which we have authority to determine the reasonableness of rates are extremely limited.

UTU–IL has not provided independent grounds to maintain a requirement for justification statements for fare increases over which we have such limited regulatory authority. UTU–IL has not shown how it or its members directly benefits from the filing of a justification statement with the Governor and the relevant state or county regulatory agency. Moreover, the UTU–IL assertion that the filing of justification statements is not a burden on carriers is unsupported.

Moreover, we must reject the UTU–IL suggestion that we can require reports from freight carriers concerning their participation in mass transportation for local authorities. While the Board has jurisdiction over freight carriers under section 721(b), under section 10501(c)(2), we do not have jurisdiction in most cases ''over mass transportation provided by a local governmental authority.'' The statutory definition of local governmental authority ''includes a person or entity that contracts with the local governmental authority to provide transportation services * * *.'' 49 U.S.C. 10501(c)(1)(A)(ii). Accordingly, we see no basis for requiring that rail carriers provide information concerning their participation in mass transportation related to local governmental authority.

Finally, we see no need to institute a rulemaking proceeding regarding disclosure of interstate passenger fares. As to any passenger transportation not covered by the mass transportation exemption of section 10501(c)(2), we believe that the pertinent rate disclosure regulations issued at 49 CFR part 1300 would cover required disclosure of passenger fares.

The Board concludes that the removal of the rule in part 1136 would not have a significant effect on a substantial number of small entities. No comments were filed on this issue in response to the February notice. Moreover, passengers are usually individuals and not small entities within the meaning of 5 U.S.C. 601 and, in any event, we do not expect that any effect on them would be significant.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

providing common carriage not to increase rates without advance notice. See Rail Disclosure and 49 CFR part 1300.

List of Subjects in 49 CFR Part 1136

Administrative practice and procedure, Railroads.

Decided: June 6, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

PART 1136—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1136.

[FR Doc. 97–15965 Filed 6–17–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC96

Endangered and Threatened Wildlife and Plants; Endangered Status for Four Plants From Vernal Pools and Mesic Areas in Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for four plants—*Lasthenia conjugens* (Contra Costa goldfields), *Navarretia leucocephala* ssp. *pauciflora* (few-flowered navarretia), *Navarretia leucocephala* ssp. *plieantha* (many-flowered navarretia), and *Parvisedum leiocarpum* (Lake County stonecrop). These species grow in and around the margins of vernal pools and in seasonally wet areas in northern California. Habitat loss and degradation imperil the continued existence of these plants. This final rule implements protection provisions of the Act for listed plants.

EFFECTIVE DATE: July 18, 1997.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Ave., Suite 130, Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Elizabeth Warne or Kirsten Tarp (see **ADDRESSES** section) (telephone 916/979–2120).

SUPPLEMENTARY INFORMATION:

Background

Lasthenia conjugens was described from specimens collected near Antioch in Contra Costa County, California (Greene 1888). Hall (1914) included the taxon within *Baeria fremontii*, however, Ferris (1958) later recognized this material as *B. fremontii* var. *conjugens*. Ornduff (1966) submerged the genus *Baeria* under *Lasthenia* and recognized the specific rank of *L. conjugens*.

Lasthenia conjugens is a showy spring annual in the aster family (Asteraceae) that grows 10 to 30 centimeters (cm) (4 to 12 inches (in.)) tall and is usually branched. The leaves are opposite, light green, and usually have a feather-like arrangement with narrow clefts extending more than halfway toward the stem. The flowers are found in terminal yellow heads. The phyllaries are one-third to one-half fused; the achenes are less than 1.5 millimeters (mm) (0.06 in.) long and always lack a pappus. *Lasthenia conjugens* flowers from March to June. The partially fused phyllaries and the lack of a pappus distinguish this species from *L. fremontii* and *L. burkei*, which it otherwise closely resembles.

Habitat for *Lasthenia conjugens* consists of vernal pools in open grassy areas of woodland and valley grassland communities. Vernal pools are a natural habitat type of the Mediterranean climate region of the Pacific coast and the Central Valley of California. Covered by shallow water for extended periods during the cool season but completely dry for most of the warm season drought, vernal pools hold water long enough to allow some purely aquatic organisms to grow and reproduce, but not long enough to permit the development of a typical pond or marsh ecosystem. The alternation of very wet and very dry conditions creates an unusual ecological situation that supports a unique biota (Zedler 1987). *Lasthenia conjugens* occurs at elevations up to 213 m (700 feet (ft)) (Ornduff 1966) although one disjunct location, which is possibly extirpated, occurred at an elevation of 469 m (1540 ft) (California Natural Diversity Database (CNDDB) 1996).

Historically, *Lasthenia conjugens* grew in vernal pool habitats in seven counties—Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara, Napa, and Solano counties, California. Currently, the species is known from a total of 13 populations in Alameda, Contra Costa, Napa, and Solano counties (California Native Plant Society (CNPS) 1978, CNDDB 1996). Eight of these populations were discovered after

publication of the proposed rule and are located within the original range of the species near Fairfield in Solano County, and near Fremont in Alameda County (CNDDB 1996, Duncan & Jones 1996). One population of *L. conjugens* occurs in Contra Costa County, two in Napa County, one in Alameda County, and nine in Solano County. Of the nine populations located in Solano County, eight are clustered near the town of Fairfield and one is located at Travis Air Force Base. The population located at Travis Air Force Base is the only population on Federal land; all other populations are on private lands.

The type specimen for *Navarretia pauciflora* was collected from a playa 8 kilometers (km) (5 miles (mi)) north of Lower Lake, Lake County, California (Mason 1946). Day (1993) revised the treatment of *Navarretia* and reduced *N. pauciflora* to a subspecies of *N. leucocephala.* More than a dozen species of *Navarretia* occur in the region, including several restricted to vernal pools. Both *N. leucocephala* ssp. *pauciflora* and *N. leucocephala* ssp. *plieantha* are restricted to northern ash-flow volcanic vernal pools, a pool type with a very limited distribution. (CNPS 1994; Todd Keeler-Wolfe, California Department of Fish and Game (CDFG), pers. comm. 1996).

