

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Least Bell's Vireo

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the least Bell's vireo (*Vireo bellii pusillus*) to be an endangered species. This action is being taken because loss of habitat has greatly restricted the vireo's breeding range, and nest parasitism by the brown-headed cowbird (*Molothrus ater*) has greatly reduced nesting success within much of its remaining breeding habitat. The action is based on a petition received by the Service November 8, 1979. The least Bell's vireo largely occurs in southwestern California and northwestern Baja California, Mexico, an area including only a fraction of its former range. Critical habitat is included with this proposed rule. The proposed rule would provide protection to all populations of this bird. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 2, 1985. Public hearing requests must be received by June 17, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232 (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:**Background**

The least Bell's vireo is a small, gray, migratory songbird that feeds mainly on insects. The nest is usually low in thickets along willow-dominated riparian habitats. The normal clutch is four eggs. Eggs are incubated about 14 days, the young remain in the nest approximately 10-12 days. The least Bell's vireo arrives in its breeding habitat in mid-March to early April, and departs in late August and September for its wintering range, which is

unknown but possibly includes southern Baja California.

Three other subspecies of Bell's vireo are recognized by the American Ornithologists' Union (1957): *Vireo bellii bellii* of the midwestern United States; *V. b. medius* of Texas; and *V. b. arizonae* of the southwestern United States and northern Mexico. While all are fairly similar in behavior and life history, all the subspecies are geographically separated on their breeding ranges (Hamilton, 1962). All Bell's vireos winter in Mexico.

Least Bell's vireo also occupies a more restricted nesting habitat than the other subspecies. It only inhabits dense, willow-dominated riparian habitats with lush understory vegetation, which is limited in its range to the immediate vicinity of water courses. The other subspecies may inhabit upland areas such as desert scrub. Thus, the limited habitat of the least Bell's vireo has rendered it more susceptible to major population reductions than the other subspecies.

No other passerine species in California has declined as dramatically as least Bell's vireo in historical times. It presently nests in small, remnant segments of willow-dominated riparian habitats and usually in populations of less than five breeding pairs. Once widespread and abundant throughout the Central Valley and other low-elevation riverine valleys, its historical breeding range extended from interior northern California (near Red Bluff, Tehama County) to northwestern Baja California, Mexico. In the last several decades it apparently has been totally extirpated from the Sacramento and San Joaquin Valleys, which once were at the center of its breeding range. Its current breeding range is restricted to two localities in the Salinas River Valley (Monterey and San Benito Counties), one locality along the Amargosa River (Inyo County), and numerous small populations in southern California south of the Tehachapi Mountains and in northwestern Baja California, Mexico.

The decline of least Bell's vireo has resulted from the widespread loss of riparian habitats and from brood parasitism by the brown-headed cowbird (*Molothrus ater*). Destruction of riparian woodlands may have rendered the least Bell's vireo incapable of withstanding the spectacular increase in brown-headed cowbirds that began in the 1930's (Grinnell and Miller, 1944; Gaines, 1974). The population decline of the vireo has been well documented. In 1973, no least Bell's vireo were found during an intensive search in formerly occupied habitat between Red Bluff, Tehama County, and Stockton, San

Joaquin County (Gaines, 1974). In 1977, the USFWS reviewed the literature, examined museum material, and contacted numerous National Audubon Society chapters and knowledgeable field observers for information on the status of the least Bell's vireo.

Since then, several intensive vireo surveys of virtually all potential breeding habitat in California have been conducted (Gaines, 1977; Goldwasser, 1978; Goldwasser *et al.*, 1980; unpublished Fish and Wildlife Service data). In total, least Bell's vireos have been reported from only 45 of over 150 former localities surveyed in the U.S. from 1977 through 1983. Based on this information, the present breeding population status of least Bell's vireo per county in California is as follows:

County	Sites*	Pairs*
San Benito	1	1
Monterey	1	1
Inyo	1	2
San Bernardino	2	4
Santa Barbara	5	65
Ventura	2	12
Los Angeles	2	3
Riverside	9	39
San Diego	22	158
Total	45	285

* Number of different known breeding localities.

* Number of known breeding pairs.

On November 8, 1979, the Service accepted a petition from James M. Greaves to list the least Bell's vireo as endangered. A notice of acceptance of the petition and status review was published on February 6, 1980 (45 FR 8030). Based on the best scientific and commercial data available and other comments submitted during the status review, the Service found that the petitioned action was warranted on October 13, 1983 (49 FR 2485, January 20, 1984); however, action was precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Section 4(b)(3)(B)(iii) recycles such petitions resulting in a new finding deadline of October 13, 1984. A finding was made October 12, 1984, that this action was still warranted. Publication of that finding is expected shortly in the **Federal Register**. Publication of this proposed rule fulfills the deadline requirements imposed by section 4(b)(3)(B)(ii) of the Act.

