DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
ANTILLES OFFICE
400 FERNANDEZ JUNCOS AVENUE
SAN JUAN, PUERTO RICO 00901-3299

REPLY TO
ATTENTION OF

Antilles Regulatory Section
General Permit SAJ-85

November 23, 2010

DEPARTMENT OF THE ARMY PERMIT

GENERAL PERMIT SAJ-85

DISCHARGE OF DREDGED OR FILL MATERIAL IN NON-TIDAL WATERS OF THE UNITED STATES ASSOCIATED WITH THE MAINTENANCE, ENHANCEMENT OR RESTORATION OF STREAM CHANNELS CONDUCTED OR SUPERVISED BY THE PUERTO RICO DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES

Upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act, general authority is hereby given for activities involving the discharge of dredged or fill material in non-tidal waters of the U.S., associated with the maintenance, enhancement or restoration of stream channels conducted or supervised by the Puerto Rico Department of Natural and Environmental Resources (DNER) to prevent and minimize flood related hazards to life and property.

Authorization under this General Permit is valid subject to each and all of the attached General Conditions and the following Special Conditions:

Special Conditions:

1. This permit is limited to activities conducted by the DNER, or activities conducted by other public entities (such as Commonwealth or Municipal Government agencies) under the supervision of the DNER in accordance with an established cooperative agreement between the DNER and the public entity.

2. For activities conducted by other public entities, where a cooperative agreement is required, the DNER will be responsible for supervising the activity at the construction site at all times to ensure that it complies with the terms and conditions of this permit.

3. For activities conducted by other public entities under the supervision of the DNER, where a cooperative agreement is required, the cooperative agreement may not contradict or modify any of the terms or conditions of this permit.

4. This permit is limited to non-tidal waters of the United States.

5. This permit does not authorize work in navigable waters of the U.S. Navigable waters of the U.S. are defined in 33 CFR 329.

6. This permit does not authorize the discharge of dredged or fill material into special aquatic sites, including wetlands.

7. This permit cannot be used to authorize After-the-Fact projects.

8. The use of this permit is prohibited in the following areas where the threatened Puerto Rican crested toad may occur: Cotto Ward and Cocos Ward at Isabela; San José Ward at Quebradillas; Municipalities of Guánica, Guayanilla, Peñuelas and Yauco; areas adjacent to the Gabia Farm in Coamo; areas adjacent to El Tallonal in Arecibo; and areas designated critical habitat for the threatened Puerto Rican Rock Frog (The Guajón) (see attached maps).

9. This permit is limited to activities that are not likely to adversely affect Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify their designated critical habitat. In order to comply with this condition, all activities conducted under this permit must follow the enclosed Threatened or Endangered Species Conservation Measures, which were developed in coordination with the U.S. Fish & Wildlife Service (USFWS).

10. Any discharge of dredged or fill material authorized under this permit shall not occur in close proximity of a public water supply intake and should not adversely affect a stream gauging station.

11. No activities are authorized under this permit which may adversely affect upstream or downstream flow conditions (e.g. location, capacity, and flow rates), or which may permanently restrict or impede the passage of normal or expected high flows.

12. No activities are authorized under this permit which may adversely affect flooding levels or conditions upstream or downstream from the location of the fill.

13. This permit is limited to stream channel maintenance, enhancement or restoration activities with the purpose of improving the hydraulic capacity and conditions of the stream channel in order to prevent and minimize flood related hazards to life and property.

14. This permit is limited to discharges of dredged or fill material into waters of the United States associated with the following activities:

a. mechanized removal of sediments, rocks, debris and vegetation along the stream channel (including its bed and banks);

b. reshaping and stabilizing of stream banks, including construction of terraces and the placement of riverbank protection measures such as gabions, rip-rap and other bio-engineering erosion control devices, associated with "a" above;

c. construction or installation of temporary access ramps, pads or platforms for heavy machinery and equipment, necessary to complete "a" or "b" above; and

d. construction or installation of temporary flow diverting structures or cofferdams necessary to complete "a" or "b" above.

15. This permit is limited to discharges of dredged or fill material affecting a maximum of one acre of waters of the United States, or a maximum of 200 linear meters along the stream channel, including permanent and temporary impacts.

16. This permit is limited to a single and complete geographically continuous activity along the waterway or waterbody. This permit does not authorize multiple independent activities along the same waterway or waterbody.

17. Discharges of dredged or fill material into waters of the United States authorized by this permit must be limited to the minimum necessary to maintain, enhance or restore the stream channel hydraulic capacity in order to prevent and minimize flood related hazards to life and property. All efforts must be made to avoid and minimize to the maximum extent possible, project related impacts to waters of the U.S., the aquatic environment, and the riparian ecosystem. This permit does not authorize stream channelization or stream channel relocation projects.

18. Activities authorized under this permit shall be designed to preserve the natural conditions and habitats of the stream corridor to the maximum extent possible. Natural stream sinuosity and habitats, such as riffle and pool complexes shall be maintained and restored to the maximum extent possible. Existing large rocks and boulders will be maintained within the stream channel.

19. Prior to commencing any work under this permit, the DNER will seek a 401 Water Quality Certification (WQC) from the Puerto Rico Environmental Quality Board (PREQB) for the proposed activity conducted or supervised by DNER. Authorization under this permit is contingent upon the issuance of a WQC, or waiver, from the PREQB for the proposed activity. The DNER will be responsible for ensuring compliance with the conditions specified in the WQC as special condition to this permit.

20. Prior to commencing any work under this permit, the DNER will contact the State Historic Preservation Office (SHPO) to obtain a concurrence letter. The DNER shall submit to SHPO the following information: a description of the proposed project (s) to be developed under this permit, a USGS location map (s) showing the location of proposed project (s) and coordinates (X and Y), photographs of the project site (s), and recommendations regarding project effect on historic properties at the project site (s). Work cannot be authorized under this General Permit that will adversely affect or

disturb properties that are listed, or eligible for listing, in the National Register of Historic Places, unless compliance with Section 106 of the National Historic Preservation Act is completed with Puerto Rico SHPO.

21. Activities authorized under this permit may be initiated without Pre-construction Notification to the Corps, provided the activities satisfy all of the terms and conditions stated herein.

22. For activities conducted by other public entities under the supervision of the DNER, where a cooperative agreement is required, a copy of this permit (SAJ-85) and the cooperative agreement between the DNER and the public entity shall be available at the construction site.

23. Best management practices for erosion and sedimentation control shall be implemented and maintained at all times. Silt curtains shall be used around work areas to minimize sediment transport into adjacent aquatic environments. Erosion and sedimentation control devices shall be left and maintained in place until all work is completed. All measures shall prevent siltation and turbid discharges into the aquatic ecosystem.

24. The permittee shall implement all necessary standard construction procedures to protect waters of the United States from pollution by contaminants and to minimize turbidity and siltation of these waters. All exposed soils and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date.

25. Any discharge of dredged or fill material authorized under this permit shall consist of clean material. It shall not consist of unsuitable material (e.g., trash, debris, waste metal products, bituminous concrete (asphalt), car bodies, etc.) and must be free from toxic pollutants in toxic amounts.

26. All fills, temporary and permanent, must be adequately stabilized to prevent erosion of fill material into adjacent waters or wetlands. No material shall be placed in a manner that could be eroded by normal or expected flows.

27. Petroleum products from the permittee's operations shall not be discharged in waters of the United States or in areas where the products may enter waters of the U.S.

28. Activities authorized under this permit may not disrupt the movement of those species of aquatic life indigenous to the water body, including those species, which normally migrate through the area. Discharges of dredged and fill material in

spawning areas during spawning seasons shall be avoided to the maximum extent practicable.

29. All activities authorized by this permit shall, to the extent practicable, be conducted in "dry" conditions during periods of minimal river flow, with barriers installed between work areas and aquatic habitats to minimize hydraulic scour and downstream sedimentation, and protect the aquatic habitats from pollutants.

30. All debris and excess material resulting from activities authorized under this permit shall be properly disposed in upland sites.

31. Upon completion of any work authorized by this permit, all temporary fills and structures must be completely removed and the affected area returned to pre-construction condition by restoring natural hydrologic flows, natural habitats, and native vegetation as appropriate.

32. Activities authorized under this permit shall include the re-vegetation of the upper portions of affected stream banks with non-nuisance plant species to provide habitat for birds and reptiles and prevent/reduce further erosion and sedimentation.

33. This programmatic general permit will be valid for a period of five years from the date specified above unless suspended or revoked by the District Commander prior to that date. If SAJ-85 expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on SAJ-85 will remain in effect provided the activity is completed within 12 months of the date SAJ-85 expired or was revoked.

34. From the date of issuance of this General Permit and until its expiration, the DNER will provide quarterly reports to the Corps describing whether or not activities were conducted under the permit during that time period. This requirement is applicable to activities conducted by the DNER and to activities conducted by other public entities under the supervision of the DNER in accordance with an established cooperative agreement between the DNER and the public entity.

35. The quarterly reports will provide a summary of each activity conducted under the General Permit during the previous three months. This summary shall provide the location, drawings (including location plan, plan view and cross section drawings of the work), area of waters of the U.S. affected, the length of the stream corridor affected, volume of fill material discharged into waters of the U.S., outline of the aquatic habitat restoration and bank re-vegetation efforts conducted, date of commencement, and date of completion for each activity.