Navarretia leucocephala ssp. *pauciflora* is a low-growing, spreading, and much-branched annual herb in the phlox family (Polemoniaceae). This plant grows to a height of 1 to 4 cm (0.4 to 1.6 in.). The nearly hairless leaves are linear and entire, or parted into a few linear lobes, and 1 to 2.5 cm (0.4 to 1.0 in.) long. The inflorescence is a head of 2 to 15 blue or white (fading to blue) flowers. A few spiny, leaf-like bracts below each head extend out 1.5 to 3 times the radius of the head; bracts within the head are shorter. The funnel-shaped corollas are 5 to 7 mm (0.2 to 0.3 in.) long with five lobes 1.5 mm (0.06 in.) long. Each corolla lobe has a single unbranched vein. The stigma has two minute lobes. *Navarretia leucocephala* ssp. *pauciflora* flowers from May to June.

Navarretia leucocephala ssp. *pauciflora* is found growing in volcanic ash substrate, clay pan vernal pools in chaparral, grassland, or mixed coniferous forest in southern Lake and Napa Counties. The subspecies occurs over a 50 square-kilometer (sq-km) (20 square-mile (sq-mi)) area at elevations of 450 to 850 m (1,400 to 2,800 ft). Historically, *N. leucocephala* ssp. *pauciflora* was known from nine sites in Napa and Lake counties. The subspecies has become extirpated from six historical localities (CNPS 1990a; Alva Day, California Academy of Sciences, *in litt.* 1993). Two new localities were found in 1989. The five extant populations occur on private lands.

Five subspecies of *Navarretia leucocephala* are currently recognized (Day 1993), two of which may hybridize with *N. leucocephala* ssp. *pauciflora* (A. Day, pers. comm. 1993). These two subspecies, *N. leucocephala* ssp. *bakeri* and *N. leucocephala* ssp. *plieantha,* differ from *N. leucocephala* ssp. *pauciflora* in stature, degree of hairiness, or size, number or lobing of floral parts. In addition, the flower color in ssp. *plieantha* differs, being bright blue rather that white or pale blue as in ssp. *pauciflora.* As stated in the Service's proposed policy on the treatment of intercrosses and intercross progeny (61 FR 4710; February 7, 1996), ''intercross progeny'' (hybrids) that are the result of a cross involving a listed taxon receive protection under the Act if the progeny more closely resemble the listed parent's taxon. This policy, if finalized, will primarily apply to a population at Loch Lomond, which is a product of intercross between ssp. *plieantha* and ssp. *pauciflora* (A. Day, *in litt.* 1993). If the policy is finalized, the Loch Lomond population of *N. leucocephala* will be treated as if it were listed because both parental taxa will be listed with the publication of this rule. The intercross policy could also apply to two historical populations in Sonoma County. Day identified herbaria specimens of these populations as intermediates between ssp. *plieantha* and ssp. *bakeri* (a non-listed taxon) (A. Day, *in litt.* 1993). However, at least one of these populations appears to be no longer extant (McCarten 1985, CNPS 1987). Should these populations be rediscovered, a morphological assessment would be required to determine the applicability of any intercross policy and subsequent protection under the Act.

Navarretia plieantha was described from the margin of Bogg's Lake in Lake County, California (Mason 1946). Day reduced the taxon to a subspecies of *N. leucocephala* in her revised treatment (Day 1993). *Navarretia leucocephala* ssp. *plieantha* is distinguished from *N. leucocephala* ssp. *pauciflora* by its more numerous and multi-flowered heads (20 to 60 flowers versus 2 to 15), and in having three or more pairs of outer bracts with the bract lobes being forked or three-four branched from the base. It is distinguished from other *Navarretias* in the region by stature, degree of hairiness, or size, number, or lobing of floral parts.

Navarretia leucocephala ssp. *plieantha* is a low growing annual herb in the phlox family (Polemoniaceae) that forms a mat 5 to 20 cm (2 to 8 in.) wide. The 3 to 4 cm (1.0 to 1.6 in.) long leaves are linear or have a few widely spaced linear lobes. The inflorescence is a head composed of 20 to 50 white or blue flowers. Each head is 1.5 to 2 cm (0.6 to 0.8 in.) across and is subtended by 3 to 4 leaf-like bracts that are simple-pinnate or compound-pinnate and extend outward 1 to 2 times the radius of the head. The bracts within the head are shorter. The funnel-shaped corolla is 5 to 6 mm (0.20 to 0.24 in.) long with five lobes each 2 mm (0.7 in.) long. The stigma is two-cleft. *Navarretia leucocephala* ssp. *plieantha* flowers in May and June.

Navarretia leucocephala ssp. *plieantha* is found in dry meadows, along the margins of volcanic ash substrate vernal pools and lakes, and in open, wet ground in forest openings. It occurs over a 1,000 sq-km (390 sq-mi) area at elevations of 700 to 915 m (2,300 to 3,000 ft). *Navarretia leucocephala* ssp. *plieantha* is historically known from eight locations in Lake and Sonoma counties, California. Two historical populations in Sonoma County are considered potentially extirpated (CNDDB 1996) and were possibly hybrids between *N. leucocephala* ssp. *plieantha* and *N. leucocephala* ssp. *bakeri.* All five extant populations are found in Lake County (A. Day, *in litt.* 1993). Four of the extant populations are located on private land; one of these is located on The Nature Conservancy (TNC) preserve at Bogg's Lake. The fifth population is an intercross population (*N. leucocephala* ssp. *plieantha* × *N. leucocephala* ssp. *pauciflora*) that occurs on State land at Loch Lomond. As discussed above, as an intercross population resulting from two listed species, this population could receive protection under the Act if the proposed hybrid policy is finalized. This site is managed as an ecological reserve by the CDFG.

