservation efforts. Both the INRMPs and the BO recognize the need for periodic surveys to determine the status of the protected species on the installation. In addition to surveying for species, habitat suitability is surveyed for periodically.

The Detachment has an ongoing working relationship between the local USFWS field office (Carlsbad) and the California Department of Fish and Game to implement the INRMP. Periodic discussions between the installation, the State and the USFWS are held to assess implementation of the management strategies outlined in the INRMP. The LMU Land Management Unit (LMU) based management practice established at Detachment Fallbrook, allows for effective protection of several protected species found on the installation, including the arroyo toad.

Section II.

Designation Complicates Conservation Efforts for Other Endangered Species

The portions of Detachment Fallbrook that do not contain the habitat elements necessary for the recovery of the arroyo toad are occupied by the coastal California gnatcatcher

(*Polioptila californica californica*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and the Stephens' kangaroo rat (*Dipodomys stephensii*), all of which are federally listed (either threatened or endangered) species. The proposed critical habitat on Detachment Fallbrook for the arroyo toad conflicts with the habitat requirements of the coastal California gnatcatcher. Although the primary critical habitat constituent elements for the other three listed species do not conflict with one another or with the arroyo toads, each habitat is unique in its individual requirements. All habitat areas must be incorporated into conservation and activity planning.

Detachment Fallbrook has utilized a multi-species approach to natural resources management, not individual critical habitat designations to ensure a functional ecologically healthy system for these protected species.

Section III

Impact to National Security

Designation of critical habitat on Detachment Fallbrook would adversely impact national security by degrading the fire management plan, thereby jeopardizing critical munitions supplies. Further, such degradation of the fire management plan presents public health and safety concerns.

Detachment Fallbrook's mission is to provide timely and effective logistics, technical, and weapons support to the U.S. Pacific Fleet, U.S. Marine Corps (Marine Corps), and other military units. The installation serves as a vital component for our nation's defense by storing and providing munitions to our Navy and U.S. Marine Corps war fighters particularly during the critical initial phases of a conflict. The current multiple theater deployment of U.S. forces overseas makes such support all the more essential. The installation has over 200 ordnance magazines that are used to store munitions safely and securely. Fallbrook is the primary West Coast facility for the production, storage, maintenance, and distribution of air-launched missiles and is the primary storage facility for Marine Corps munitions on the West Coast. It is the primary West Coast location for amphibious ship loading and offloading of Marine Corps ammunition.

Fallbrook consists of approximately 8,850 acres located in the southern foothills of the Santa Ana Mountains in northern San Diego County. It is immediately adjacent to the Municipality of Fallbrook (an unincorporated City) and shares a common boundary along three sides with Marine Corps Base Camp Pendleton (MCB Camp Pendleton). The Santa Margarita River forms the northern boundary between Detachment Fallbrook and MCB Camp Pendleton, and the San Luis Rey River is nearby to the southeast.

The installation incorporates a variety of fire prevention and containment measures in order to protect the munitions from the threat of wildland fire. These measures include fire safety fuelbreaks (buffer areas approximately 200 feet wide on the sides of main access roads where combustible vegetation is reduced to prevent fires from leaping from one location to another), elimination of combustible material around operating buildings

(to 300 feet), and reduced fuel load areas in and around riparian corridors (Fire Plan established “fuel ladder” zone) interspersed among fire access roads. Fire access roads constitute an area of approximately 20 feet in width and act as a non-combustible fuelbreak barrier. Further, an existing matrix of exposed mineral soil circumvent the Detachment perimeter, which when combined with the clear zones around the magazines act to promote areas of reduced fuelload. Additionally, the ordnance magazine areas are intensely managed and are covered with grass and closely cropped vegetation. These measures are in place to prevent the erosion of soil placed over the magazines that acts as insulation should there be a ground fire and to absorb the shock of an accidental detonation.

The Navy has consulted with USFWS on implementation of the fire management plan pursuant to ESA section 7. Designating arroyo toad critical habitat would impose additional burdens on the installation that could have an adverse effect on the installation’s ability to implement the fire management plan as agreed to during the section 7 consultation. Critical habitat designation would result in additional consultation requirements, and may impede the use of important fire preventative measures detailed in the fire management plan. Inability to implement the fire management plan jeopardizes national security by putting munitions at risk.

The physical safety of individuals in the Municipality of Fallbrook and at the installation is of paramount importance and concern. Fallbrook’s unique ordnance storage mission entails safety considerations not common to other property uses. The spread of ground fires in and of itself presents a threat to human health and safety, but this risk is significantly compounded by the lethal threat associated with fire-induced detonations. Degradation of fire prevention and containment measures such as fuel breaks, fire access roads and the grazing program associated with the storage of munitions significantly increases the risk of harm. Therefore, where the designation of critical habitat may impair or delay the maintenance and/or construction of such safety measures or adversely impact security measures such as clear zones or perimeter boundaries the impact needs to be assessed, analyzed, and balanced within the proposed rule. Safety and security, in and of themselves, are factors that more than justify excluding applicable areas from inclusion in a critical habitat designation.