36. The quarterly reports must include copy of the Water Quality Certification obtained by the DNER for each of the activities included in the report.

37. The quarterly reports must indicate whether the activities were conducted by the DNER or by another public entity under the supervision of the DNER in accordance with an established cooperative agreement between the DNER and the public entity.

38. For activities conducted by other public entities under the supervision of the DNER, where a cooperative agreement is required, the quarterly reports must include copy of the executed agreement between the DNER and the public entity.

39. The quarterly reports will further include copies of the attached "Self-Certification Statement of Compliance" signed by the Secretary of the DNER or his designated staff member certifying that each of the activities included in the report were conducted in compliance with the terms and conditions of this General Permit.

40. Upon review of the quarterly reports and certifications for activities conducted under this permit, the Corps may require that additional or supplemental compensatory measures be implemented to ensure that future activities result in minimal adverse effects on the aquatic environment. Reviews will be conducted to determine if continuance of the permit is not contrary to the public interest.

41. This authorization does not obviate the necessity to obtain any other Federal, State, or local permit, which may be required.

BY AUTHORITY OF THE SECRETARY OF THE ARMY

Alfred A. Pantano, Jr.
Colonel, U.S. Army
District Engineer

GENERAL CONDITIONS

1. The time limit for completing the work authorized ends on November 23, 2015.

2. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

3. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

4. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

5. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____
(TRANSFEREE-SIGNATURE) (DATE)

_____
(NAME-PRINTED)

_____
(ADDRESS)

_____
(CITY, STATE, AND ZIP CODE)

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

Permit Number: _____

Project Name: _____

Location of the Work:

_____

_____

_____

Date Work Started: _____ Date Work Completed: _____

Description of the Work:

_____

_____

_____

_____

_____

_____

Acreage, Square Feet and/or Linear Impacts to Waters of the United States:

_____

_____

Describe Mitigation completed (if applicable):

_____

_____

_____

_____

****

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit.

_____
Signature of Permittee

_____
Date

THREATENED OR ENDANGERED SPECIES CONSERVATION MEASURES

1. Prior to commencing any work under this permit, the Department of Natural and Environmental Resources (DNER) shall contact the U.S. Fish and Wildlife Service (FWS) to verify the presence of the following endangered species that may occur at the project site. The DNER shall submit by letter, a description of the proposed activity (s), and a location map (s) to the FWS at the following address: Fish and Wildlife Service, Boquerón Field Boquerón, Puerto Rico, P.O. Box 491, Boquerón, Puerto Rico 00622. The DNER shall indicate that the consultation is for SAJ-GP-85.

2. If the following endangered species and/or critical habitat may be present at the project site (s) then the following conservation measures shall be implemented, accordingly.

Puerto Rican Boa (*Epicrates inornatus*):

A. Prior to any earth movements or vegetation clearing, the boundaries of the project area, the buffer areas and areas to be protected should be clearly marked in the project plan and in the field.

B. A pre-construction meeting should be conducted to inform supervisors and employees about the conservation of protected species, as well as penalties for harassing or harming such species.

C. Prior to any use of machinery on areas where the boa may occur, the vegetation should be cleared by hand to provide time to the boa, if present, to be detected or move away from the area. All personnel involved in site clearing must be informed of the potential presence of the snake, and the importance of protecting the snakes.

D. Before activities commence each workday during the vegetation clearing phase, experienced personal in identifying and searching for boas should survey the areas to be cleared that day, to ensure that no boas are present or affected within the work area. If boas are found within the working area, activities should stop at the area where the boas are found until the boas move out of the area on their own. Activities at other work sites, where no boas have been found after surveying the area, may continue. If relocation of the species is necessary, any relocated boas should be transferred by authorized personnel of the DNER to appropriate habitat close to the project site. Any findings should be reported to the FWS and to the DNER Ranger office so they can further assist you in developing sound conservation measures and specific recommendations to avoid, minimize and/or compensate for any impacts to this species.

E. Strict measures should be established to minimize boa casualties by motor vehicles or other equipment. Before operating or moving equipment and vehicles in staging areas near potential boa habitats (within 25 meters of potential boa habitat), these should be thoroughly inspected to ensure that no boas are lodged in standing equipment or vehicles. If boas are found within vehicles or equipment, authorized personnel of DNER must be notified immediately for project handling and relocation. Any relocated boas should be transferred to appropriate habitat close to the project site.

Puerto Rican Plain Pigeon (***Columba inornata wetmorei***)

A. For activities that may affect forested corridors along rivers and creeks within the Municipalities of Cidra, Aguas Buenas, Aibonito, Caguas, Cayey, Comerío, Gurabo, and San Lorenzo, site specific surveys must be conducted by experienced and qualified personnel during the Plain Pigeon nesting season, which is late April to early June, prior to any earth/vegetation removal to ensure that this species is not impacted by the proposed activity.

B. If nesting activity is detected, construction activities or any human-induced disturbance within a 200 meter perimeter of the closest nest must be avoided and the construction activities may commence once fledglings have abandoned their nests.

Enclosure 1 - 14 Maps of the Critical Habitat Units
for the Puerto Rican Rock Frog "The Guajón" (*Eleutherodactylus cooki*)-
{Federal Register/Vol.72, No.204/Tuesday, October 23, 2007}

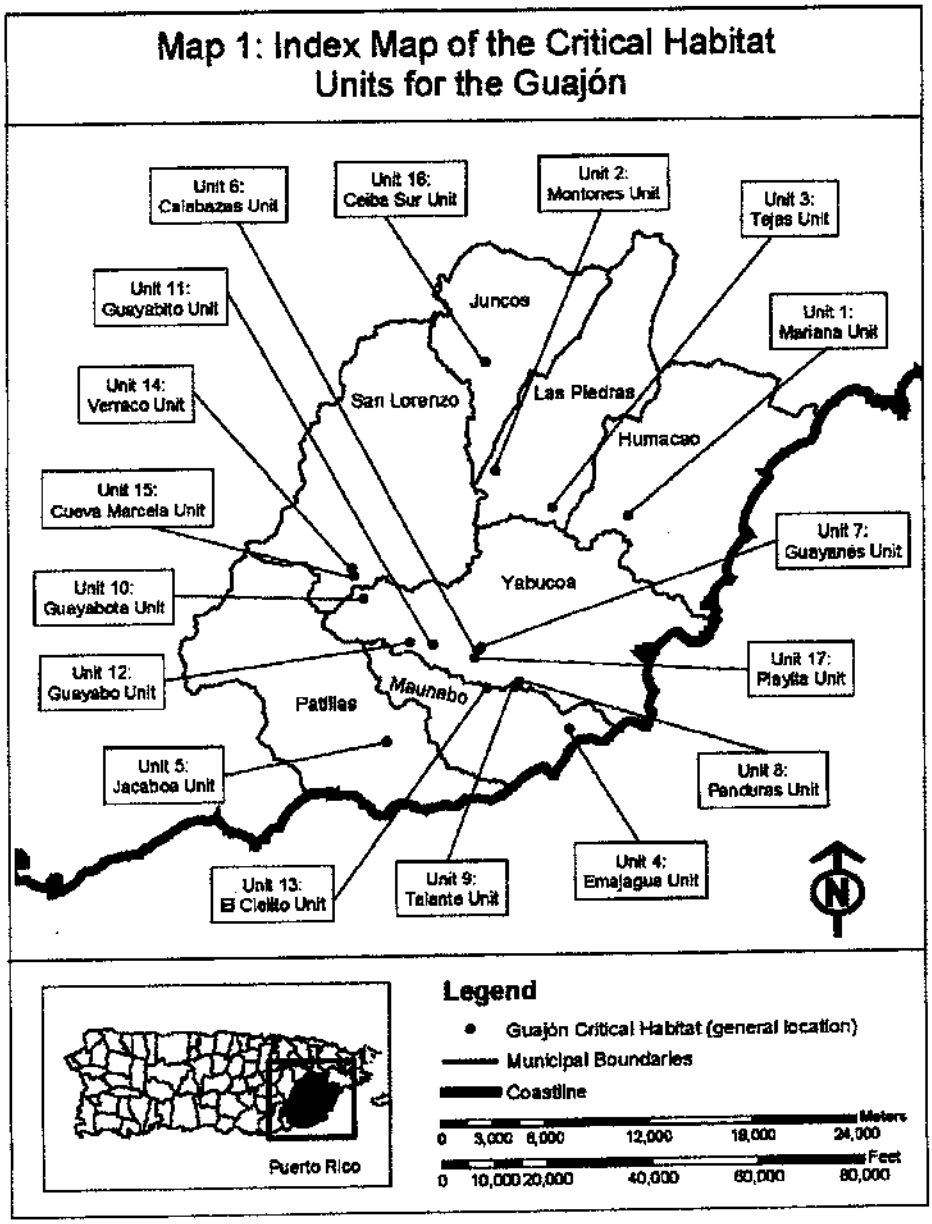
Federal Register/ Vol. 72, No. 204 / Tuesday, October 23, 2007 (60068-60114)

US Fish and Wildlife Service

Guajón *(Eleutherodactylus cooki)*

Puerto Rico: (1) Critical habitat units are depicted for Humacao, Juncos, Las Piedras, Maunabo, Patillas, San Lorenzo and Yabucoa.

