

Bruno Elfín Butterfly (*Callophrys mossii bayensis*), Mission Blue Butterfly (*Icaricia icarioides missionensis*), Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*), El Segundo Blue Butterfly (*Shijimiaeoides battoides allyni*), Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*), and the Antioch Dunes Evening Primrose (*Oenothera deltoides* ssp. *howellii*). This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884; hereinafter the Act).

#### BACKGROUND

All eight species herein considered are denizens of coastal California and are species whose habitats have been severely impacted by man's activities. For the butterflies, maintenance of sufficiently large areas containing the caterpillar food plants and adult nectar plants is necessary for their continued survival. For the plants, maintenance of sufficiently large areas with proper soil type and exposure and sufficiently large areas to maintain populations of the appropriate insect pollinators is necessary. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in section 7 of the Act.

The areas delineated below are known to have been populated by these insect and plants in recent years or are known to contain significant populations of the insect's caterpillar food plants. It is emphasized that these areas may not represent all of what may be the overall Critical Habitat of these species in the United States, and additional areas may be proposed for designation in the future.

Information which enabled delineation of the Critical Habitat zones proposed herein was derived from the personal knowledge of Dr. Paul A. Opler (Staff Biologist, FWS/OES), published scientific papers, and an unpublished report prepared for the California Department of Food and Agriculture by Mr. Julia Donahue (National History Museum, Los Angeles County).

#### EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[ 50 CFR Part 17 ]

### ENDANGERED AND THREATENED WILDLIFE AND PLANTS

#### Proposed Determination of Critical Habitat for Six Butterflies and Two Plants

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Lotis Blue Butterfly (*Lycaeides argyrognomon lotis*), Lange's Metalmark Butterfly (*Apodemia mormo langei*), San

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

**PUBLIC COMMENTS SOLICITED**

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitats of the Lotis Blue Butterfly, Lange's Metalmark Butterfly, San Bruno Elfin Butterfly, Mission Blue Butterfly, Smith's Blue Butterfly, El Segundo Blue Butterfly, Contra Costa Wallflower, and the An-

tioch Dunes Evening Primrose. The Director, therefore, desires, to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

**ENVIRONMENTAL ASSESSMENT**

An environmental assessment, prepared in conjunction with this proposal, is on file in the Service's Office of Endangered Species, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined there during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

**SUBMITTAL OF WRITTEN COMMENTS**

Interested persons may participate in this Rulemaking by submitting written comments preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments received no later than April 8, 1977, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street, N.W., Washington, D.C.

Dated: January 21, 1977.

LYNN A. GREENWALT,  
Director,  
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the table of sections for Subpart I of Part 17 to read as follows:

**Subpart I—Interagency Cooperation**

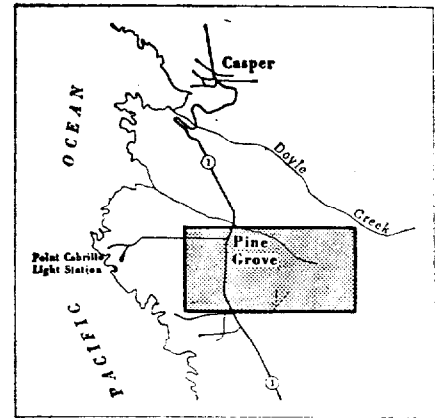
Sec.  
17.95 Critical Habitat.  
17.96 Plants.

2. By adding new § 17.95(i), 1-6 and § 17.96, a and b reading as follows:

§ 17.95 Critical habitat.

(i) *Insecta*.—(1) *Lotis Blue Butterfly*. The following area is Critical Habitat for the Lotis Blue Butterfly (*Lycaeides argyrognomon lotis*):

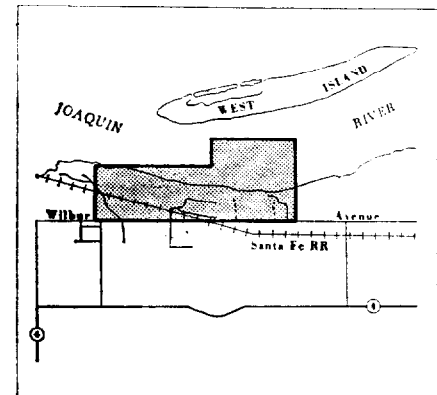
*California*—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in Mendocino County with the following components: T17N R17W SW¼ of Sec. 7, SE¼ of Sec. 12.