Parvisedum leiocarpum is a low, erect to spreading annual in the stonecrop family (Crassulaceae) with reddish stems 3 to 5 cm (1 to 2 in.) tall. The fleshy, oblong leaves are 4 to 5 mm (0.16 to 0.20 in.) long and fall off the stem by flowering time. The inflorescence is a cyme of campanulate (bell-shaped) yellow flowers that are crowded on curving stems in two rows. The five petals are 3 to 3.5 mm (0.12 to 0.14 in.) long with large, club-shaped, red nectaries. The five carpels have smooth surfaces. *Parvisedum leiocarpum* flowers in April and May.

Parvisedum leiocarpum was described from an area 10.4 km (6.5 mi) north of Lower Lake, Lake County,

California, as *Sedella leiocarpa* (Sharsmith 1940). Clausen (1946) subsequently placed the plant in the genus *Parvisedum* and gave it the specific rank of *P. leiocarpum*. Two similar species occur within the range of *P. leiocarpum*. *Parvisedum pentandrum* differs in having shorter petals, top-shaped flowers, and carpels with glandular bumps on the surfaces. *Crassula connata* differs in having only one to a few, four-petaled flowers above each leaf base not arranged in definite cymes.

Parvisedum leiocarpum is found on volcanic substrates in areas of impeded drainage, such as in and along the margins of vernal pools and depressions in bedrock. The historical range of the species encompasses six collection localities within a 16 km (10 mi) radius from Siegler Springs near Lower Lake, Lake County, California (CDFG 1991b). Elevations of occurrences range from 395 to 790 m (1,300 to 2,600 ft). *Parvisedum leiocarpum* has apparently disappeared at three sites within this area (CDFG 1991b, CNPS 1990b). The extant populations of *P. leiocarpum* collectively cover a total area of less than 1.2 hectares (ha) (3 acres (ac)). All populations occur on private lands.

Previous Federal Action

Federal government actions on these four plants began as a result of section 12 of the 1973 Act (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Lasthenia conjugens* as threatened, and *Navarretia pauciflora* (now known as *N. leucocephala* ssp. *pauciflora*), *Navarretia plieantha* (now known as *N. leucocephala* ssp. *plieantha*), and *Parvisedum leiocarpum* as endangered. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention to review the status of the plant taxa named in the report. The above four 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. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Navarretia pauciflora* and *N. plieantha* were included in the June 16, 1976, **Federal Register** document. 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 June 16, 1976, proposal.

The Service published an updated candidate notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Lasthenia conjugens, Navarretia pauciflora, Navarretia plieantha*, and *Parvisedum leiocarpum* as category 1 candidates for Federal listing. Category 1 candidates were those species for which the Service had on file sufficient information to support issuance of proposed listing rules. On November 28, 1983, the Service published a supplement to this notice of review (48 FR 39526) which changed *L. conjugens, N. pauciflora, N. plieantha*, and *P. leiocarpum* from category 1 to category 2 candidates. Category 2 candidates were those species for which the Service had information indicating that listing may be warranted but for which it lacked sufficient information on status and threats to support issuance of proposed listing rules.

When the plant notice was revised on September 27, 1985 (50 FR 39526), *Lasthenia conjugens, Navarretia pauciflora, Navarretia plieantha*, and *Parvisedum leiocarpum* were included as category 2 candidates. When the plant notice was again revised on February 21, 1990 (55 FR 6184), *L. conjugens, N. plieantha*, and *P. leiocarpum* were elevated to category 1 candidates. *Navarretia pauciflora* was retained as a category 2 candidate. Since the publication of that notice, the Service has received additional information on the status of *Navarretia leucocephala* ssp. *pauciflora* that supports the listing of this species. The September 30, 1993, plant notice of review (58 FR 51144) included all four plant taxa as category 1 candidates. As announced in a notice published in the February 28, 1996, **Federal Register** (61 FR 7596), the designation of multiple categories of candidates has been discontinued, and only former category 1 species are now recognized as candidates for listing purposes.

Section 4(b)(3)(B) of the Act requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) 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 *Lasthenia conjugens, Navarretia pauciflora, Navarretia plieantha*, and *Parvisedum leiocarpum* because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1982, the Service determined, in accordance with section 4(b)(3)(B)(iii) of the Act, that the petitioned listing of these species was warranted, but precluded by other pending listing actions; 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. The finding was reviewed in October of 1983 through 1993.

A proposed rule to list *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha*, and *Parvisedum leiocarpum* as endangered was published on December 19, 1994 (59 FR 65311). The proposal was based on information from the CNDDB and observations and studies by numerous botanists. The Service now determines *L. conjugens, N. leucocephala* ssp. *pauciflora, N. leucocephala* ssp. *plieantha*, and *P. leiocarpum* to be endangered with the publication of this rule.

The processing of this final listing rule conforms with the Service's final listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of significant funding for processing listing actions. The Service's Sacramento Field Office has confirmed that the status of the four species in this rule has not changed since publication of the proposed rule prior to the moratorium on final listings.

Summary of Comments and Recommendations

In the December 19, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that contribute to the development of a final rule. A 60-day comment period closed on February 19, 1995, and was extended to April 28, 1995 (the

moratorium on final listings was imposed on April 10, 1995 (Public Law 104–6)). Appropriate Federal and State agencies, county and city governments, scientists, and interested parties were contacted and requested to comment. In accordance with its July 1, 1994, peer review policy (59 FR 34270), the Service solicited three independent specialists to review pertinent scientific and commercial data and assumptions relating to the proposed rule. Two of the three specialists submitted comments. One specialist found the proposed listing to be concise and technically accurate. The other specialist commented only on the discussion and descriptive paragraphs about *Navarretia*. This specialist's comments have been incorporated into the ''Background'' section of this rule.