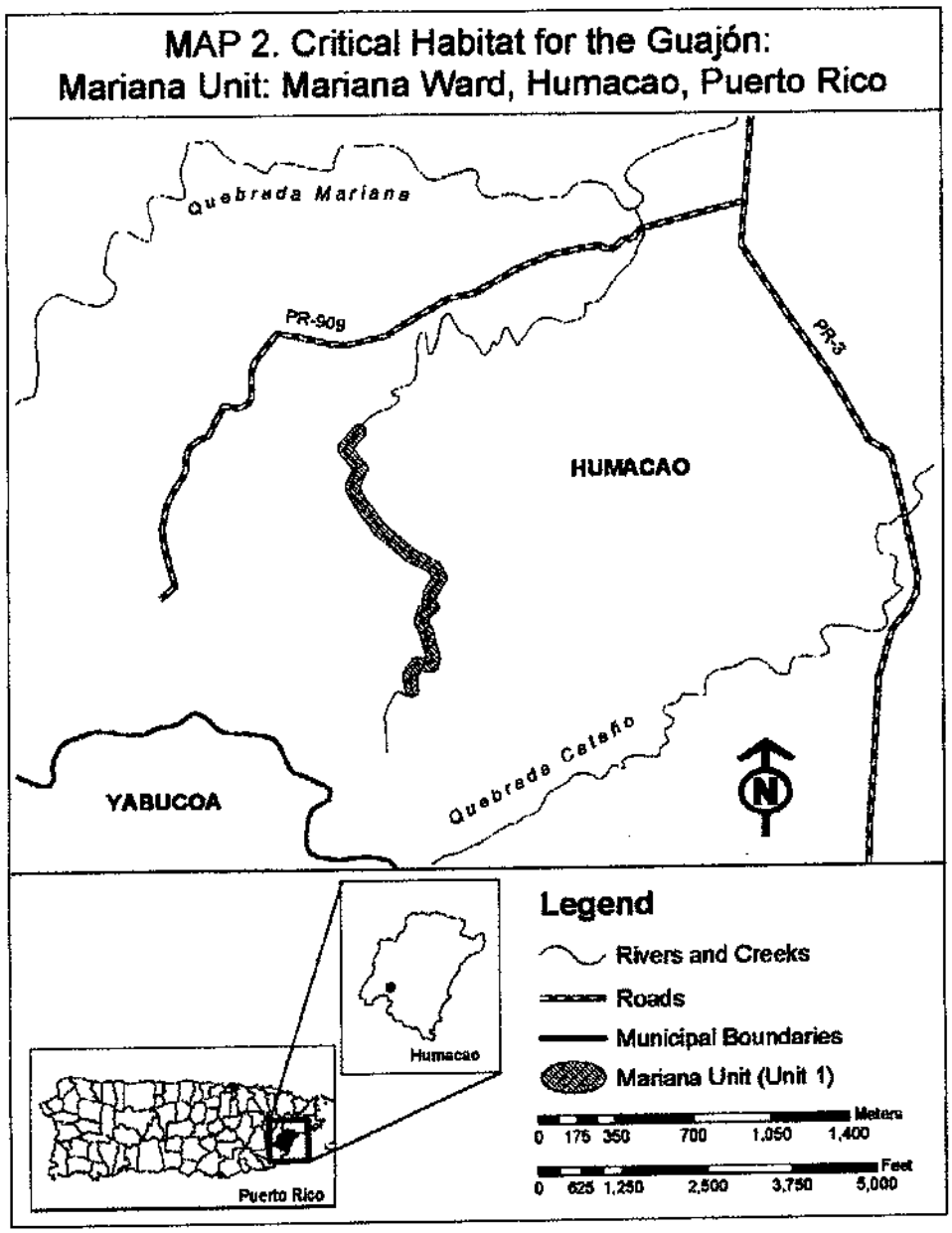
Note: Index map (Map 1) follows:



Unit 1: Mariana, Humacao, Puerto Rico.

General Description: Unit 1 consists of approximately 23.6 acres (ac) (9.6 hectares (ha)) located south of Road PR-909, west of Road PR-3, and north of Quebrada Cataño within Mariana Ward, Humacao.

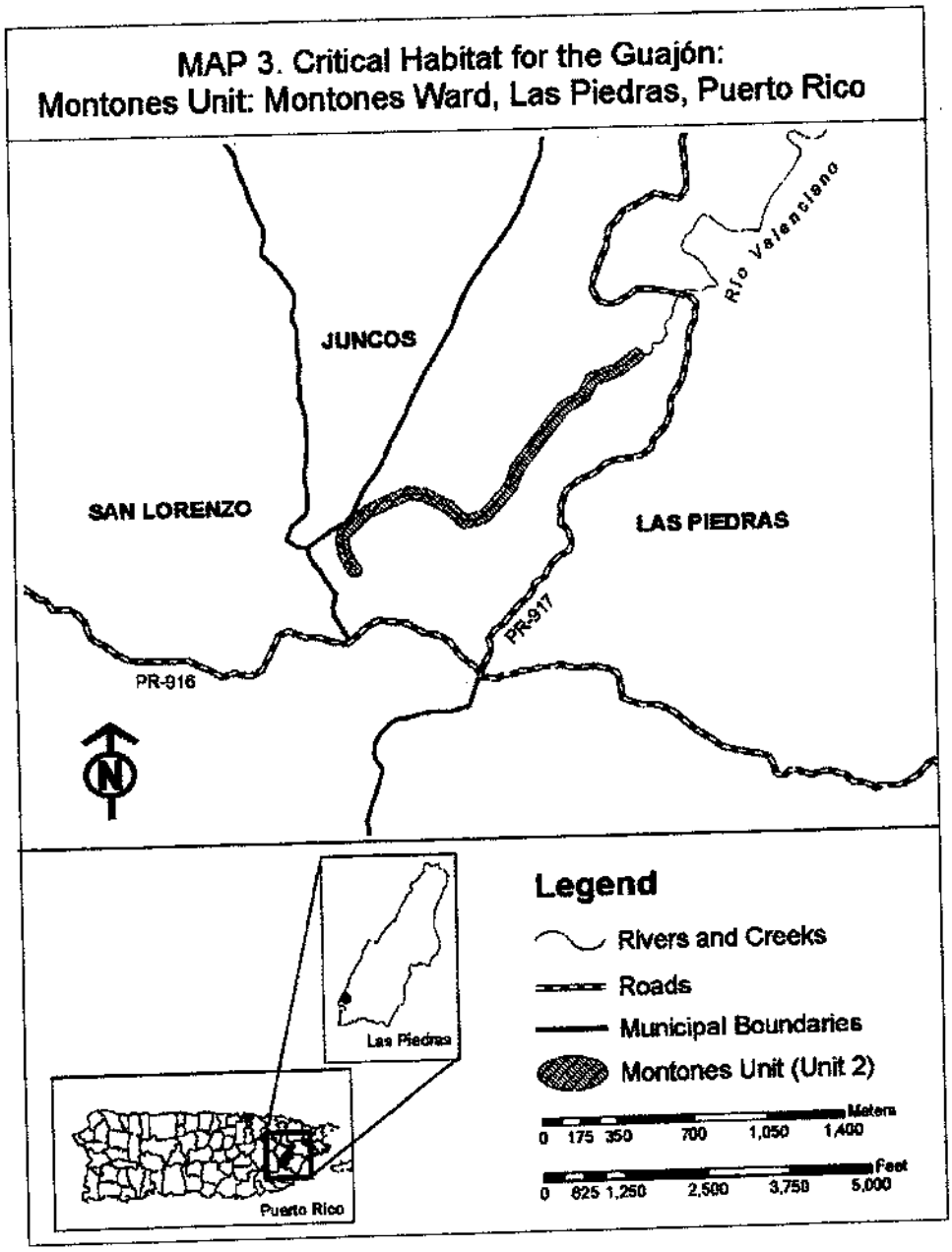
Note: Map of Unit 1 (Map 2) follows:



Unit 2: Montones, Las Piedras, Puerto Rico.

General Description: Unit 2 consists of approximately 31.1 ac (12.6 ha) along the headwaters of the Valenciano River at PR 917 Km 9.7, Montones Ward, Las Piedras.