PROPOSED CRITICAL HABITAT FOR LOTIS BLUE BUTTERFLY

(2) *Lange's Metalmark Butterfly*. The following area is Critical Habitat for the Lange's Metalmark Butterfly (*Apodemia mormo langei*):

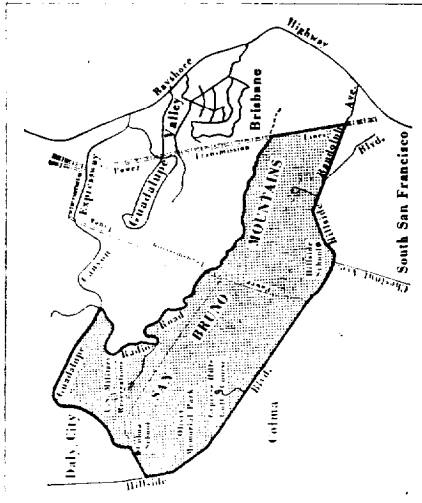
*California*—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County with the following components: T2N R2E SW¼ Sec. 17, E½ of S½ Sec. 18.



PROPOSED CRITICAL HABITAT FOR LANGE'S METALMARK BUTTERFLY

(3) *San Bruno Elfin Butterfly*. The following area is Critical Habitat for the San Bruno Elfin Butterfly (*Callophrys mossii bayensis*):

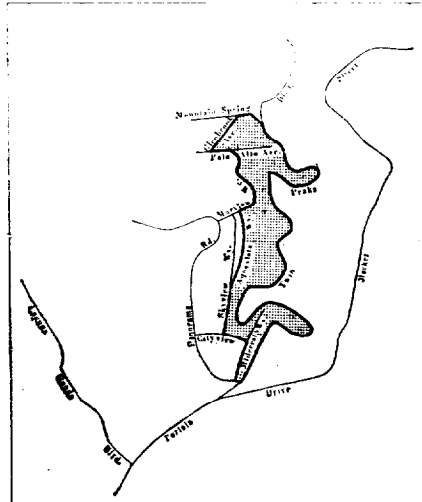
*California*—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in San Mateo County with the following components: all that portion of the San Bruno Mountains (excluding Cypress Hills Golf Course, Olivet Memorial Park, Hillside School and Colma School) bounded by a line extending along Guadalupe Canyon Expressway from its junction with Hillside Boulevard to its junction with Radio Road, thence along Radio Road to its terminus, thence southeastwardly along an unimproved dirt road which runs down the highest ridge of the mountains for about two miles to its intersection with a triple-pole power-line, thence southwardly along the power-line right-of-way to its intersection with Randolph Avenue to its intersection with Hillside Boulevard, thence northwestwardly along Hillside Boulevard to its intersection with Guadalupe Canyon Expressway.



PROPOSED CRITICAL HABITAT FOR SAN BRUNO ELFIN BUTTERFLY

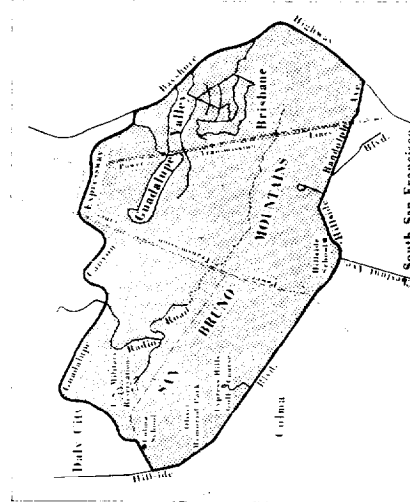
(4) *Mission Blue Butterfly*. The following areas are Critical Habitat for the Mission Blue Butterfly (*Icaricia icarioides missionensis*):

**California—Twin Peaks Zone:** An area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in San Francisco County, with the following components: an area bounded by a line extending from the junction of Mountain Spring Street and Twin Peaks Boulevard southwardly along Twin Peaks Boulevard to its junction with Panorama Road, thence westwardly along Panorama Road to its junction with Midcrest Way, thence northeastwardly along Midcrest Way to its junction with Cityview Way, thence westwardly along Cityview Way to its junction with Skyview Way, thence northwardly along Skyview Way to its junction with Aquavista Way, thence northwardly along Aquavista Way to its junction with Marview Way, thence northwardly along Marview Way to its junction with Palo Alto Avenue, thence westwardly along Palo Alto Avenue to its junction with Glenbrook Avenue, thence northeastwardly along Glenbrook Avenue to its junction with Mountain Spring Street, thence eastwardly along Mountain Spring Street to its junction with Twin Peaks Boulevard.



