be covered through the section 7 consultation process. Also excluded are key nesting areas on Camp Pendleton in San Diego County, California. A programmatic consultation currently underway between the Service and the Department of the Navy will address any adverse effects to nesting plovers and their habitat. For the above sites, therefore, designation of critical habitat would provide no additional benefit to the species. Prior to making a final decision on this proposal the Service will continue to consider whether existing management provides adequate protection for nesting and wintering western snowy plovers. For example, we are working with the Resources Agency of California to identify California State Park lands in this proposal that are currently providing adequate protection for these birds. The Service may exclude adequately protected sites from designation.

The Service also excluded from proposed critical habitat sites that would significantly conflict with the survival and recovery objectives of other listed species. Significant conflicts were identified between the habitat needs of snowy plovers and biological objectives for the California clapper rail (*Rallus longirostris obsoletus*), light-footed clapper rail (*Rallus longirostris levipes*), and salt marsh harvest mouse (*Reithrodontomys raviventris*). The two rails and mouse are federally listed endangered species.

The California clapper rail and salt marsh harvest mouse inhabit estuarine marshes of San Francisco Bay. Over 90 percent of historic tidal marsh habitat in the Bay has been lost, primarily through the development of commercial salt ponds (Josselyn 1983). Western snowy plovers have taken advantage of this artificial salt pond habitat, primarily in south San Francisco Bay, and nest on levees or islands within active salt ponds or in abandoned dry salt ponds. This artificial habitat supports the largest subpopulation of snowy plovers within its range (Page et al. 1991). This same habitat, with the exception of two salt pond sites used by nesting snowy plovers, however, is identified in the recovery plan for the California clapper rail and salt marsh harvest mouse for restoration to historic tidal marsh (U.S. Fish and Wildlife Service 1984; Peter Sorensen, Fish and Wildlife Service, pers. comm., 1994).

The light-footed clapper rail inhabits coastal tidal marshes from Santa Barbara County south to Baja California, Mexico. Over two-thirds of historic tidal marsh habitat has been lost (Speth 1971) primarily to urban development, flood control, and oil development. Several

sites in Ventura, Orange, and San Diego Counties provide nesting and/or wintering habitat for snowy plovers, but also provide high quality clapper rail habitat or represent high priority tidal marsh restoration sites in the lightfooted clapper rail recovery plan (U.S. Fish and Wildlife Service 1985). These sites are Bolsa Chica, Agua Hedionda Lagoon, Batiquitos Lagoon, San Elijo Lagoon, San Dieguito Lagoon, Los Penasquitos Lagoon, the San Diego River mouth, and the marshes of south San Diego Bay. Because the light-footed clapper rail is endangered and the habitat needs of this species differ significantly from those of the western snowy plover, the Service is excluding these sites from critical habitat designation.

Overall, this proposal focuses the primary recovery objectives for the western snowy plover on coastal beach and dune habitats, which represent a significant proportion of natural nesting and wintering habitat of the coastal population of the western snowy plover. These natural habitats, therefore, are considered essential to conservation of this threatened species. Protection of these sites as well as plover habitat on Fish and Wildlife Service, National Park Service, and Navy lands at Camp Pendleton will provide added protection for about 76 percent of nesting and 65 percent of wintering plovers rangewide. Sites excluded from critical habitat designation for the various reasons given above should not be considered as unnecessary to conservation of the species. The recovery plan for the coastal population of the western snowy plover will address the value of these areas to species' recovery. At the present time, these excluded sites support about 20 percent of the coastal population of the western snowy plover and during the recovery process may provide birds to supplement populations in essential breeding and wintering areas. If focusing recovery on the 28 proposed critical habitat areas proves unattainable, additional sites may be proposed as critical habitat in the future to aid in recovery of the species.

At this time, conservation of the Pacific coast population of the western snowy plover requires sufficient management efforts at all sites proposed as critical habitat. However, new information that may be grounds for review of this determination includes, but is not limited to, data showing that the species is more or less vulnerable than currently thought, a change in the species' status due to catastrophic events such as disease or weather, or evidence that continuing efforts to conserve the species are insufficient.

Many of the proposed critical habitat areas include large expanses of beach. For proposed sites that support nesting snowy plovers, nesting colonies may occupy only a small portion of the proposed critical habitat area. The larger critical habitat area is needed, however, because foraging occurs throughout the intertidal and foredune portions of the beach. Designation of larger critical habitat areas also will allow for natural shifting of plover nesting colonies as a result of vegetational changes and weather related events that reconfigure suitable nesting habitat.

Regulations governing designation of critical habitat (50 CFR 424 12(h)) state that critical habitat shall not be designated within foreign countries. Although the Pacific coast population of the western snowy plover's breeding and wintering range extends into Mexico, no critical habitat is proposed outside United States jurisdiction.

Effects of Critical Habitat Designation

Section 4(b)(8) of the Act requires. for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by such designation. Regulations found at 50 CFR 402.02 define destruction or adverse modification of critical habitat as a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical, that is, its primary constituent elements.

An activity will not adversely modify an area within designated critical habitat that does not contain any constituent elements. For example, existing areas such as parking lots, paved roads, and various kinds of structures within the proposed critical habitat boundaries clearly would not furnish habitat or biological features for western snowy plovers. Furthermore, some activities would not be restricted by critical habitat designation because they would have no significant adverse effect on the primary constituent elements.

Activities that may adversely modify critical habitat are subject to regulation under section 7(a) of the Act if they are carried out, authorized, or funded by a Federal agency. The purpose of consultations between the Service and