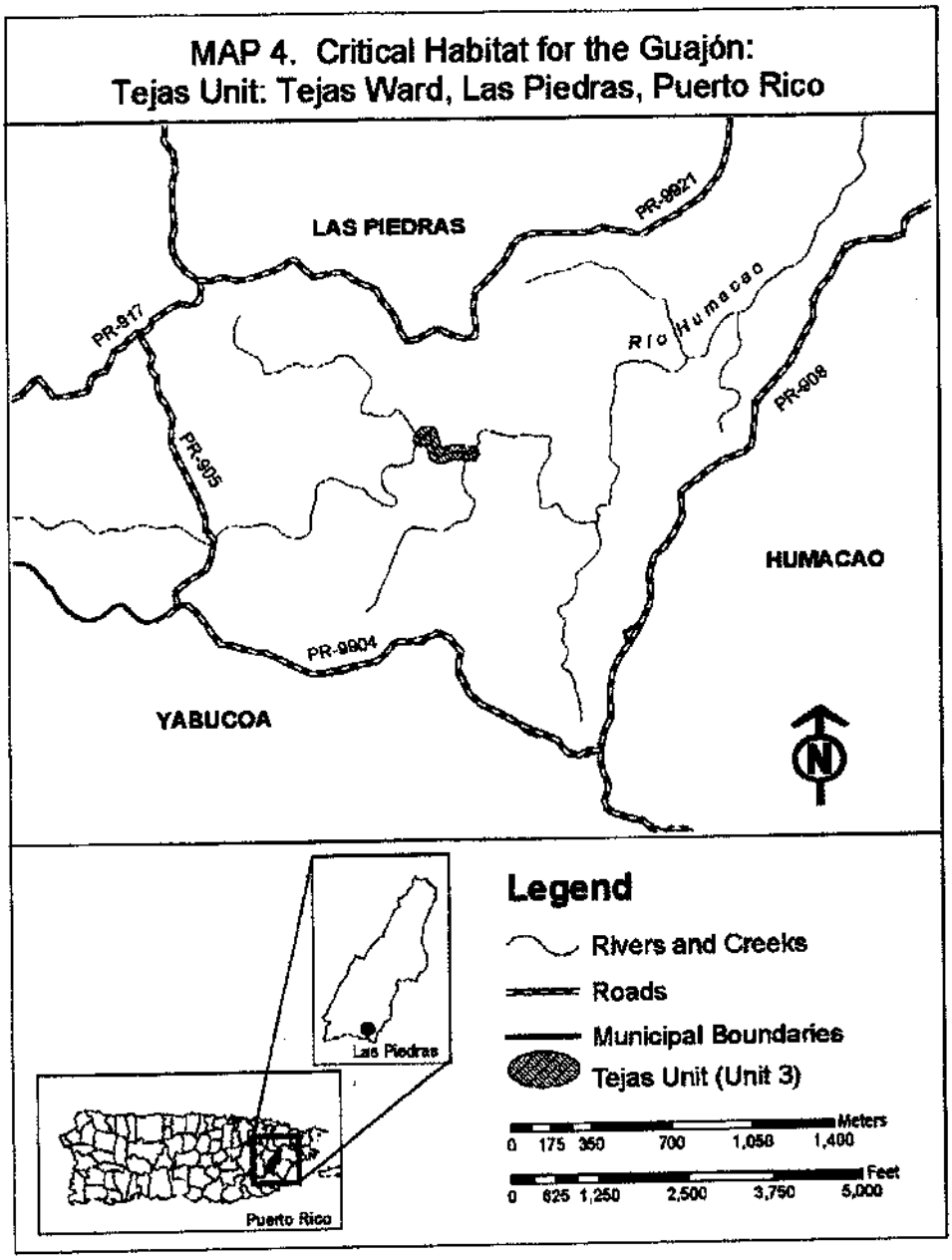
Note: Map of Unit 2 (Map 3) follows:



Unit 3: Tejas, Las Piedras, Puerto Rico.

General Description: Unit 3 consists of approximately 5.2 ac (2.1 ha) between Road PR-905 to the east, Road PR-908 to the west, Road PR-9921 to the north, and Road PR-9904 to the south within Tejas Ward, Las Piedras.

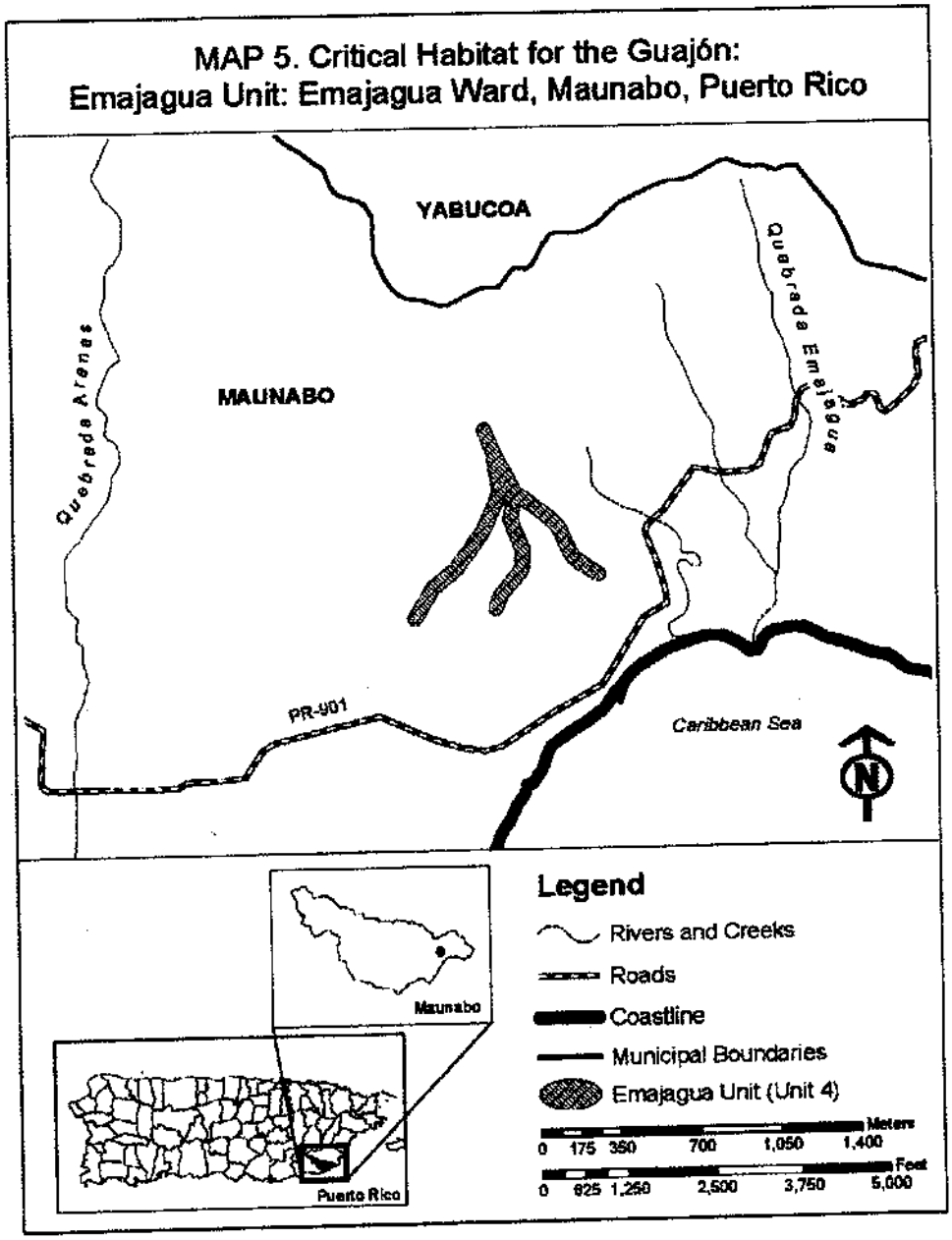
Note: Map of Unit 3 (Map 4) follows:



Unit 4: Emajagua, Maunabo, Puerto Rico.

General Description: Unit 4 consists of approximately 33.0 ac (13.4 ha) between Quebrada Arenas and Quebrada Emajagua, north of Road PR—901 within Emajagua Ward, Maunabo.