PROPOSED CRITICAL HABITAT FOR MISSION BLUE BUTTERFLY (Twin Peaks Zone)

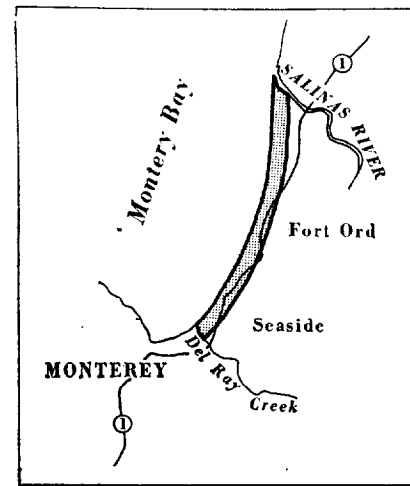
**San Bruno Mountains Zone:** An area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in San Mateo County, with the following components: an area enclosed within a line extending from the junction of Guadalupe Canyon Expressway and Bayshore Highway, thence southwardly along Bayshore Highway to Randolph Avenue, thence northwestwardly along Randolph Avenue to its junction with Hillside Boulevard, thence northwestwardly along Hillside Boulevard to its junction with Guadalupe Canyon Expressway, thence eastwardly along Guadalupe Canyon Expressway to its junction with Bayshore Highway.



PROPOSED CRITICAL HABITAT FOR MISSION BLUE BUTTERFLY (SAN BRUNO MOUNTAINS ZONE)

(5) *Smith's Blue Butterfly*. The following area is Critical Habitat for the Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*):

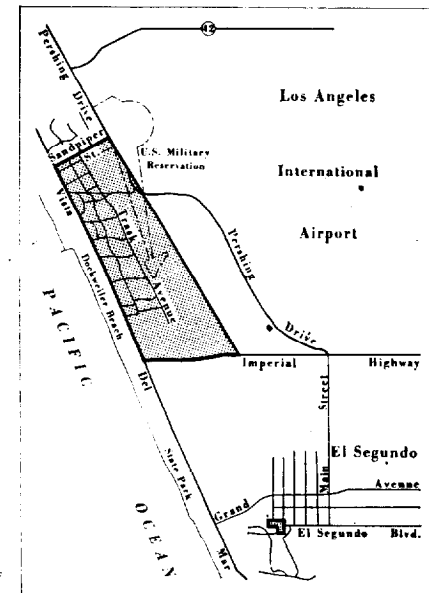
**California**—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Monterey County with the following components: an elongate strip of coastal sand dunes, extending one kilometer inland in a westward direction from the Pacific Ocean (mean higher high tide line), bounded by Del Rey Creek on the south and the Salinas River on the north.



PROPOSED CRITICAL HABITAT FOR SMITH'S BLUE BUTTERFLY

(6) *El Segundo Blue Butterfly*. The following areas are Critical Habitat for the El Segundo Blue Butterfly (*Shijimiaeoides battoides allyni*):

**California**—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Los Angeles County, with the following components: (1) An area to the east of Los Angeles International Airport bounded by a line extending from the junction of Vista Del Mar and Sandpiper Street westwardly along Sandpiper Street to its junction with Pershing Drive, thence southwardly along Sandpiper Street to its junction with the junction of Imperial Highway and Hillcrest Street, thence westwardly along Imperial Highway to its junction with Vista Del Mar, thence northwardly along Vista Del Mar to its junction with Sandpiper Street; (2) A two-acre area of natural sand dune to the south of and abutting the western terminus of El Segundo Boulevard (118°25'0" W Long., 33°55'0" N Lat in El Segundo).



PROPOSED CRITICAL HABITAT FOR EL SEGUNDO BLUE BUTTERFLY

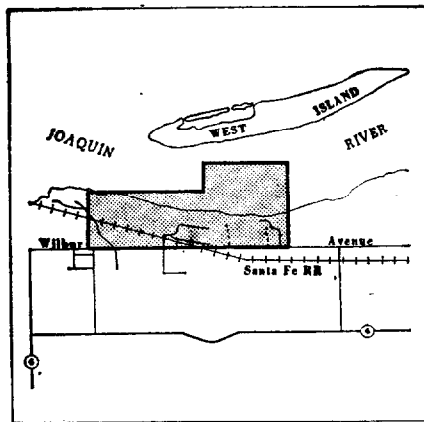
§ 17.96 Plants.

(a) *Contra Costa Wallflower*. The following area is Critical Habitat for the Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*):

**California**—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County, with the following components: T2N R2E SW¼ Sec 17, E½ of S¼ Sec. 18.

(b) *Antioch Dunes Evening Primros*. The following area is Critical Habitat for the Antioch Dunes Evening Primros (*Oenothera deltooides* ssp. *howellii*):

**California**—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County, with the following components: T2N R2E SW¼ Sec. 17, E½ of S¼ of Sec. 18.



PROPOSED CRITICAL HABITAT FOR CONTRA COSTA WALLFLOWER AND ANTIOCH DUNES EVENING PRIMROSE

[FR Doc.77-3635 Filed 2-7-77;8:45 am]