

**Selected Excerpts Relating to BLM Administered Lands
Proposed Rule to Designate Critical Habitat for Nevin's Barberry
February 6, 2007, Federal Register (Volume 72, Number 24)**

Page 5564: Subunit 1A consists of approximately 15 ac (6 ha) located on Big Oak Mountain to the north of Vail Lake in southern Riverside County. This subunit consists entirely of federally owned land managed by BLM. Two *Berberis nevinii* individuals of different sizes (ages) are known to occur in this unit on the summit of Big Oak Mountain at approximately 2,700 ft (823 m) elevation (i.e., the lower edge of the marine layer) (PCE 1 and 3). One individual is an old plant that is covered in lichens, and the other individual is considerably smaller and at some distance to the northeast of the older plant. This location is considered unusual (i.e., ecologically unique) for the species in that it is at higher elevation and on relatively flat clay lenses consisting of heavy adobe/gabbro type soils with high water-holding capacity, derived from Mesozoic basic intrusive rock (PCE 2) (Soza 2003). Soils in this area are classified primarily as Auld clay, 8 to 15 percent slopes, and Las Posas loam, 8 to 15 percent slopes, eroded (PCE 2) (Service GIS data 2006). This occurrence is located in an open grassland area with chaparral nearby. Associated plant species include *Chenopodium californicum*, *Avena fatua*, *Harpagonella palmeri*, *Plantago erecta*, *Galium porrigens*, and *Delphinium* species.

We are proposing this subunit as critical habitat even though it is occupied by only two *Berberis nevinii* plants because it represents an ecologically unique site for the species and contains the features essential to the conservation of *B. nevinii*. Additionally, this site contains naturally-occurring *B. nevinii* of different sizes (ages), indicative of successful reproduction in the past. Because this occurrence is on an ecologically unique site, this subunit may be important in terms of preserving genetic diversity throughout the range of the species. *Berberis nevinii* occupied this subunit at the time of listing, as identified in the final listing rule (63 FR 54956, October 13, 1998).

Bureau of Land Management land on Big Oak Mountain consists of three small parcels totaling 888 ac (360 ha), which is surrounded by private land. The primary threats to *Berberis nevinii* habitat in this area that may require special management considerations or protection of the PCEs are the indirect effects of urban/residential development, such as increased human recreation; incursion or spread of invasive, nonnative plants; and changes to the natural fire regime (i.e., increased ignitions and fire frequency, and shortened fire return intervals that can lead to type conversion of shrublands to annual grasslands). The BLM Resource Management Plan indicates that these parcels are closed to motorized vehicles and livestock grazing (BLM 1994, p. 28). Special management considerations or protection of the PCEs may be required to minimize disturbance to the vegetation and soils within this subunit; control invasive, nonnative plants; and maintain the natural hydrologic and fire regime of the area. While this site falls within the Conservation Area for the Western Riverside County MSHCP, this area is federal land managed by BLM. Therefore, we are not proposing BLM-managed lands within this subunit for exclusion under section 4(b)(2) of the Act.

Page 5570: We evaluated existing management plans relevant to Federal lands occurring within the boundaries of proposed critical habitat for *Berberis nevini* (i.e., Subunit 1A and part of Subunit 1B). While Federal lands within subunits 1A and 1B fall within the Conservation Area for the Western Riverside County MSHCP, neither of the Federal land management agencies (USFS and BLM) is obligated to manage these lands in compliance with the MSHCP. Therefore, we have not identified any benefits of exclusion for USFS or BLM managed lands within Unit 1 (Subunit 1A and part of Subunit 1B) and are not proposing to exclude these lands under section 4(b)(2) of the Act.

We also evaluated the existing BLM land management plan that covers BLM parcels on Big Oak Mountain (Subunit 1A). Direction for management of these parcels is provided in the South Coast Resource Management Plan (RMP) for the California Desert District, Palm Springs South Coast Resource Area (BLM 1994). The goal of the RMP is to guide future management of approximately 296,000 acres of BLM-administered public lands within the South Coast Resource Area of southern California over the next 15 years (BLM 1994, pp. 1, 8). The RMP addresses five planning issues, one of which is related to threatened, endangered, and other sensitive species. The geographic area covered by this RMP is divided into four Management Areas, with Oak Mountain falling within the Riverside San Bernardino County Management Area. The RMP directs management of the Oak Mountain parcels for sensitive plant and wildlife species by acquiring and consolidating sensitive plant habitat. These parcels (totaling 888 acres) are closed to motorized vehicles and livestock grazing (BLM 1994, p. 28).

While the RMP provides overall direction to the BLM for managing sensitive species and their habitat on BLM-administered land in the Oak Mountain area, it does not make any decisions regarding BLM site-specific project proposals for implementation of the land management plan, nor does it compel managers to implement any specific activity. Overall, the RMP provides general guidance that can either benefit or remain neutral to sensitive species. Additionally, the biological opinions that the Service issued on August 31, 1992, and November 22, 1993, for the preferred alternative of the South Coast RMP did not take into account effects to *Berberis nevini*, which had not been federally listed yet. Thus, we have not identified any benefits of exclusion for BLM lands within Subunit 1A and are not proposing to exclude these lands under section 4(b)(2) of the Act.