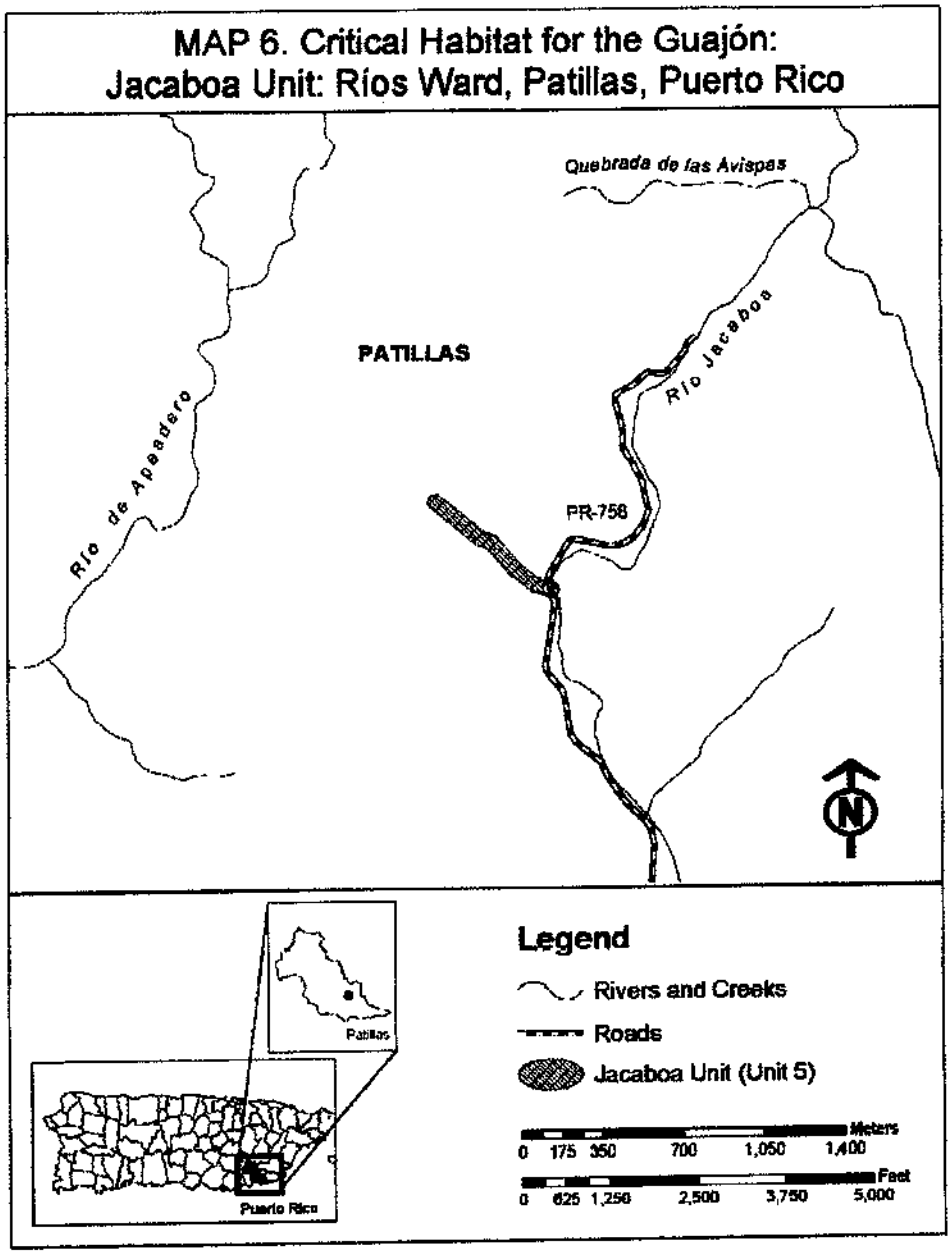
Note: Map of Unit 4 (Map 5) follows:



Unit 5: Jacaboa, Patillas, Puerto Rico.

General Description: Unit 5 consists of approximately 10.3 ac (4.2 ha) northwest of road PR-758 within Ríos Ward, Patillas.

Note: Map of Unit 5 (Map 6) follows:



Unit 6: Calabazas, Yabucoa, Puerto Rico.

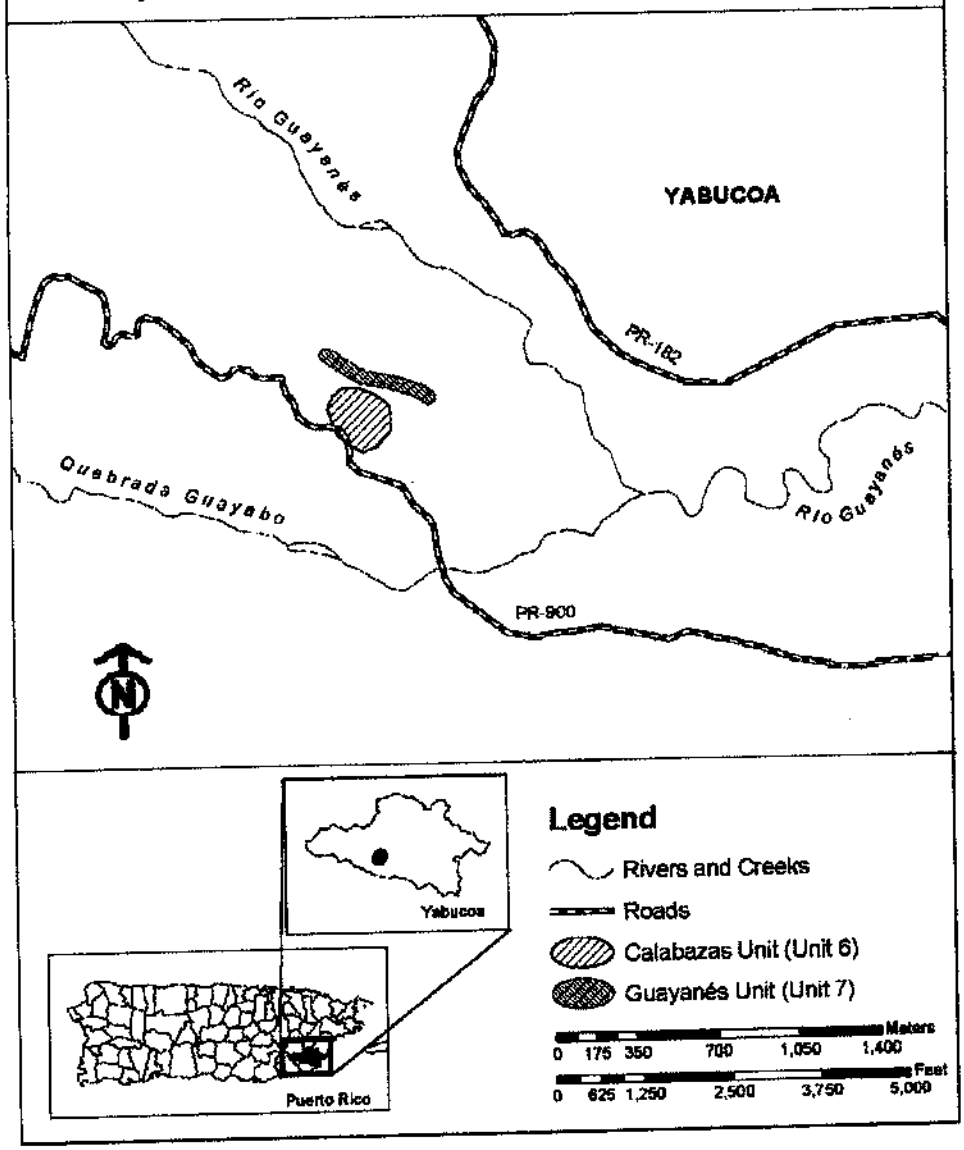
General Description: Unit 6 consists of approximately 13.8 ac (5.6 ha), including lands northeast of road PR-900, between Quebrada Guayabo to the south and Río Guayanés to the north, and south of Guayanés Unit, within Calabazas Ward, Yabucoa.

Unit 7: Guayanés, Yabucoa, Puerto Rico.

General Description: Unit 7 consists of approximately 7.9 ac (3.2 ha) northeast of Road PR-900 between Quebrada Guayabo to the south and Río Guayanés to the north, and north of Unit 6, within Calabazas Ward, Yabucoa.

Note: Map of Units 6 and 7 (Map 7) follows:

MAP 7. Critical Habitat for the Guajón: Calabazas and Guayanés Units: Calabazas Ward, Yabucoa, Puerto Rico



Unit 8: Panduras, Yabucoa, Puerto Rico.

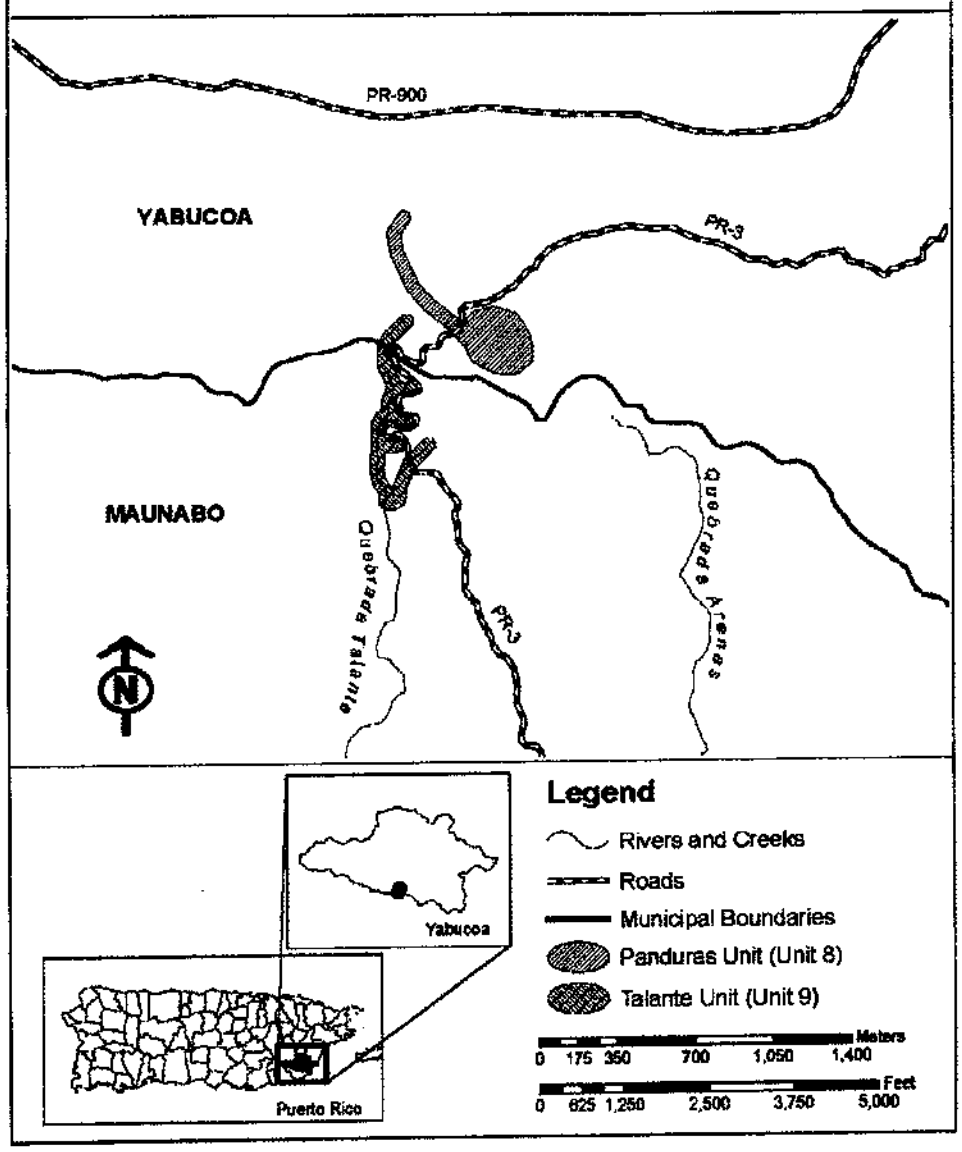
General Description: Unit 8 consists of approximately 28.6 ac (11.6 ha) to the northwest and southeast of Road PR-3 within Calabazas Ward, Yabucoa, and 18.2 ac (7.4 ha) of lands owned by the Puerto Rico Conservation Trust near the top of Cerro La Pandura.

