

et al. 1977, Bury and Corn 1984, Hunt 1983, Miller 1943).

Bury (1985) surveyed most potential habitat for the black legless lizard, as well as sites as far south as Morro Bay and north to Ano Nuevo State Reserve in San Mateo County where intergrades might occur. Black legless lizards were found at 17 sites, all of which lie on or near approximately 45 km (28 miles) of coastline between the Salinas and Carmel Rivers. Key sites included City of Monterey lands south of Salinas River National Wildlife Refuge, Marina State Beach, and Fort Ord, all on Monterey Bay; and several smaller areas on the Monterey Peninsula, including dunes or sandy areas at the U.S. Navy Post-graduate School, Monterey State Beach, Point Pinos, Asilomar State Beach, Spanish Bay, and Carmel State Beach. The largest population of the black legless lizard on federal land is on the Fort Ord property. This military base is undergoing closure; much of the land will be transferred to State and University ownership, and habitat management plans that call for the protection of the lizard will be developed.

Within the very limited range of the black legless lizard, habitat destruction due to urbanization, particularly on the Monterey Peninsula, has severely reduced the distribution of this lizard. About 60 percent of all localities that historically supported black legless lizards no longer contain suitable habitat (Lawrence E. Hunt, University of California, Santa Barbara, pers. comm., 1993). Remaining habitat is degraded by human trampling, sand mining, vehicular use, and introduction of exotic plants, particularly *Carpobrotus edulis* (hottentot fig) and related species and *Ammophila arenaria* (Marram grass). Remaining habitat has also been fragmented by highways and other forms of development (Bury 1985).

Previous Federal Action

Federal government action on the five plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. In that report, *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* were recommended for endangered status. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (now section

4(b)(3)(A)) of the Act, and of the Service's intention thereby to review the status of the plant taxa named therein. The above three taxa were included in the July 1, 1975 notice. On June 16, 1976, the Service published a proposal in the **Federal Register** (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* were included in the June 16, 1976, **Federal Register** proposal.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the portion of the June 6, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* as category-1 species. Category-1 species are taxa for which data in the Service's possession are sufficient to support proposals for listing. On November 28, 1983, the Service published in the **Federal Register** a supplement to the Notice of Review (48 FR 53640); the plant notice was again revised September 27, 1985 (50 FR 39526). In both of these notices, *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* were included as category-2 species. Category-2 species are taxa for which data in the Service's possession indicate listing may be appropriate, but for which additional data on biological vulnerability and threats are needed to support a proposed rule. In the 1985 notice, *Cupressus goveniana* ssp. *goveniana* (as *Cupressus goveniana*) was also included for the first time as a category-2 species. On February 21, 1990 (55 FR 6184), the plant notice was again revised, and *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* were included as category-1 species, primarily because of additional survey information supplied by the California Natural Diversity Data Base, which indicated that the extremely limited populations of these taxa made them particularly vulnerable to impacts from a number of human activities and

naturally caused stochastic events. Those three species also appeared as category 1 species in the current plant notice of review (September 30, 1993; 58 FR 51144). *Cupressus goveniana* ssp. *goveniana* was retained as a category-2 species in the 1990 and 1993 notices of review.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* because the 1975 Smithsonian report was accepted as a petition. On October 13, 1983, the Service found that the petitioned listing of these species was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. In October 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991 and 1992, the Service found that the petitioned listing of *Astragalus tener* var. *titi*, *Potentilla hickmanii*, and *Trifolium trichocalyx* was warranted, but that the listing of these species was precluded by other pending proposals of higher priority. Publication of this proposal constitutes the final finding for the petitioned actions on these three species.

The portion of this proposal to list *Piperia yadonii* is largely based on scientific and commercial information on the species, unpublished reports from the California Department of Fish and Game, and information submitted by Randall Morgan, which provides sufficient information to support a proposed rule to list this species as endangered. *Piperia yadonii* first appeared as a candidate in the 1993 notice of review (58 FR 51144) in category 1.

A reevaluation of the existing data on the status of *Cupressus goveniana* ssp. *goveniana* and threats to its continued existence provides sufficient information to support a proposal to list this species as threatened.

In its original Review of Vertebrate Wildlife, published in the **Federal Register** on December 30, 1982 (47 FR 58454), the Service included the black legless lizard as a category-2 candidate for listing. Subsequent revised candidate lists published September 18, 1985 (50 FR 37958); January 6, 1989 (54 FR 554); and November 21, 1991 (56 FR