The Service's response to the petition indicated a decision would be forthcoming subsequent to the evaluation of the latest breeding season data. Based on surveys conducted from 1977-1983, the Service estimates that approximately 300 breeding pairs of least Bell's vireos occur in California

(Fish and Wildlife Service, unpublished data). Preliminary surveys in Baja, California resulted in the location of a number of small populations, but suitable habitat is declining and not abundant. There are probably several hundred breeding pairs in Baja, California (Wilbur, 1980).

Information generated from the February 6, 1980, Notice of Status Review indicates that the Arizona Bell's vireo (*Vireo bellii arizonae*) is relatively common and widely distributed in a variety of habitats in Arizona, New Mexico, and Mexico. It is not restricted to early riparian successional stages as is *V. b. pusillus*. Although density estimates of *V. b. arizonae* along the Colorado River and adjacent areas are very low, the subspecies appears to be doing well throughout most of its geographical range. In view of this, the Service does not believe it appropriate to recommend listing *V. b. arizonae* as endangered or threatened. Hence, this proposal is only for the least Bell's vireo (*V. b. pusillus*).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; revision published October 1, 1984; 49 FR 38900-38912) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to *Vireo bellii pusillus* are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The least Bell's vireo is largely restricted to dense, riparian habitat on its breeding range in California and northwestern Baja, California. Over 95 percent of historic riparian habitat has been lost throughout its former breeding range in the Central Valley of California, which may have accounted for 60-80% of the original population. Similar habitat losses have also occurred throughout its remaining stronghold in southern California, and habitats are currently declining in Baja, California as well. These widespread losses are mainly attributable to agricultural development, livestock grazing, urban development resulting from rapidly expanding human populations, and flood control and water development projects. Despite growing concern at all levels of government, substantial amounts of riparian habitat continue to be lost each year.

In summary, with about 65 percent of the remaining U.S. population threatened by at least four major construction projects (see factor E below, and the remaining 35 percent restricted to small, isolated habitats vulnerable to a variety of imminent threats, the least Bell's vireo is becoming increasingly threatened by extinction.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Not applicable.

C. Disease or predation. As with other song birds (passerines), least Bell's vireo has always been subject to nest predation. Unlike many other passerines, however, least Bell's vireos typically build their nests within 1 meter of the ground, where they are accessible to a variety of terrestrial predators that prey on eggs or young. Male vireos often sing while on the nest, thereby potentially increasing predation rates by attracting predators. With the introduction of house pets and feral cats and with the surrounding of remnant breeding habitats by encroaching urban development, abnormally high predator densities sometimes occur. In such situations, vireos undoubtedly face greater predation pressure than in larger, more natural habitats.

Recent multi-year studies by Greaves and Gray (unpublished reports) and Salata (1981, 1983) quantified predation rates at the Santa Ynez River and Santa Margarita River populations, respectively. They found that about 40 percent of all nesting attempts along the Santa Ynez River failed because of predation in recent years and that about 30 percent failed because of predation along the Santa Margarita River. Because these two sites represent the largest and most natural habitats remaining throughout the breeding range of least Bell's vireo, predation rates here may actually be lower than at smaller, more degraded breeding areas, especially those adjacent to residential areas.

D. The inadequacy of existing regulatory mechanisms. The least Bell's vireo is protected by both State of California and Federal laws. However, its habitat is not presently protected under those laws and is being incrementally destroyed and degraded. The Endangered Species Act offers additional possibilities for protection and management of this species' habitat.

E. Other natural or manmade factors affecting its continued existence. The effect of nest parasitism by the brown-headed cowbird has been greatly enhanced by manmade factors, which have increased the cowbird's habitat and range and decreased vireo habitat.

The brown-headed cowbird was rare in California prior to 1900, but expanded tremendously in both range and numbers as irrigated agriculture and animal husbandry increased. Cowbirds parasitize the nests of other bird species (i.e., lay their eggs in the nests of other species), usually to the detriment of the host birds' own eggs or young. The first record of nest parasitism on the least Bell's vireo was in 1907, after which reported incidences increased rapidly. The cowbird is not dependent upon the vireo, as it can use a large number of other species as hosts for its eggs. Vireo nests appear to be among the easiest to locate and may be favored, if present.