Unit 9: Talante, YabucoaMaunabo, Puerto Rico.

General Description: Unit 9 consists of approximately 23.5 ac (9.5 ha) east of Road PR-3, including the headwaters of the Talante Creek and five unnamed drainages. About 2.8 ac (1.1 ha) of Unit 9 are located within Calabazas Ward, Yabucoa, and the remaining 21.6 ac (8.7 ha) are located within Talante Ward, Maunabo.

Note: Map of Units 8 and 9 (Map 8) follows:

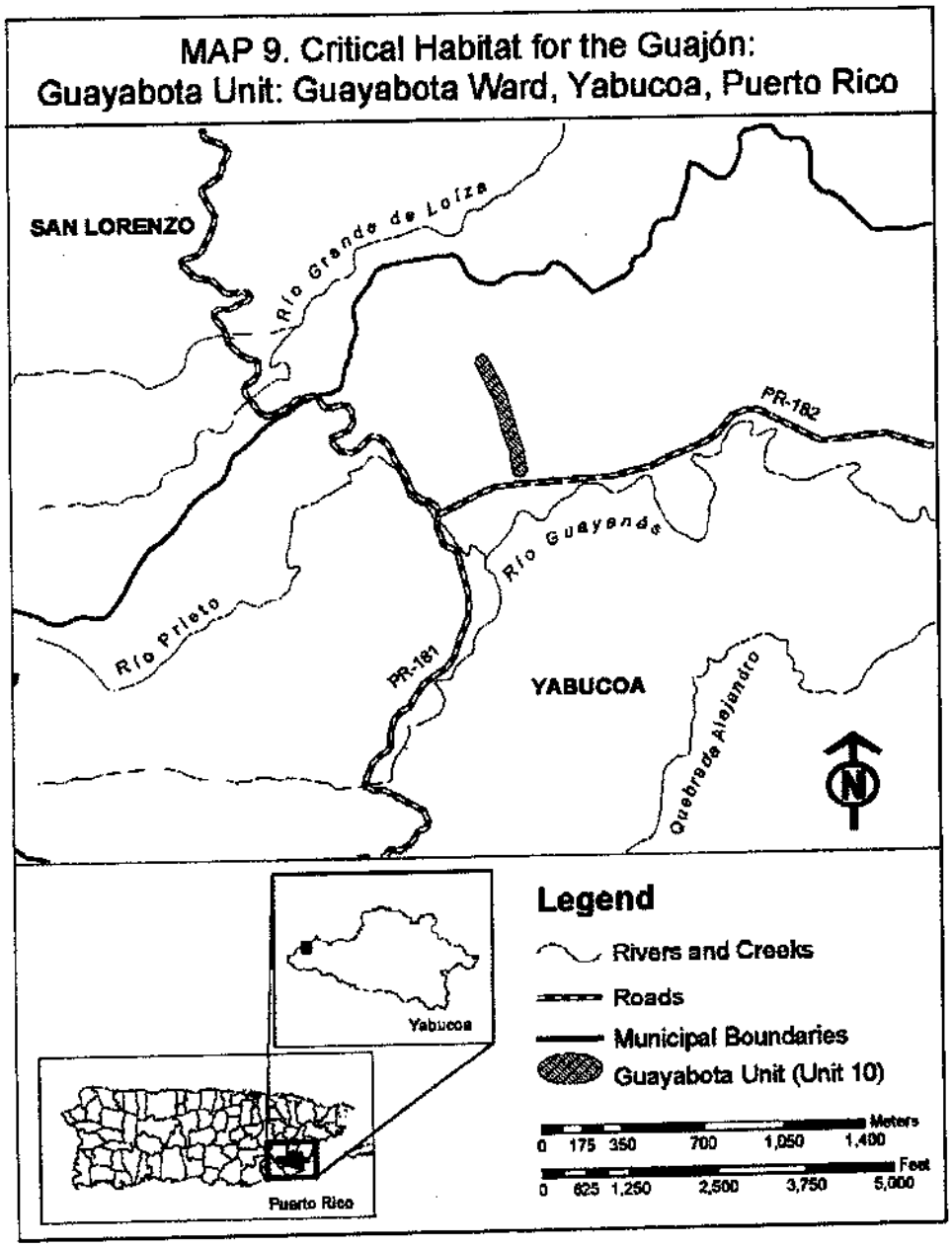
MAP 8. Critical Habitat for the Guajón: Panduras and Talante Units: Calabazas Ward, Yabucoa and Talante Ward, Maunabo, Puerto Rico



Unit 10: Guayabota, Yabucoa, Puerto Rico.

General Description: Unit 10 consists of approximately 13.1 ac (5,3 ha) to the northeast of intersection of roads PR-181 to the east, and PR-182 and Río Guayanés to the south, and south of the municipal boundary with San Lorenzo, within Guayabota Ward, Yabucoa.

Note: Map of Unit 10 (Map 9) follows:



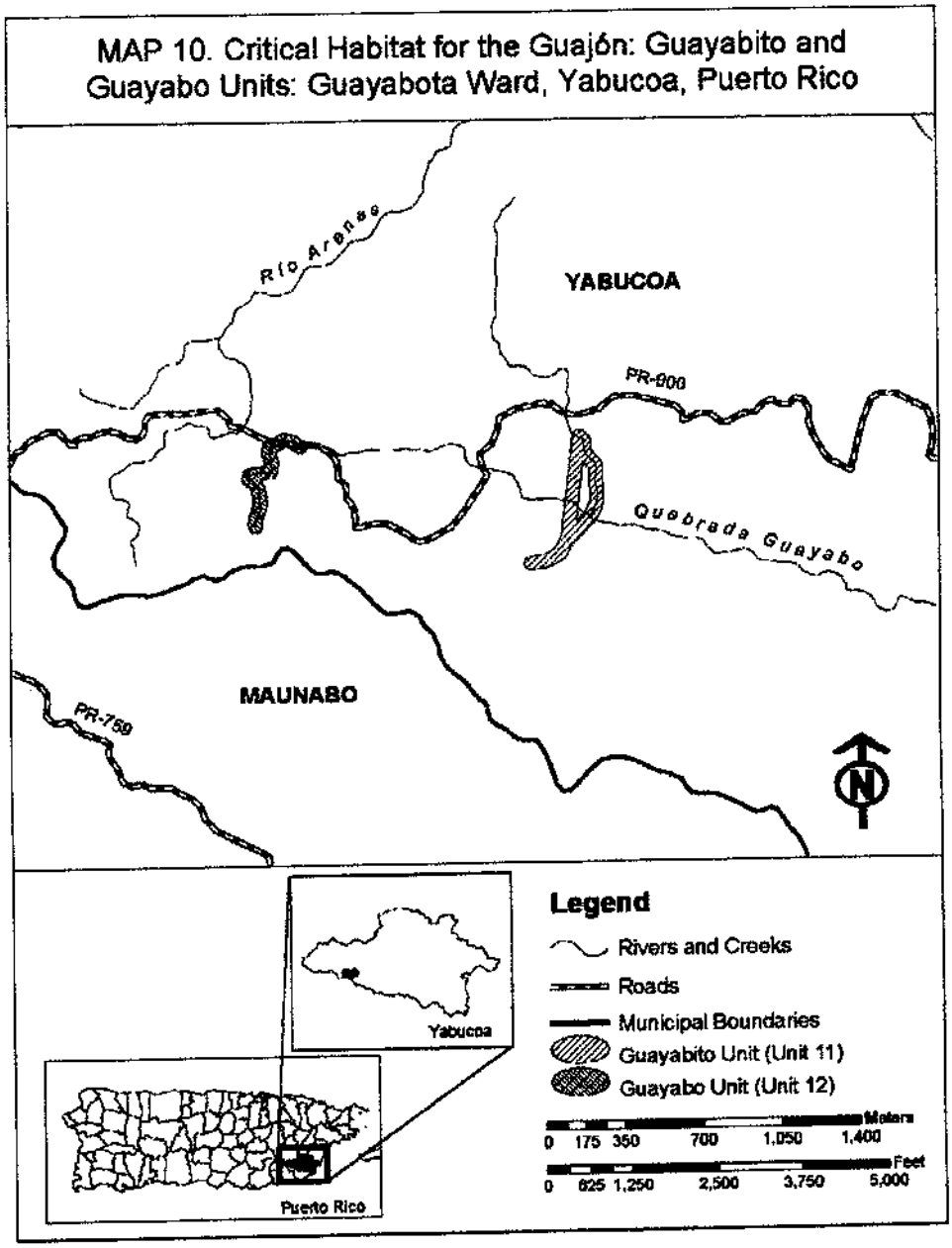
Unit 11: Guayabito, Yabucoa, Puerto Rico.

