

hickmanii, *Trifolium trichocalyx*, and the black legless lizard are in imminent danger of extinction throughout all or a significant portion of their ranges. Threats to these four taxa include one or more of the following: habitat destruction, residential development, road maintenance activities, competition from alien plants, alteration of natural fire cycles, military activities, and extinction from stochastic events.

For the reasons discussed above, the Service finds that *Cupressus goveniana* ssp. *goveniana* is likely to become endangered within the foreseeable future throughout all or a significant portion of its range due to habitat alteration and destruction, urban development, disruption of natural fire cycles, competition from alien plants, and stochastic events. The Service has determined that threatened rather than endangered status is appropriate for *C. goveniana* ssp. *goveniana* primarily because one of two populations (the Gibson Creek stand managed by the California Department of Parks and Recreation) has not been significantly affected by human activities. Also, since it is long-lived, *C. goveniana* ssp. *goveniana* may be able to withstand a certain level of habitat disturbance as long as sufficient habitat is maintained. Other alternatives to this action were considered but not preferred because not listing this species at all would not provide adequate protection and not be in keeping with the purposes of the Act, and listing it as endangered would not be appropriate, as the California Department of Parks and Recreation has decreased the danger of extinction at the present time. Therefore, the preferred action is to propose *Astragalus tener* var. *titi*, *Piperia yadonii*, *Potentilla hickmanii*, *Trifolium trichocalyx*, and the black legless lizard as endangered; and *Cupressus goveniana* ssp. *goveniana* as threatened.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the taxa are determined to be endangered or threatened. Critical habitat results in additional protection to a species' habitat with respect to projects that are federally authorized, funded, or carried out, through the consultation requirements described in section 7 of the Act. The Service finds that designation of critical habitat is not presently prudent for these taxa. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist:

(1) the species is imperiled by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

In the case of *Astragalus tener* var. *titi*, *Potentilla hickmanii*, *Piperia yadonii*, *Cupressus goveniana* ssp. *goveniana*, *Trifolium trichocalyx*, and the black legless lizard both criteria are met. The publication of critical habitat descriptions and maps required in a proposal for critical habitat could increase the degree of threat to these six taxa from possible take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. These six taxa occur within small areas at few locations and are vulnerable to stochastic extinction. The listing of these plants and the lizard as either endangered or threatened publicizes the rarity of the taxa and thus can make them attractive to researchers, curiosity seekers, or collectors of rare plants or animals.

A determination of critical habitat would result in no known benefit to these taxa. The closure of Fort Ord is resulting in the transfer of lands to State Parks and the University of California at Santa Cruz ownership. These lands will be designated as protected habitats for which habitat management plans are under development. Other than the Fort Ord property, most of the known populations of these species are found on state or private lands where Federal involvement in land-use activities does not generally occur. Additional protection resulting from critical habitat designation is achieved through the section 7 consultation process. Since section 7 would not apply to land-use activities occurring on State and private lands and Fort Ord will designate protected habitats for these species, critical habitat designation would not appreciably benefit these species.

All Federal and State agencies involved and local major land owners and planning agencies have been notified of the general location and importance of protecting these species' habitat. Protection of these species' habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for these species is not prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition,

recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following a listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Two of the taxa, *Piperia yadonii* (Yadon's piperia) and the black legless lizard, occur within the boundaries of Fort Ord. Military training activities may affect these taxa and their habitat as could the Federal decision for the ultimate disposition of this property. The Department of Defense would be required to consult with the Service on actions that may affect these two species. Other Federal lands that support habitat for the black legless lizard include the Salinas National Wildlife Refuge and the Naval Postgraduate School in Monterey; however, there are no currently proposed activities on those lands that would affect the lizard. Urban development projects that are occurring on private lands may require permits from Federal agencies, such as section 404 permits from the Army Corps of Engineers.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered plants,