Recent studies by Greaves and Gray (unpublished reports) and Salata (1981, 1983) have documented parasitism rates of between 20 and 47 percent from 1980-1982 along the Santa Ynez and Santa Margarita Rivers. Although the results of these studies do not indicate inordinately high parasitism rates compared to those of other common host species of brown-headed cowbirds, they do support the hypothesis that cowbird parasitism is significantly reducing least Bell's vireo reproductive success. Rates higher and lower than these would be expected at other breeding locales of least Bell's vireo, depending on an array of environmental factors. Considering the present widespread abundance of cowbirds throughout the historic range of the vireo, it appears that cowbird parasitism may greatly increase the probabilities of localized extinction to many of the small, vulnerable breeding populations. Further, depressed nesting productivity in the larger vireo breeding populations may limit the opportunities for population dispersal into unoccupied habitats or to augment smaller populations and may prevent founding pairs from successfully producing enough young to establish a new local population.

The widespread habitat losses described above have fragmented remaining breeding populations into small, disjunct, widely dispersed subpopulations. Of the 45 localities known to have supported breeding populations since 1977, 35 localities support 4 breeding pairs or less and only seven sites support more than 10 breeding pairs. The four largest remaining populations—the Sweetwater River (34 pairs), Prado Basin-Santa Ana River (25 pairs), Santa Margarita River (69 pairs) and Santa Ynez River (60 pairs), represent about 65 percent of the extant U.S. population; each is imminently threatened by major urban development and water control projects planned in the near future (see list under

Critical Habitat section below). Many of the smaller subpopulations are similarly threatened by a variety of projects associated with the increasing human population throughout the range of the vireo.

Biogeographic theories suggest that the 41 small, remnant populations (accounting for about 35 percent of the total population) are more vulnerable to extirpation than several larger populations would be. In short, the smaller and more isolated a given local population, the more likely its chances of extinction. Given the high mortality rates of small migratory song birds and the significant threat posed by brown-headed cowbird parasitism (see above), localized extinctions represent a high probability even without natural or man-caused disasters to local habitats.

In many instances, there may be no other vireo populations close enough or there may not be sufficient population recruitment at other breeding areas to repopulate extirpated populations in later years. Also, if local habitats are destroyed (e.g., by construction projects such as occurred in southern California in 1978 and 1980), there may be no nearby habitat available to which vireos can disperse until destroyed riparian habitat regenerates. In this case, vireos may be forced into habitats less suitable to their nesting and foraging requirements, resulting in heightened mortality and reduced reproductive success.

The Service has carefully assessed the best scientific information available, regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the least Bell's vireo as endangered. Its greatly reduced distribution and small population size, loss of habitat, and substantial potential for habitat modification or loss from future development projects, indicate the species warrants endangered rather than threatened status. The bird is clearly in danger of becoming extinct throughout its range in the foreseeable future. The reasons for designating critical habitat are given in the following section. A decision to take no action would exclude the least Bell's vireo from needed protection available under the Endangered Species Act. Therefore, no action or listing as threatened would be contrary to the Act's intent.

Critical Habitat

Critical habitat, as defined by Section 3 of the Act means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are

found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being proposed for the least Bell's vireo to include 10 areas of approximately 43,000 acres in Santa Barbara, Ventura, Los Angeles, Riverside, San Bernardino and San Diego Counties, California. These 10 areas contain about 75% of the known U.S. population. Critical habitat lies in the Prado Basin-Santa Ana River (Riverside County), and Santa Ynez River (Santa Barbara County), the Santa Clara River (Ventura and Los Angeles Counties), and Sweetwater River, Tijuana River, Coyote Creek, Jamul-Dulzura Creeks, San Luis Rey River, Santa Margarita River, and San Diego River (San Diego County).

Within these areas, floodplains with appurtenant riparian vegetation and associated upland habitats represent primary constituent elements. Vireos obtain all their survival needs (food, cover, nest sites, nestling and fledgling protection) within the riparian zone. As additional information is obtained, other critical habitat areas may be recommended. In winter, they leave the United States. Limitations, if any, on the wintering areas are unknown at present.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation.

Actions that could adversely affect critical habitat for this species include: (1) removal or destruction of riparian vegetation, (2) thinning of riparian growth, particularly near ground level, or (3) increases in human-associated disturbance. Specific actions that could cause the above are stream channelization, water impounding, water diversion, livestock grazing, development of intensive recreation, or conversion of riparian areas to residential, agricultural, or commercial use. Complete or major destruction of riparian vegetation would result in elimination of least Bell's vireos from the affected area, which would in turn

further endanger the species throughout the remainder of its range and preclude opportunities for recovery. Thinning of riparian growth would cause abandonment of the area by least Bell's vireos by depriving them of nesting and foraging sites, or could result in lowered reproductive success by forcing them into less suitable habitat. Increases in recreation could cause actual destruction of nests, or could disrupt nesting activities and in turn could lead to nest abandonment, lowered egg hatching, or lowered fledging of young as a result of parental inattention or from increased predation.

A variety of Federal agencies have jurisdiction and responsibilities within the proposed critical habitat, and Section 7 consultations might be required in a number of instances. At this point, known proposals that could require consultation include: modification of Gibraltar Reservoir on the Santa Ynez River (Army Corps of Engineers [CE], U.S. Forest Service), a flood control project on the Santa Ana River (CE), a flood control project (CE) and a highway construction project (Federal Highway Administration) along the San Luis Rey River, urban development in wetlands at the Sweetwater Reservoir (CE), and a water project on the Santa Margarita River (Bureau of Reclamation, U.S. Marine Corps). These projects have the potential for significant adverse effects on the least Bell's vireo. Section 7 consultations usually result in modification, rather than curtailment of such projects.

The Bureau of Reclamation and U.S. Marine Corps that coordinated with the Service concerning possible projects which may be authorized for the Santa Margarita River at Camp Pendleton. An interagency agreement has been established to provide a mechanism leading to the timely implementation of a conservation strategy for native flora and wildlife species of Camp Pendleton and their habitats in the Santa Margarita floodplain and estuary. This agreement has identified the least Bell's vireo and other listed species as important public trust resources to be conserved.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating or not designating a particular area as critical habitat. The Service will consider the critical habitat designation in light of all additional relevant information obtained at the time of final rule.

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 practices. 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 listing. The protection required of Federal agencies and the prohibitions against taking and harm 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. Regulations implementing this Interagency Cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer 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. When a species is listed, Section 7(a)(2) requires Federal agencies to ensure 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 consultation with the Service. Federal involvement is expected in several water development projects (see list under Critical Habitat section above). Federal involvement is expected in several water development projects in wetlands as outlined in the Critical Habitat section of this rule. An interagency agreement involving the conservation of the least Bell's vireo and its habitat has also been identified and explained in this section.

The proposed rule would also bring Sections 5 and 6 of the Endangered Species Act into effect with respect to the least Bell's vireo. Section 5 authorizes the acquisition of lands for the purpose of conserving endangered and threatened species. Pursuant to Section 6, the Fish and Wildlife Service would be able to grant funds (should they become available) to the State of California for management actions

aiding the protection and recovery of the vireo.

Listing the least Bell's vireo as endangered would allow for development of a recovery plan for this bird. Such a plan would draw together the State and Federal agencies having responsibility for conservation of the vireo. The recovery plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate in their conservation efforts. The plan would set recovery priorities and estimate the cost of various tasks necessary to accomplish them. It would assign appropriate functions to each agency and a time frame within which to complete them.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered fish or wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, or to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The least Bell's vireo is not used for economic purposes, is not a commercial species, and is not legally hunted, sold, or traded. Only a few requests for permits are anticipated. Therefore, there should be no significant impacts as a result of the above prohibitions. This bird is presently protected under 50 CFR Part 10 as a migratory bird.

If this species is listed under the Act, the Service will review it to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8(A)(e) of the Act, and whether it should be

considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or lack thereof) to the least Bell's vireo;

(2) The location of any additional populations of least Bell's vireos and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this bird;

(4) Current or planned activities in the subject area and their possible impacts on the least Bell's vireo; and,

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

Final promulgation of the regulations on the least Bell's vireo will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

Literature Cited

American Ornithologists' Union. 1957. Checklist of North American birds. 5th edition 691 pp.

Gaines, D. 1974. A new look at the nesting riparian avifauna of the Sacramento Valley, California. *Western Birds* 5:61-79.

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Hamilton, T. 1962. Species relationships and adaptations for sympatry in the avian genus *Vireo*. *Condor* 64:40-68.

Salata, L. 1981. Least Bell's vireo research. Camp Pendleton Marine Corps Base, San Diego County, California. Natural Resources Office, Camp Pendleton, California. Unpublished report.

Salata, L. 1983. Status of the least Bell's vireo on Camp Pendleton, California. U.S. Fish and Wildlife Service, Laguna Niguel, California. Unpublished report.

Wilbur, S. 1980. The least Bell's vireo in Baja California, Mexico. *Western Birds* 11:129-133.

Authors

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17--[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-358, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-158, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 et seq.).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

(h)

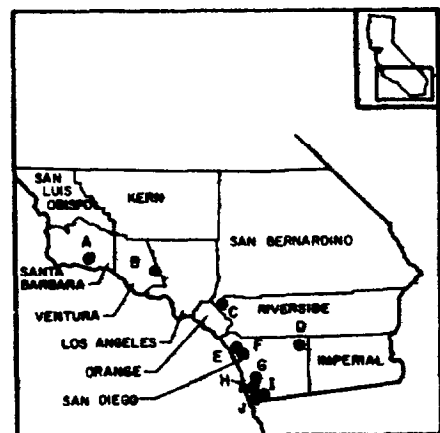
Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
Vireo, least Bell's	<i>Vireo bellii pusillus</i>	U.S.A. (CA) Mexico	Entire	E		17.95(b)	NA

3. It is further proposed to amend § 17.95(b) by adding critical habitat of the least Bell's vireo in the same alphabetical sequence as the species occurs in § 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

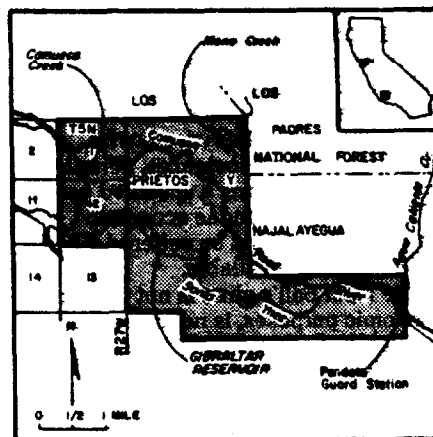
(a)

Least Bell's Vireo (*Vireo bellii pusillus*) California (San Bernardino Meridian)



1. Santa Ynez River, Santa Barbara County (Index map location A).

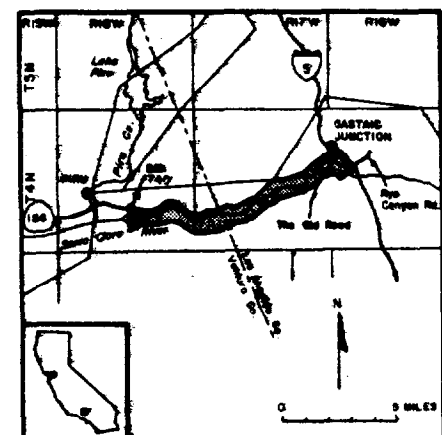
T5N, R27W: Sec. 1 and 12.
Partially surveyed T5N, R26W: approximately Sec. 5, 6, 7, 8, 16 S½, 17, 18 N½, 21 N½.



2. Santa Clara River, Los Angeles and Ventura Counties (Index map location B).

T4N, R16W, and T4N, R17W: all land within 3,500 feet perpendicularly and generally south or west of a line commencing at a point 100 yards west of BM740, a point about 2.3 miles east of the intersection of

Main Street and State Highway 126 in Piru; thence east along State Highway 126 to its intersection with The Old Road at Castaic Junction; thence eastward and southward along The Old Road to its intersection with Rye Canyon Road.



3. Prado Basin-Santa Ana River, Riverside and San Bernardino Counties (Index map location C).

All lands below the 543-foot contour in partially surveyed T3S, R7W, within the Prado Flood Control Basin (upstream from Prado Dam). In addition, the following lands

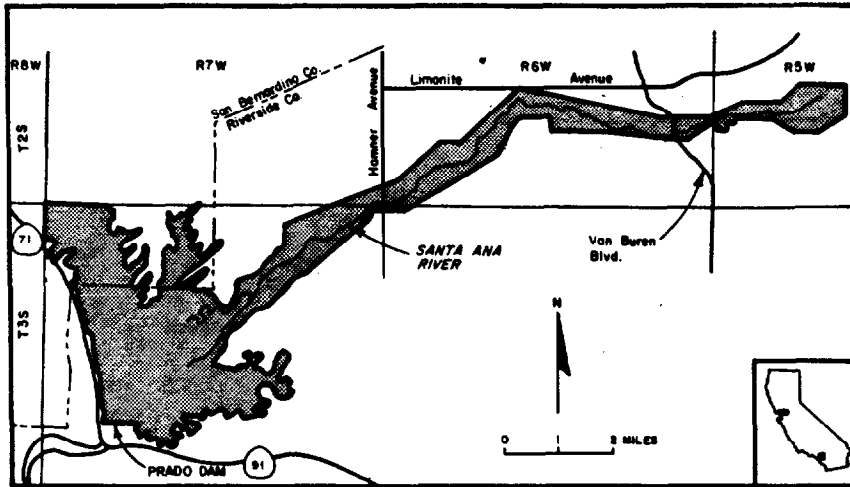
above the 543-foot contour in the Santa Ana River bottoms and within the following boundaries: commencing at a point 0.1 mi E and 0.2 mi N of SW corner Sec. 2, T3S, R7W; thence N 0.4 mi; thence to a point 0.25 mi E and 0.4 mi N of SW corner Sec. 31, T2S, R6W; thence to NE corner Sec. 31, T2S, R6W; thence 0.35 mi E; thence to midpoint of south section line Sec. 21, T2S, R6W; thence to a point 0.6 mi S of NW corner of Sec. 25, T2S, R6W; thence 0.6 mi E; thence to a point 0.2 mi N of center Sec. 30, T2S, R5W; thence 0.7 mi E; thence to a point 0.6 mi E of SW corner Sec. 20, T2S, R5W; thence 0.8 mi E; thence 0.6

mi S; thence to a point 0.3 mi N of SW corner Sec. 28, T2S, R5W; thence to a point 0.45 mi N of SW corner Sec. 29, T2S, R5W; thence west and south along the Riverside Corporation Boundary (as shown on USGS Riverside Quadrangle, 1980) to its intersection with Van Buren Blvd.; thence to a point 0.2 mi E and 0.75 mi S of NW corner Sec. 27, T2S, R6W; thence 0.25 mi N; thence 0.7 mi W; thence to a point 0.85 mi N of SE corner Sec. 32, T2S, R6W; thence to a point 0.75 mi W and 0.1 mi S of NE corner Sec. 6, T3S, R6W; thence 0.5 mi W; thence to a point 0.3 mi W of SE corner Sec. 2, T3S, R7W.

6. San Luis Rey River, San Diego County (Index map location F).

T11S, R5W: Sec. 13 S½NE¼, SE¼NW¼, SW¼; 14 SE¼SW¼, S½SE¼; 23 NW¼.
 T11S, R4W: Sec. 3 all land north of Murray Road; 4 E½NE¼, E½SE¼SW¼, W½NE¼S E¼, E½NW¼SE¼, SW¼SE¼; 7 N½NE¼N E¼, NW¼NE¼, E½W½, SW¼SW¼; 8 N½NE¼, N½N½NW¼; 9 N½NW¼; 18 NW¼.

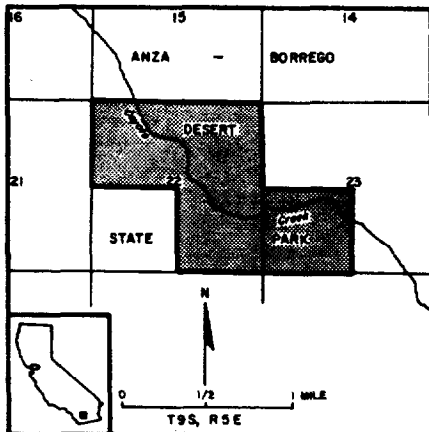
T10S, R4W: Sec. 34 S½SW¼.
 Surveyed and unsurveyed portions according to the following metes and bounds: bordered on the north from the intersection of North River Road and the surveyed eastern section line of Sec. 3, T11S, R4W; thence east along said road to its junction with Via Puerta Del; thence along a line due east to its intersection with State Highway 76 in Sec. 31, T10S, R3W; thence north and east along said highway to its intersection with the eastern section line of Sec. 27, T9S, R2W; and bordered on the south from the intersection of Murray Road and the surveyed eastern section line of Sec. 3, T11S R4W; thence south and east along said road to its junction with State Highway 76; thence east and north along said highway to its junction with Santa Fe Avenue; thence southeast 3,000 feet along said avenue; thence northeast along a straight line to Guajome Lake Road at a point 800 feet from the junction of said road and State Highway 76; thence northwest along Guajome Lake Road to its junction with said highway; thence east along said highway to its junction with River Road in Sec. 31, T10S, R3W; thence north along said road to its intersection with the surveyed eastern section line of Sec. 20, T10S, R3W; thence north to and northeasterly along the 250-foot contour in Sec. 21 through partially surveyed Sec. 15, T10S, R3W; thence north to a point about 0.2 mi. S of the NW corner of Sec. 14, and continuing along the 300-foot contour from the west section line of Sec. 14 eastward through unsurveyed Sec. 11, surveyed Sec. 13 and 12, T10S, R3W; and surveyed Sec. 18, T10S, R2W; thence east to and along the 325-foot contour through Sec. 1, T10S, R3W; thence south to and along the 350-foot contour in Sec. 6 and 5, T10S, R2W, and Sec. 32 and 33, T9S, R2W, to the north section line of Sec. 33; thence east approximately 1.5 miles to SE corner of Sec. 27, T9S, R2W; and thence north about 0.4 miles to State Highway 76 in Pala.



4. Coyote Creek, San Diego County (Index map location D).

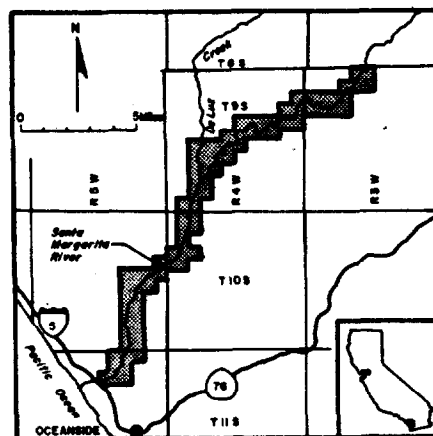
T9S, R5E: Sec. 22 N½, SE¼; 23 SW¼.

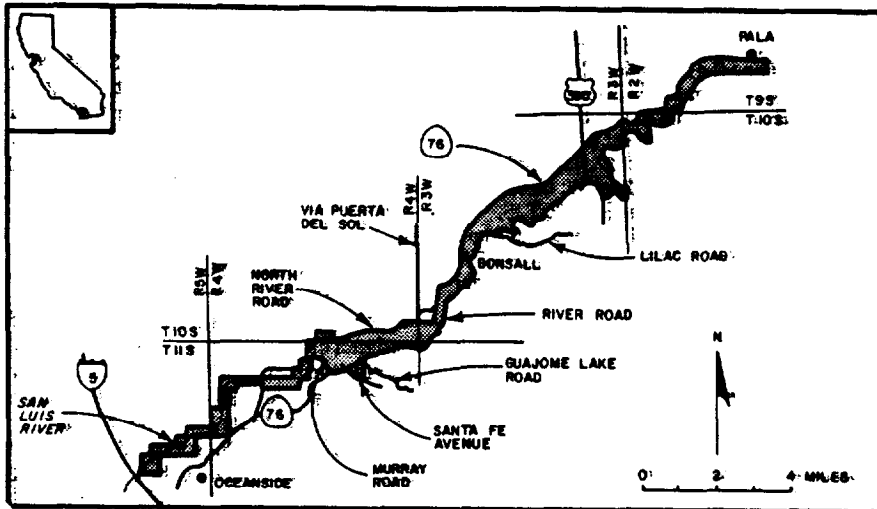
T9S, R4W: Sec. 12 S½, NE¼; 13 N½; 14; 15; SE¼; 20; 21; 22 NW¼; 28 NW¼; 29; 31 SE¼; 32 W½, NE¼.
 T10S, R4W: Sec. 5 W½; 6 E½; 7 E½, SW¼; 8 SW¼; 18 N½.
 T10S, R5W: Sec. 13 S½, NE¼; 14 S½; 23; 24 NW¼; 28; 35.
 T11S, R5W: Sec. 2 N½, SW¼; 3 E½; 10 N½; 11 NW¼.



5. Santa Margarita River-DeLuz Creek, San Diego County (Index map location E).

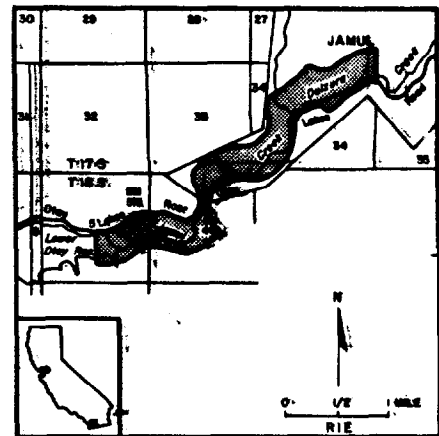
T9S, R3W: Sec. 4; 5 SE¼; 7; 8.





9: Jamul-Dulzura Creeks, San Diego County (Index map location I);

T17S, R1E, and T18S, R1E, commencing from a point approximately 2,200 feet west of BM 515 along Otay Lakes Road, in Sec. 3, T18S, R1E; thence east approximately one mile to the intersection of said road and a bridge over Jamul Creek; including all lands within 1,500 feet southward of Otay Lakes Road as measured perpendicularly from the road; thence eastward for about 2.35 miles along said road and including all lands within 1,500 feet northward of said road as measured perpendicularly from the road; and including all lands within 500 feet of said intersection not otherwise included above.



7: San Diego River, San Diego County (Index map location G);

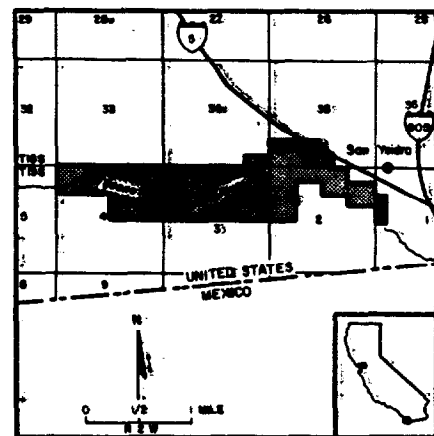
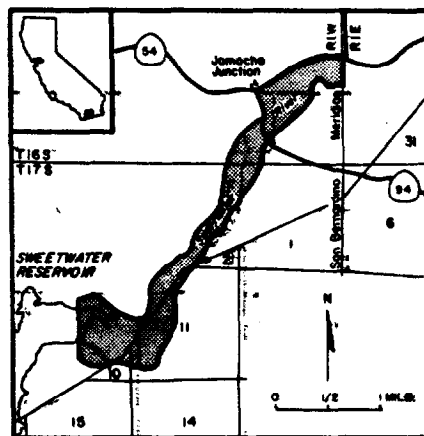
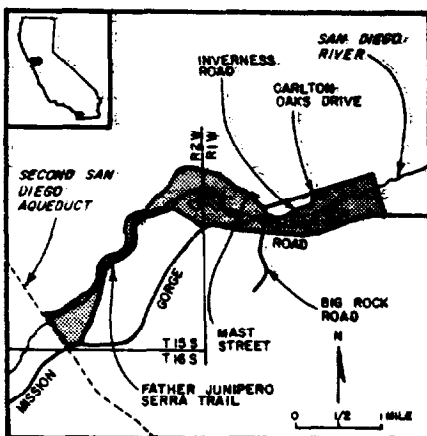
T15S, R1W, and T15S, R2W: commencing at the intersection of the Second San Diego Aqueduct and Mission Gorge Road, thence eastward along said road to the western-most intersection with Father Junipero Serra Trail; thence northward and eastward along said trail to the eastern-most intersection of said trail and said road; thence eastward along Mission Gorge Road to its intersection with Big Rock Road; thence northward to the western-most intersection of Inverness Road and Carlton Oaks Drive; thence westward along said drive to its intersection with Mast Street; thence westward and southward along the 320-foot contour to its intersection with the Second San Diego Aqueduct on the north side of the San Diego River; thence southeast along said aqueduct to its intersection with Mission Gorge Road.

8: Sweetwater River-Sweetwater Reservoir, San Diego County (Index map location H);

T16S, R1W, and T17S, R1W: commencing at the intersection of the 320-foot contour and 116°58'14" W. Longitude immediately north of the confluence of Sweetwater River and Sweetwater Reservoir; thence eastward along the contour to the intersection of said contour with State Highway 94; thence northward along said highway to its intersection with State Highway 54; thence northeastward along said highway to the San Bernardino Meridian; thence south approximately 1,500 feet to the intersection with the 340-foot contour; thence west and south along said contour to the south end of the Steele Canyon Bridge on State Highway 94; thence directly south approximately 900 feet to the 340-foot contour; thence southwesterly along said contour to the intersection with 116°58'14" W. Longitude; thence north to starting point.

10: Tijuana River, San Diego County (Index map location J);

T18S, R2W: Sec. 34: S 1/2 SE 1/4 SE 1/4, S 1/2 SW 1/4, SW 1/4 SW 1/4 SE 1/4.
 T19S, R2W: Sec. 1: W 1/2 SW 1/4 NW 1/4, 2 S 1/2 NE 1/4 NE 1/4, NW 1/4 NE 1/4, N 1/2 SE 1/4 NE 1/4, N 1/2 NE 1/4 NW 1/4, W 1/2 NW 1/4, 3 N 1/2, 4 NE 1/4, N 1/2 NW 1/4.



Constituent elements for the critical habitat of the least Bell's vireo include riverine and floodplain habitats, particularly associated willow- and cottonwood-dominated plant communities that provide for the nesting, foraging and other habitat requirements of least Bell's vireo within its breeding range.

Dated: March 21, 1985.

J. Craig Potter.

Acting Assistant Secretary for Fish and Wildlife and Parks.

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