General Description: Unit II consists of approximately 17.3 ac (7.0 ha) south of Road PR-900 and north of the Maunabo boundary, within Guayabota Ward, Yabucoa.

Unit 12: Guayabo, Yabucoa, Puerto Rico.

General Description: Unit 12 consists of approximately 9.8 ac (3.9 ha) within Guayabota Ward, Yabucoa, crossing Road PR-900, north of the Maunabo boundary, and about 3,025 ft (922 m) west of Unit 11.

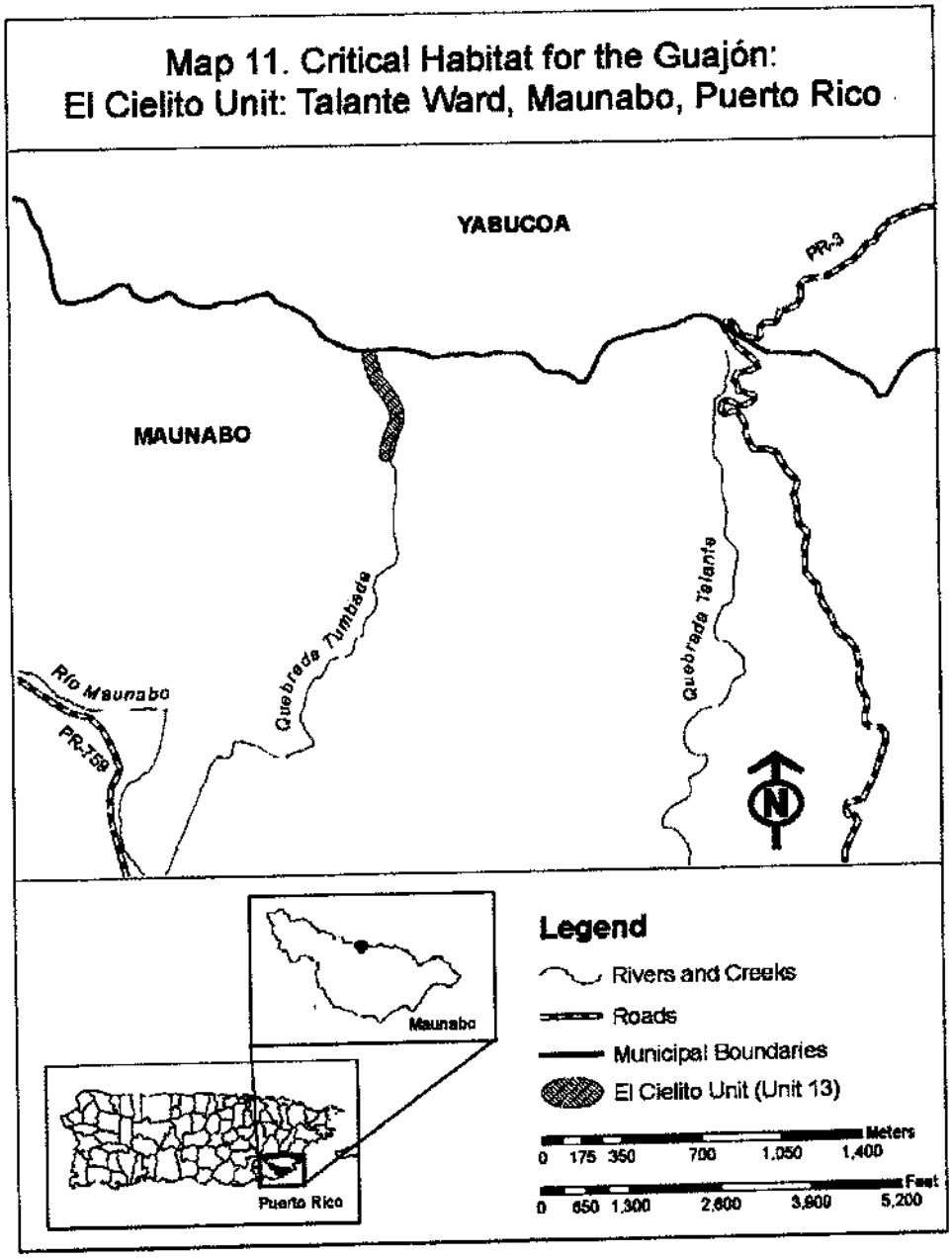
Note: Map of Units 11 and 12 (Map 10) follows:



Unit 13: El Cielito, Maunabo, Puerto Rico.

General Description: Unit 13 consists of approximately 7.84 ac (3.17 ha), between the municipal boundary of Yabucoa to the north, PR-759 to the south and west, and PR-3 to the east, within Talante Ward, Maunabo.

Note: Map of Unit 13 (Map 11) follows:



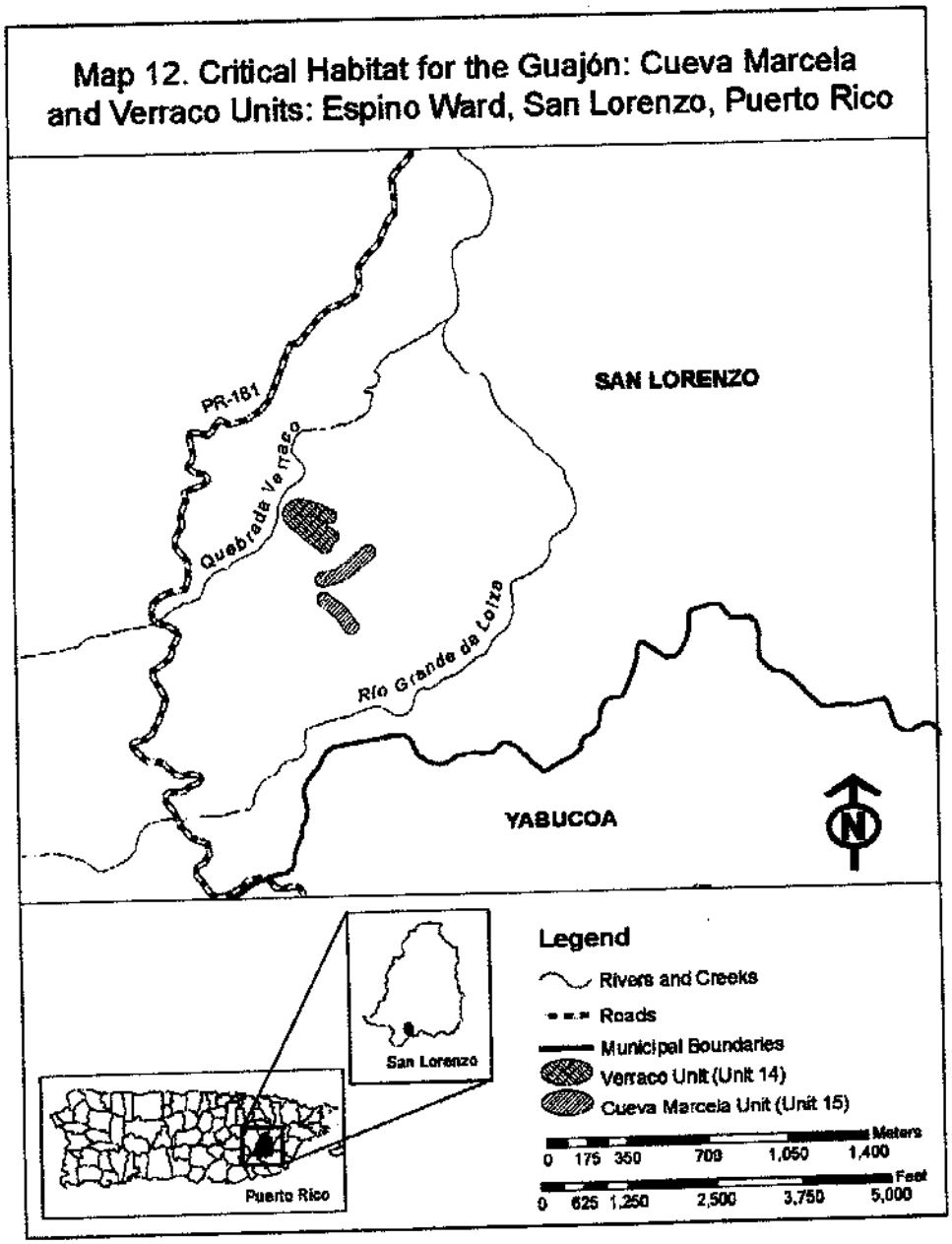
Unit 14: Verraco, San Lorenzo, Puerto Rico.