The Service published notices in the *Lake County Record-Bee* and the *Napa County Register* on December 30, 1994, which invited general public comment. Twenty-two individuals or agencies, including the CDFG, the Lake County Farm Bureau, and the CNPS, submitted comments. Several people submitted more than one comment to the Service. Ten commenters supported, five opposed, and seven were neutral on the proposed action.

In response to the publication of the proposed rule, the Service received written requests for a public hearing from Michael Delbar, Executive Director, Lake County Farm Bureau, and Daniel Macon, Director of Industry Affairs, California Cattlemen's Association. Notice of the public hearing was published in the *Napa Register, Petaluma Argus-Courier* and *Santa Rosa Press Democrat* on March 20, 1995, and in the *Lake County Record-Bee* on March 21, 1995. A public hearing was held at the Napa Valley Marriott Hotel in Napa on April 6, 1995, from 6 pm. to 8 pm. Eight people presented oral and written testimony.

Written comments and oral statements presented at the public hearing or received during the comment period are addressed in the following summary. Comments of a similar nature are grouped into general issues. These issues and the Service's response to each are discussed below.

Issue 1: Four commenters expressed concern that the protection afforded listed species by the Act would violate private property rights, and result in a ''taking'' of property. Two commenters questioned whether they would be monetarily reimbursed for property loss if the listed species were found on their land.

Service Response: The Attorney General has issued guidelines to the Department of the Interior (Department) regarding Taking Implications Assessments (TIAs). The Attorney General's guidelines state that TIAs used to analyze the potential for Fifth Amendment taking claims are to be prepared after, rather than before, an agency makes a restricted discretionary decision. In enacting the Act, Congress required the Department to list a species based solely upon scientific and commercial data. The Service may not withhold a listing decision based upon economic concerns. Therefore, even though a TIA may be required, a TIA for a listing action is finalized only after the final determination whether to list a species is made.

The listing of species as threatened or endangered typically does not result in the ''taking'' of private property. The determination of whether ''taking'' has occurred as a result of an agency's action is made by a court based on the specific facts of that action.

Issue 2: Several commenters questioned the accuracy of the supporting information. Concern was expressed that many areas may contain potential habitat for the species and, therefore, the species may be more widespread than stated in the proposed rule. One commenter stated that the primary findings for *Navarretia leucocephala* ssp. *plieantha, N. leucocephala* ssp. *pauciflora*, and *Parvisedum leiocarpum* were based on only two sources.

Service Response: Specific justification for listing the four plant species is summarized in the ''Summary of Factors Affecting the Species'' section of this rule. The Service used information obtained from Federal, State, and local agencies, the CNDDB, professional botanists, and studies by Niall McCarten (1985), Robert Ornduff (1966), and Alva Day (1993) that were specifically directed at determining the distribution or threats to the four plant taxa. The Service also used information from botanical collections of these plants to prepare the proposed rule. Destruction and loss of habitat and extirpation of populations of the four plant taxa from a variety of causes have been documented. Following publication of the proposed rule, the Service sought comments from Federal, State, and local agencies, species experts, and other individuals, including three independent specialists. All information received during the public comment period has been incorporated into the final rule.

The taxa in this rule are restricted in their range. More detailed discussion of the historical and current distribution of these four plants can be found in the ''Background'' section of this rule. The Service's two primary sources of information on *Navarretia leucocephala* ssp. *plieantha, N. leucocephala* ssp. *pauciflora*, and *Parvisedum leiocarpum* are compilations of information from a number of inventories, and, therefore, not limited in scope.

Issue 3: Several commenters stated that livestock trampling was unsubstantiated and had no or little adverse effect on these four vernal pool plants.

Service Response: Documented observations of detrimental effects of livestock trampling on some populations of two of the vernal pool plants, *Lasthenia conjugens* and *Navarretia leucocephala* spp. *pauciflora*, exist and are part of the administrative record for this rule. In addition, two populations of *Parvisedum leiocarpum* may be threatened by trampling by livestock (CDFG 1989a). The Service maintains that livestock trampling, under certain conditions, adversely affects these species (CDFG 1989a, 1989b, 1991; CNPS 1987, 1990a, 1990b). Livestock trampling is one of a number of impacts adversely affecting these three vernal pool plants.

Issue 4: Two commenters were concerned about whether the data on which the rule was based were acquired legally. One of these commenters asked whether permission was given by landowners to the CDFG, the CNPS, or any other person to enter private property in order to do the surveys on which the listing is partially based.

Service Response: An important information source used for this rule is the CNDDB operated by the Natural Heritage Division of the CDFG. Data in this system come from a variety of experts, including local professional botanists, members of CNPS, and botanical consultants. The Service does not condone entering private land without landowner permission. Because the database records make no reference to whether permission was granted to those collecting data, the Service has no knowledge whether observers obtained landowner permission to enter private lands. No surveys of these species were conducted or funded by the Service.

Issue 5: One commenter was concerned about the potential impacts the listing would have on agricultural operations in Lake County. This commenter stated that the effects on the economic viability of agriculture on lands on which the species occur would be severe. This commenter also wanted to know what impact the listing would have on grazing on public lands.

Service Response: Section 4(b)(10)(A) of the Act requires that listing determinations be based solely on the best scientific and commercial data available. The legislative history of this provision explains the intent of Congress to ''ensure'' that listing decisions are ''based solely on biological criteria and to prevent non-biological considerations from affecting such decisions'' (H. R. Rep. No. 97–835, 97th Cong. 2d Sess. 19 (1982)). As further stated in the legislative history, ''Applying economic criteria * * * to any phase of the species listing process is applying economics to the determinations made under section 4 of the Act and is specifically rejected by the inclusion of the word ''solely'' in this legislation'' (H. R. Rep. No. 97–835, 97th Cong. 2d Sess. 19 (1982)). Because the Service is precluded from considering economic impacts in a final listing decision, the Service has not examined such impacts.

The Service expects this listing to have negligible effect on grazing on public lands. Except for one location of *Lasthenia conjugens* on Federal land (at Travis Air Force Base), all known populations of these plants are on private land. No known vernal pools or habitat for these plant species are located on federally owned grazing land in the counties in which these species occur (P. Bardwell, Bureau of Land Management, pers. comm. 1996)

Issue 6: The CDFG noted the discrepancies between the locations and distributions of populations of each species in the proposed rule versus the information from the CNDDB.

Service Response: In the preparation of both the proposed and final rules, the Service used information provided by Dr. Alva Day for the number and locations of *Navarretia leucocephala* ssp. *pauciflora* and *N. leucocephala* ssp. *plieantha.* Dr. Day's population information matched the taxonomic circumscriptions in her revised treatment for *Navarretia* (Day 1993), which the Service considers to be the best available information and most recent treatment. The Service has also incorporated the most recent information for *Lasthenia conjugens* into the rule. Some of this information is not contained in the CNDDB; therefore, location and distribution figures in this rule will not exactly match those in the CNDDB.

Issue 7: One commenter requested that the proposed rule be amended to give complete descriptions of all sites and their watersheds. This commenter also stated that the delineation of the potential range of the species on U.S. Geological Survey (1:24,000) quadrangle sheets would be helpful. Additionally, this commenter stated that listing the species as endangered will likely increase the threat of overcollection by rare plant collectors.

Service Response: The Service believes that publication of detailed site information, such as map locations or site descriptions, may increase the threat of overcollection by rare plant collectors. Because the ranges of *Navarretia leucocephala* ssp. *pauciflora, N. leucocephala* ssp. *plieantha* and *Parvisedum leiocarpum* are small, the plant populations might easily be located. Therefore, the Service considers it imprudent to publish site-specific information.

Issue 8: One commenter stated that information on hydrological changes at the vernal pool sites during the recent droughts is needed, because the mesic conditions may have disappeared before the alterations were made.

Service Response: The Service disagrees that further information on hydrological changes at the sites because of the recent drought is needed prior to listing. These plants evolved in a climate where periodic droughts occur. As discussed under factor A in the ''Summary of Factors Affecting the Species'' section, the human-caused alterations to hydrology are the primary threat. Although hydrological modeling may have some utility for aiding the species' recovery, the Service does not believe this information is needed to support the listing justification for the four vernal pool plants in this rule.

Issue 9: The California Department of Transportation (CALTRANS) discussed two highways (State Route 175 and State Route 29) that are adjacent to populations of the proposed plants. The agency stated that the current maintenance activities along State Route 175 and State Route 29 are not likely to affect the long-term survival of these species. Additionally, CALTRANS stated that no major construction projects were planned for these segments of highway.

Service Response: The Service acknowledges CALTRANS' support of this listing action, but remains concerned about the potential loss of *Navarretia leucocephala* ssp. *pauciflora* and *Parvisedum leiocarpum* adjacent to State Route 29 and the hybrid population of *Navarretia leucocephala* ssp. plieantha *X* ssp. *pauciflora* adjacent to State Route 175. As discussed further under factor A in the ''Summary of Factors Affecting the Species'' section of this rule, the Service believes highway maintenance activities along State routes 29 and 175 may be a threat to these species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha,* and *Parvisedum leiocarpum* should be classified as endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lasthenia conjugens Ornduff (Contra Costa goldfields), Navarretia leucocephala* Benth. ssp. *pauciflora* (H. Mason) Day (few-flowered navarretia), *Navarretia leucocephala* Benth. ssp. *plieantha* (H. Mason) Day (many-flowered navarretia), and *Parvisedum leiocarpum* (H. Sharsm.) R. T. Clausen (Lake County stonecrop) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* The primary threats to *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha,* and *Parvisedum leiocarpum* are activities that result in the direct destruction of the plants and their habitats or hydrologic changes in their vernal pool habitats. Such activities include urbanization, wetland drainage, vernal pool and pond construction, industrial development, agricultural land conversion, ditch construction, off-highway vehicle use, road widening, horseback riding, and trampling by cattle. Damage or destruction of vernal pool habitat happens quickly and easily due to the extremely crumbly nature of the soil and the dependency of the pool upon an intact durapan or impermeable subsurface soil layer.

Lasthenia conjugens is no longer found in three of the seven counties in which it historically occurred—Mendocino, Santa Clara, and Santa Barbara counties. Agricultural land conversion, urbanization, and associated developments have extirpated populations of this species in Alameda, Contra Costa, Santa Clara, and Santa Barbara counties (CNDDB 1993, 1996; CNPS 1978). Agricultural land conversion extirpated one additional population of *L. conjugens* in Napa County (CNDDB 1993). Widening and straightening of Ledgewood Creek north of Cordelia Road in Solano County by the Corps eliminated a large amount of

habitat and a large number of plants of *L. conjugens* (Ann Howald, CDFG, pers. comm. 1993).

The largest known concentration of *Lasthenia conjugens* populations occurs in Solano County near the City of Fairfield. The General Plan for the City of Fairfield indicates that all of these populations are found in areas that will be included within the Fairfield urban boundary (Jones & Stokes Assoc. 1992). The implementation of this plan would result in the conversion of approximately 3912 ha (9,668 ac) of existing habitat and open space to urban use by 2020 (Jones & Stokes 1992). This would include approximately 1376 ha (3400 ac) within the Travis/Northeast growth center where the greatest concentrations of *L. conjugens* occur. Two proposed residential development projects threaten the three largest populations of *L. conjugens* which contain over 70 percent of all individual plants of this species (Lafer and Associates 1994, Holland 1995). One of these populations is also threatened by landfill construction activities (LSA Associates, Inc. 1992). This population may also be threatened by a ditch construction project proposed by the California Department of Water Resources (R. Preston, *in litt.* 1995).

Urbanization threatens the largest population of *Lasthenia conjugens* in Napa County (CNDDB 1993; Jake Ruygt, CNPS, *in litt.* 1993). Off-highway vehicle traffic has adversely impacted this same population (CNDDB 1993). In Contra Costa County, the primary transportation corridor, State Route 4, will be relocated to approximately 80 to 100 feet from the only remaining population in the county (Woodward-Clyde Consultants *et al.* 1995; J. Gan, U.S. Fish and Wildlife Service, pers. comm. 1996). Six of the eight newly discovered populations of *L. conjugens* in Solano and Alameda counties are imminently threatened by development projects (Steve Lafer and Associates 1994, CNDDB 1996, Duncan & Jones 1996).

One population of *Navarretia leucocephala* ssp. *pauciflora* has been adversely affected by drainage, and one population has been adversely affected by an attempt to create a more permanent water source (CDFG 1989b). One site, Manning Flat in Lake County, has significantly eroded as a result of excavation of drainage ditches; this erosion has reduced the population and the habitat (McCarten 1985, CDFG 1989b), CNDDB 1996). This population is also within the right-of-way of State Route 29 (H. Sarasohn, CALTRANS, *in litt.* 1995), and the Service is concerned that individual plants may be impacted by highway maintenance. The intercross population of *N. leucocephala* ssp. *plieantha* × *N. leucocephala* ssp. *pauciflora* at Loch Lomond is also adjacent to a highway, State Route 175 (H. Sarasohn, *in litt.* 1995), where maintenance activities could result in the loss of plants. Off-highway vehicle use has damaged several population sites in Lake County (CDFG 1989b, CNDDB 1996). Conversion of land to a rice field adversely affected another *N. leucocephala* ssp. *pauciflora* population in Lake County (CDFG 1989b). Construction of a stock pond for cattle partially destroyed the population of *N. leucocephala* ssp. *pauciflora* at Ely Flat in Lake County and severely altered the hydrology of its habitat (CDFG 1989b, 1996). Agricultural land conversion threatens this same population (CDFG 1989b; CNPS 1990a). Attempted drainage of a pool in Lake County containing *N. leucocephala* ssp. *plieantha* has resulted in the invasion of two competitive weeds, *Centaurea solstitialis* and *Taeniatherum caput-medusa* (CNDDB 1996). Although the intercross population of *N. leucocephala* ssp. *plieantha* × *N. leucocephala* ssp. *pauciflora* at Loch Lomond occurs in an ecological reserve managed by the CDFG, the site is potentially threatened by timber harvesting within the watershed. ''Such harvesting could have significant detrimental effects on the vernal pool and its flora.'' (B. Gibbons, CDFG, *in litt.* 1995).

Attempted drainage has altered the hydrology of two of the three remaining vernal pools containing populations of *Parvisedum leiocarpum* (CNPS 1990b). Drainage attempts at one of the sites resulted in severe erosion and a reduction of habitat and plant numbers (CNPS 1990b). Maintenance of Highway 29 by CALTRANS also threatens to impact individuals of this population, which is found within the highway right-of-way (CNPS 1990b). Discing has occurred at the third population site (CNDDB 1996). All populations occur on privately owned land next to major roads. Off-highway vehicle use has occurred at two of the three *P. leiocarpum* population sites (CNPS 1990b). Within the range of *P. leiocarpum*, habitat continues to be converted to vineyards and orchards (CDFG 1989a).

Some populations of three of the four species are impacted by trampling by livestock or rooting by feral pigs. Because they are small and delicate, *Parvisedum leiocarpum* plants would likely be severely damaged if trampled by livestock. Because cattle grazing occurs in the area surrounding at least one population of *P. leiocarpum*, trampling may pose a threat to this population (CNDDB 1996, CDFG 1989a). Livestock grazing threatens four populations of *L. conjugens* (CNDDB 1996). The single extant occurrence of *L. conjugens* in Napa County occurs in a grazed field. Nutrient enrichment of the vernal pool caused by cattle has led to algal ''blooms'' and possibly other biotic changes in the pool that adversely affect the growth of *L. conjugens* (Robert Ornduff, University of California, Berkeley, *in litt.* 1995). Eighty percent of one population of *Navarretia leucocephala* ssp. *pauciflora* in Napa County was adversely affected by the rooting of feral pigs (John Hoffnagle, Napa County Land Trust, pers. comm. 1995). Horse grazing threatens two populations and cattle grazing threatens one population of *N. leucocephala* ssp. *pauciflora* (CNDDB 1996).

Three of the species, *Parvisedum leiocarpum, Navarretia leucocephala* ssp. *pauciflora,* and *N. leucocephala* ssp. *plieantha,* occur in restricted habitats primarily within 2 to 6 miles of Clear Lake in Lake County. The area surrounding Clear Lake is the most densely populated area in the county (California State Department of Finance 1992), and is subject to residential development (CDFG 1989a, CDFG 1989b, CNPS 1990a). While the rate of this development is moderate when compared to other areas of the region, the limited habitat of these species makes them vulnerable to even small increases in development.

Off-highway vehicle use has resulted and continues to result in the destruction of plants and habitat of *Navarretia leucocephala* ssp. *plieantha* at four population sites in Lake County. The CDFG has provided fencing at the Loch Lomond site to prevent off-highway vehicle entry into the area (CDFG 1991a).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Due to the limited distribution of *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha,* and *Parvisedum leiocarpum,* indiscriminate collecting of plants could seriously affect these species. Overutilization is not known to occur at this time.

C. *Disease or predation.* Disease and predation are not known to be a threat to these plants.

D. *The inadequacy of existing regulatory mechanisms.* The State of California Fish and Game Commission has listed *Parvisedum leiocarpum* and *Navarretia plieantha* (now known as *Navarretia leucocephala* ssp. *plieantha*)

as endangered species under the California Endangered Species Act (Chapter 1.5 Section 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations section 670.2). The California Fish and Game Commission also has listed *Navarretia pauciflora* (now known as *Navarretia leucocephala* ssp. *pauciflora*) as threatened. Listing by the State of California requires individuals to obtain management authorization from CDFG to possess or ''take'' a listed species. Although the ''take'' of State-listed plants is prohibited (California Native Plant Protection Act, Chapter 10 Section 1908 and California Endangered Species Act, Chapter 1.5 Section 2080), State law exempts the taking of such plants via habitat modification or land use changes by the owner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law requires that the land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (California Native Plant Protection Act, Chapter 10 Section 1913).

The California Environmental Quality Act (CEQA) (California Public Resources Code section 21000–21177) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines, as amended, requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species eligible for listing as rare, threatened, or endangered, but not so listed, are given the same protection as those species that are officially listed with the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible (CEQA section 21002). In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA, therefore, is dependent upon the discretion of the agency involved.

Because vernal pools are generally small and scattered, they are treated as isolated wetlands for regulatory purposes by the Corps under section 404 of the Clean Water Act. Section 404 addresses the discharge of fill material into waters of the United States including wetlands but does not itself protect the plants. The recently revised Nationwide Permit No. 26 dated December 13, 1996 (61 FR 65874), was established by the Corps to streamline authorization for the discharge of fill causing the loss of 1.25 ha (3 ac) of headwater or isolated waters. For project proposals falling under Nationwide Permit No. 26, the Corps historically has been reluctant to withhold authorization unless the project is likely to cause jeopardy to a federally threatened or endangered species. The section 404 regulations require an applicant to obtain an individual permit to discharge fill into greater than 1.25 ha (3 ac) of headwater or isolated wetlands. A project proponent proposing to discharge fill that would cause the loss of less than one-third acre of headwater or isolated waters is only required to notify the Corps; the Corps generally does not require compensatory mitigation in these cases. Regardless of the size of the discharge of fill, candidate species within the project area receive no special consideration. Equally important, upland areas adjacent to vernal pools or other wetlands are not provided any protection through this process.

E. *Other natural or manmade factors affecting their continued existence.* Three of the four plant species have restricted ranges and few populations. *Navarretia leucocephala* ssp. *pauciflora* is known from five sites, *N. leucocephala* ssp. *plieantha* from four sites, and *Parvisedum leiocarpum* from three sites. These three species occupy highly specific and vulnerable habitats. The combination of restricted ranges, few populations, and highly specific and vulnerable habitats make these plants susceptible to destruction of all, or a significant part, of any population from random, natural events such as floods or droughts. Severe erosion threatens one of the three remaining populations of *P. leiocarpum* (CNPS 1990b). Low population numbers and sizes make these three species vulnerable to changes in gene frequency, inbreeding, and genetic drift. Several historical occurrences of *N. leucocephala pauciflora* may have been lost to hybridization with and genetic dilution (swamping) by larger, adjacent populations of *N. leucocephala plieantha* (CDFG 1989b, CNPS 1990a).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to list these species as endangered. Based on this evaluation, the preferred action is to list *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha,* and *Parvisedum leiocarpum* as endangered. Endangered status is appropriate for these four species due to the vulnerability of their restricted habitats to threats posed by urbanization, agricultural land conversion, drainage, vernal pool and pond construction, ditch construction, off-highway vehicle use, road maintenance, or random natural events. Critical habitat is not designated for these species for reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (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. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that, for the four taxa discussed in this rule, designation of critical habitat is not prudent at this time. Service 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 threatened 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.

As discussed under factor B in the ''Summary of Factors Affecting the Species'' section of this rule, due to the limited distribution of *Lasthenia conjugens, Navarretia leucocephala* ssp. *pauciflora, Navarretia leucocephala* ssp. *plieantha,* and *Parvisedum leiocarpum,* any indiscriminate collecting of plants could seriously affect these species. The

publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plants more vulnerable to overcollection and, therefore, could contribute to the decline of these species and increase enforcement difficulties. Several populations of these plants are near roads or in other areas easily accessible by the public. The listing of these species as endangered also publicizes the rarity of these plants making them attractive to researchers or collectors of rare plants. This concern was also addressed under Issue 7 in the ''Summary of Comments and Recommendations'' section of this rule.

Furthermore, critical habitat designation for these four species is not prudent due to lack of benefit. Critical habitat designation provides protection only on Federal lands or on private lands when there is Federal involvement through authorization or funding of, or participation in, a project or activity. Of the taxa presented herein for listing, only one population of *Lasthenia conjugens* is known to occur on Federal lands. Although the regulatory mechanisms of section 404 of the Clean Water Act provide a Federal nexus to certain activities in privately owned wetland areas, because the four plant species occur at very few locations, any federally regulated activity that would adversely modify critical habitat also would jeopardize the species. The designation of critical habitat therefore would not provide additional benefit for these species beyond the protection afforded by listing. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. For these reasons, the Service finds that the designation of critical habitat for these plants is not prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the 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 local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. 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 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 with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing 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 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 formal consultation with the Service.

Federal agency actions or programs that may affect populations of these plant taxa include mortgage programs administered by the Veterans Administration and the Department of Housing and Urban Development (Federal Home Administration loans), Federal Highway Administration funding of bridge and road construction, Army Corps of Engineers authorization of projects affecting wetlands and other waters under section 404 of the Clean Water Act, Environmental Protection Agency registration of pesticides and authorization of pollutant discharges, and activities on Travis Air Force Base.

Listing *Lasthenia conjugens*, *Navarretia leucocephala* ssp. *pauciflora*, *Navarretia leucocephala* ssp. *plieantha*, and *Parvisedum leiocarpum* as endangered provides for development of a recovery plan (or plans) for the taxa. Such a plan would bring together both State and Federal efforts for conservation of the plants. The recovery plan would establish a framework for agencies to coordinate activities and to cooperate with each other in conservation efforts. The plan would set recovery priorities and describe site-specific management actions necessary to achieve the conservation of these four plants. Additionally, pursuant to section 6 of the Act, the Service is more likely to grant funds to affected States for management actions promoting the protection, monitoring, and recovery of these species after a recovery program has been developed.

The Service has not pursued conservation agreements for these four species. These species occur primarily on privately owned land. Many of the threats to these species, such as habitat alteration by large-scale urban development projects and off-highway vehicle use, are not easily prevented through the development of conservation agreements. Only three of the total 26 populations comprising the four species receive some level of protection. One population of *Navarretia leucocephala* ssp. *plieantha* is found within the Bogg's Lake Preserve and managed by TNC, and a second (intercrossed with *N. leucocephala* ssp. *pauciflora*) is located within an ecological reserve managed by the CDFG. One population of *Navarretia leucocephala* ssp. *pauciflora* is located on privately owned land within a conservation easement (CNDDB 1996). However, even these three protected populations are impacted by competition from nonnative species, adjacent land management practices, and feral pigs, respectively (CNDDB 1996).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the four plants from the five counties in northern California, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce to possession federally listed plant species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. Requests for copies of the regulations on listed plants and inquiries regarding them may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon

97232–4181 (503/231–6241; FAX 503/231–6243).

It is the policy of the Service, published in the **Federal Register** on July 1, 1994, (59 FR 34272) to identify to the maximum extent practicable at the time of listing those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed or on-going activities. Activities that are unlikely to violate section 9 include landscape maintenance, clearing vegetation for firebreaks, and livestock grazing on privately owned land not under Federal funding or authorization and not in violation of any State law or regulation. Only one of the populations of these four species occurs on Federal lands. Collection, damage, or destruction of the single population of *Lasthenia conjugens* located on Travis Air Force Base is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Removal, cutting, digging up, damaging, or destroying endangered plants on non-Federal lands would constitute a violation of section 9 only if conducted in knowing violation of State law or regulations, including violation of State criminal trespass law. The Service is unaware at this time of any other activities affected by this listing. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Sacramento Field Office (see **ADDRESSES** section).

National Environmental Policy Act

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

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

A complete list of all references cited is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author: The primary authors of this final rule are Elizabeth Warne and Kirsten Tarp, U.S. Fish and Wildlife Service, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species Scientific name	Common name	Historic range	Family	Status	When listed	Critical habitat	Special rules
FLOWERING PLANTS							
*	*	*	*	*	*		*
Lasthenia conjugens	Contra Costa goldfields.	U.S.A. (CA)	*Asteraceae*	E	619	NA	NA
*	*	*	*	*	*		*
Navarretia leucocephala ssp. *pauciflora* (=*Navarretia pauciflora*).	Few-flowered navarretia.	U.S.A. (CA)	*Plemoniaceae*	E	619	NA	NA
*	*	*	*	*	*		*
Navarretia leucocephala ssp. *plicantha*.	many-flowered navarretia.	U.S.A. (CA)	*Polemoniaceae*	E	619	NA	NA
*	*	*	*	*	*		*
Parvisedum leiocarpum.	Lake County stonecrop.	U.S.A. (CA)	*Crassulaceae*	E	619	NA	NA
*	*	*	*	*	*		*

Dated: May 30, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–15924 Filed 6–17–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE28

Endangered and Threatened Wildlife and Plants; Threatened Status for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is adding the Southern Oregon/Northern California Coast Evolutionarily Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*) to the List of Endangered and Threatened Wildlife (List) as a threatened species in accordance with the Endangered Species Act of 1973, as amended (Act). This amendment to the List includes all coho salmon naturally reproduced in streams between Cape Blanco in Curry County, Oregon and Punta Gorda in Humboldt County, California. This amendment is based on a determination by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for this species.

EFFECTIVE DATE: June 5, 1997.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 452, Arlington, Virginia 22203 (703/358-2171).

SUPPLEMENTARY INFORMATION: In accordance with the Act and the Reorganization Plan No. 4 of 1970, NMFS has jurisdiction over the coho salmon. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened. The Service is responsible for the actual amendment of the List in 50 CFR 17.11(h).

On July 25, 1995, NMFS published a proposed rule to list as threatened three ESUs or distinct vertebrate population segments of the coho salmon in California and Oregon, including the Southern Oregon/Northern California Coast ESU (60 FR 38011). The proposed rule solicited comments from peer reviewers, the public, and all other interested parties. On May 6, 1997, NMFS published a final rule to list the Southern Oregon/Northern California Coast ESU of the coho salmon as threatened (62 FR 24588). The final rule addressed the comments received in response to the proposed rule. Because NMFS provided a public comment period on the proposed rule, and because this action of the Service to amend the List in accordance with the determination by NMFS is nondiscretionary, the Service has omitted the notice and public comment procedures of 5 U.S.C. 553(b) for this action.

National Environmental Policy Act

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

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Salmon, coho	Oncorhynchus kisutch.	North Pacific Basin from U.S.A. (CA to AK) to Russia to Japan.	U.S.A. (natural populations in river basins between Cape Blanco in Curry County, OR and Punta Gorda in Humboldt County, CA).	T	618	NA	NA