General Description: Unit 14 consists of approximately 8.9 ac (3.6 ha), between PR-181 to the north and west, Río Grande de Loíza to the east and south, and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo.

Unit 15: Cueva Marcela Unit, San Lorenzo, Puerto Rico.

General Description: Unit 15 consists of approximately 7.47 ac (3.02 ha), between PR-181 and Quebrada Verraco to the north, PR-181 to the west, and Río Grande de Loíza and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo.

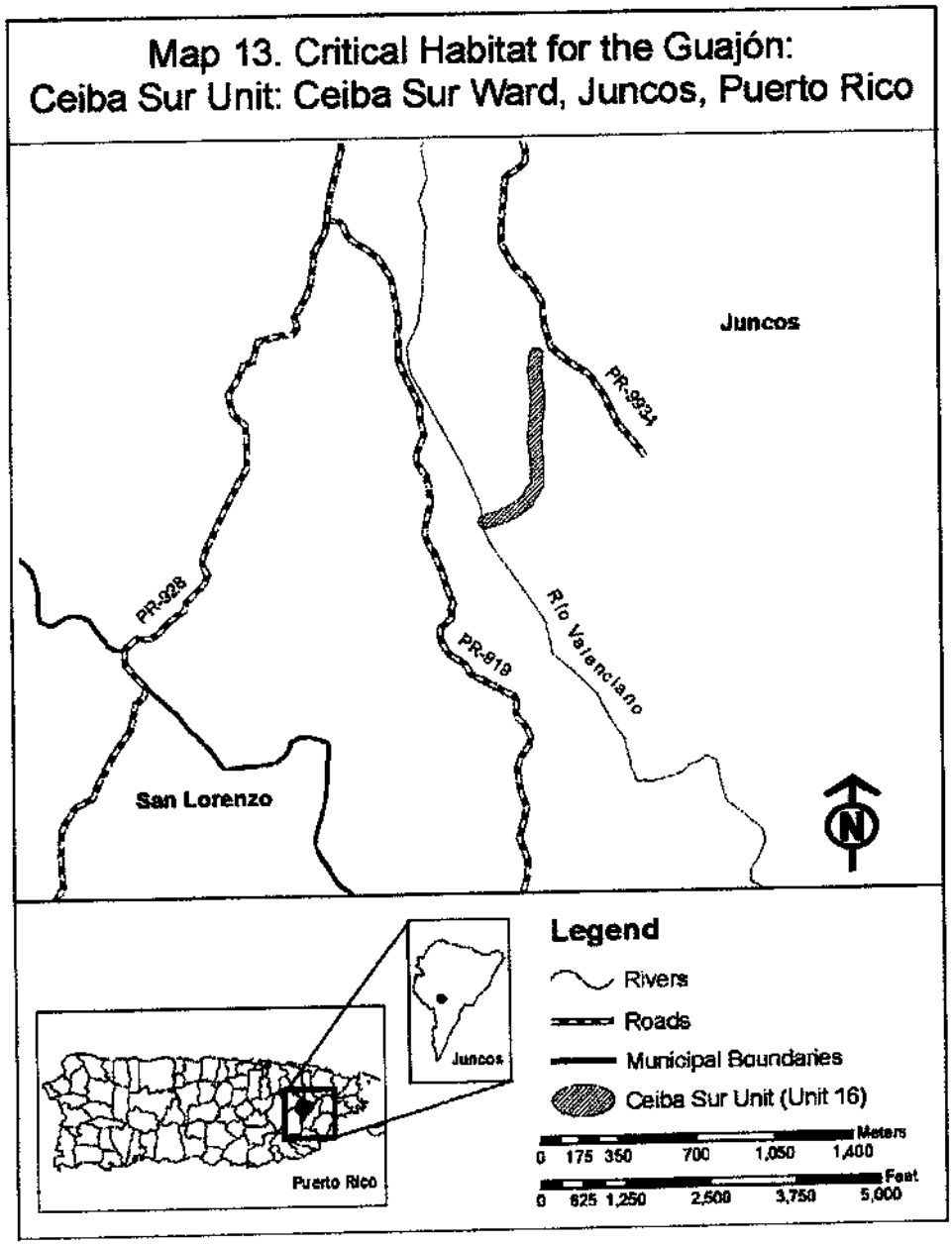
Note: Map of Units 14 and 15 (Map 12) follows:



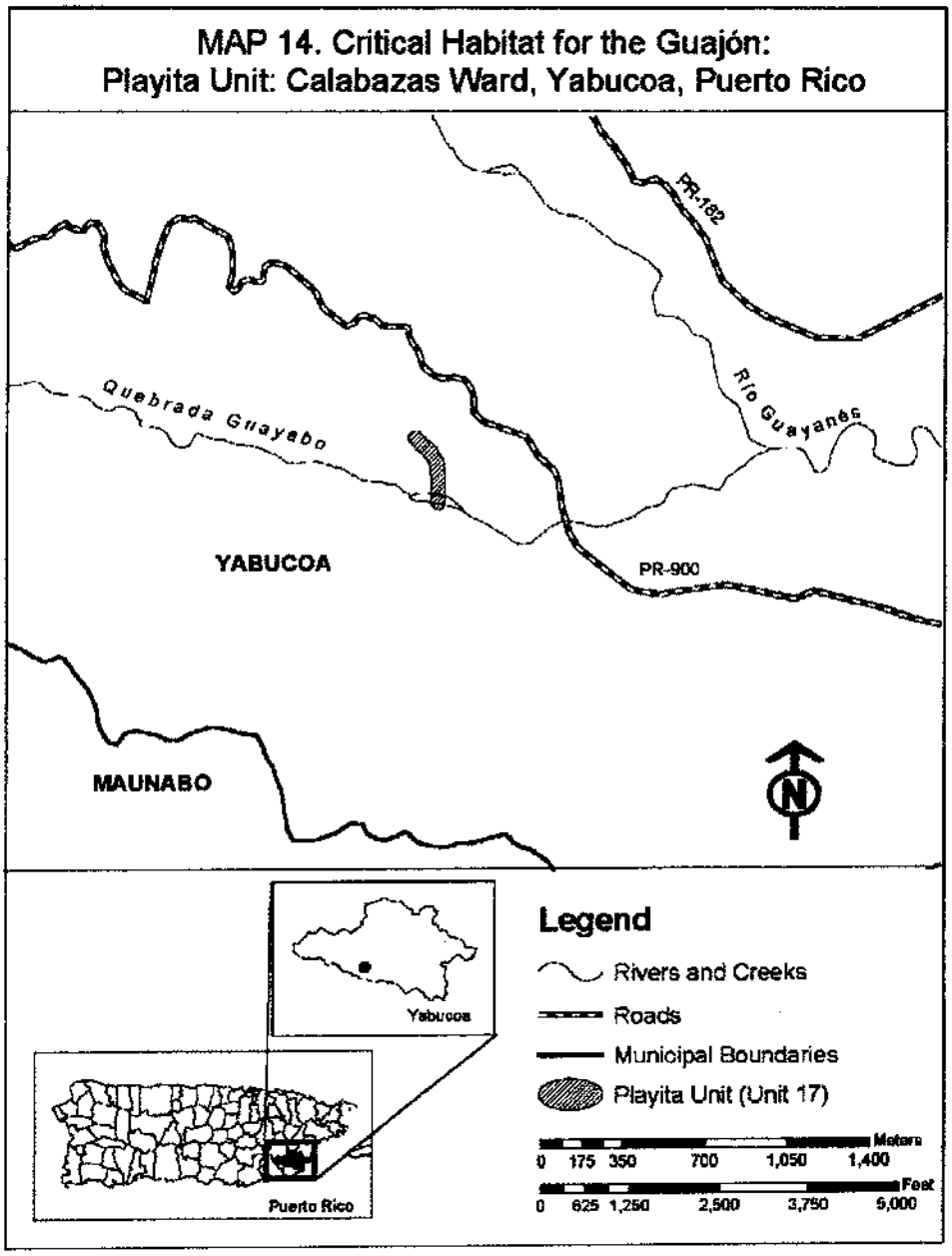
Unit 16: Ceiba Sur Unit, Juncos, Puerto Rico.

General Description: Unit 16 consists of approximately 13.92 ac (5.63 ha) between Road PR-9934 to the east, and Road PR-919 to the west within Ceiba Sur Ward, Juncos.

Note: Map of Unit 16 (Map 13) follows:



Unit 17: Playita Unit, Yabucoa, Puerto Rico.

General Description: Unit 17 consists of approximately 5.27 ac (2.13 ha), between PR-900 to the north and east and the municipal boundary of Maunabo to the south, within Calabazas Ward, Yabucoa.

Note: Map of Unit 17 (Map 14) follows: