

Endangered Species, U.S. Fish and Wildlife Service (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Palos Verdes blue butterfly is a small lycaenid butterfly restricted to the Palos Verdes peninsula, Los Angeles County, California. The butterfly was originally known from only one site (Perkins and Emmel, 1977) where it was extirpated by housing development; three other small colonies were subsequently discovered (Mattoni, 1978). The main threats to these colonies are overgrowth of weeds, weed control practices that adversely affect the butterfly's larval foodplant, the locoweed *Astragalus trichopodus leucopsis* (Arnold, 1980), and, in the case of one colony, recreational development.

On July 3, 1978, the Service published a proposed rulemaking in the **Federal Register** (43 FR 28938-45) advising that sufficient evidence was on file to support a determination that the Palos Verdes blue butterfly was an Endangered species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et. seq.*). That proposal summarized the factors thought to be contributing to the likelihood that this species could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governor of the State of California on July 14, 1978, notifying him of the proposed rulemaking for the Palos Verdes blue butterfly. On July 14, 1978, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties notifying them of the proposal and soliciting their comments and suggestions. On March 26, 1980, the Service published a rulemaking in the **Federal Register** (45 FR 19860-61) proposing Critical Habitat for the Palos Verdes blue butterfly. A letter notifying the Governor of the State of California of this action, a memorandum to affected Regional personnel, and letters to other interested parties were sent on May 31, 1980. A public meeting and a public hearing on the proposal of Critical Habitat for the Palos Verdes

blue butterfly were held at Rancho Palos Verdes, California on April 18 and May 2, 1980.

Official comment was received from the Governor of California through his Resources Agency and Department of Fish and Game.

Sources Cited

- Arnold, R. A. 1980. Status of proposed threatened or endangered California Lepidoptera. Contract report to California Department of Fish and Game. 48 p.
- Mattoni, R. M. T. 1978. September 8 letter to Mr. Harold O'Connor, Deputy Associate Director, U.S. Fish and Wildlife Service.
- Perkins, E. M., and J. F. Emmel. 1977. A new subspecies of *Glaucopsyche lygdamus* from California. Proc. Entomol. Soc. Wash. 79:468-71.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

In the July 3, 1978 proposal (43 FR 28938-45) to list the Palos Verdes blue butterfly as an Endangered species, the March 26, 1980 proposal of Critical Habitat (45 FR 19860-61), and the respective Press Releases, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

On October 3, 1978, the Governor of California commented through the Secretary of Resources of that State. Federal listing of the Palos Verdes blue butterfly was opposed until more information became available. Mr. Arnold's previously cited report provided corroborative evidence; in response to the March 26, 1980 proposal of Critical Habitat for the butterfly, the Governor responded through an April 17, 1980 letter from the Director of Fish and Game. This letter supported the proposed listing and Critical Habitat designation, and waived the Governor's 90 day comment period.

All public comments received from July 3 to September 1, 1978 regarding the proposal to list the Palos Verdes blue butterfly as Endangered were considered.

Comments regarding the proposal of Critical Habitat received from March 26 to May 27, 1980, were considered. Additional opportunity for public comment was provided by the public meeting and hearing.

In addition to the official comments summarized above, several comments were received from individuals and

50 CFR Part 17

Listing the Palos Verdes Blue Butterfly as an Endangered Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*) to be an Endangered species. This action is being taken because all known populations of the butterfly are small, limited in range, and threatened by weed control practices and in one location, development. The Palos Verdes blue butterfly is known to occur only at three sites on the Palos Verdes Peninsula, Los Angeles County, California. Critical Habitat is included with this final rule. The final rule would provide protection to wild populations of this species.

DATE: This rule becomes effective on August 1, 1980.

ADDRESSES: Questions concerning this action may be addressed to Lynn A. Greenwalt, Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of

organizations. In response to the July 3, 1978 listing proposal, seven comments were received. Support for the listing came from the Survival Service Commission of the IUCN and three lepidopterists. Two of the lepidopterists, Dr. Rudolph Mattoni and Mr. Richard Arnold, commented that the type locality of the Palos Verdes blue butterfly had been eliminated by housing development. Dr. Mattoni provided information on three other colonies of the butterfly on the Palos Verdes peninsula. Three lepidopterists opposed the listing proposal. Dr. Frederick Rindge of the Department of Entomology of the American Museum of Natural History commented that the butterfly might occur much more widely over the Palos Verdes peninsula and not be in danger of extinction. Mr. Donald Eff suggested that the subspecies had been proposed to protect real estate development on the peninsula. Dr. Lee O. Miller of the Allyn Museum of Entomology of Sarasota, Florida questioned whether the proposal to list the butterfly was a "political decision" and felt that the biological information was inadequate to support the proposal. Dr. Miller stated that the Service should return to the intent of the Endangered Species Act, and that subspecies and local populations of animals should not be protected.

In response to the March 26, 1980 proposal of Critical Habitat for the Palos Verdes blue butterfly, four comments were received. The official response of the Governor of California was summarized above. Dr. Rudolph Mattoni presented additional information on the status of the three known butterfly populations. One population had been nearly extirpated due to destruction of the larval foodplant (*Astragalus trichopodus leucopsis*), another colony appeared extinct due to the larval foodplant being overgrown by weeds, and the third colony was still extant, although not large. The Director of Planning of the city of Rancho Palos Verdes provided information about an August, 1976 attempt to transplant the butterfly and its larval foodplant from the type locality to another site. The fate of this attempt is unknown. During the comment period, Mr. Richard A. Arnold submitted a report entitled "Status of Proposed, Threatened or Endangered California Lepidoptera", prepared under contract to the California Department of Fish and Game. Mr. Arnold stated that weed control practices (rototilling) at two of the known butterfly colonies had been responsible for nearly eliminating the larval foodplant, provided information on the butterfly's life

history, and reported that new colonies had not been discovered, despite search. One non-substantive comment was received.

At the April 17, 1980 public meeting on the reproposal of Critical Habitat for the Palos Verdes blue butterfly, Mr. John Emeterio, Assistant Planner for the city of Rancho Palos Verdes stated that the city would be willing to cooperate in reestablishing the butterfly and its larval foodplant in portions of the area from which it had been extirpated, and amateur lepidopterist described additional areas on the Palos Verdes peninsula where he believed the butterfly might be found.

At the May 2, 1980 public hearing, comments were received from Mr. Klaus K. Schuegraf of the Rancho Palos Verdes Environmental Committee. He supported the listing of the Palos Verdes blue butterfly and designation of its Critical Habitat.

Conclusion

With respect to Dr. Rindge's comments, the Service feels that although additional colonies of the Palos Verdes blue butterfly may be discovered, the butterfly will continue to be very restricted in distribution and numbers. The Palos Verdes blue butterfly is replaced by another subspecies away from the Palos Verdes peninsula, and on the peninsula it must compete for the larval foodplant with another, much more common butterfly, the Western tailed blue (*Everes amyntula*). Regarding Mr. Eff's comments that the subspecies may have been described to protect a real estate development, the Service has no indication that this is the case. Listing this butterfly as Endangered, and designating its Critical Habitat, would not necessarily protect or prevent real estate development on the Palos Verdes peninsula.

The potential effects of this rulemaking were discussed in the July 3, 1978 proposal to list the butterfly and in the March 26, 1980 reproposal of its Critical Habitat. A restatement of these effects is to be found in the "Effect of the Rulemaking Section" of this document. The Service has received no comments requesting protection of private property, nor has any individual or organization suggested that the Service attempt to prevent specific development within the range of the Palos Verdes blue butterfly by listing this species. The areas designated as Critical Habitat are all city-owned, and designated as open space or parklands. Little, if any effect on currently planned activities is anticipated.

With regard to Dr. Miller's comments, the Service has no intention, nor any authority, to propose a species as a "political decision." To initiate the listing process, one or more of the five factors under Section 4(a)(1) of the Endangered Species Act must apply. The application of these factors depends on biological criteria. The Service felt at the time of the proposal that the biological evidence was sufficient to list the butterfly; evidence obtained subsequently has confirmed this belief. The Act specifically extends protection to subspecies of wildlife and plants, and distinct population segments of vertebrates. The Service believes that the listing of the Palos Verdes blue butterfly complies with the intent of the Endangered Species Act, and that to take no action regarding this butterfly would not fulfill its responsibilities pursuant to the Act.

After a thorough review and consideration of all the information available, the Director has determined that the Palos Verdes blue butterfly is in danger of becoming extinct throughout all of its range. Two of the five factors described in Section 4(a) of the Act, and affecting the butterfly, were outlined in the July 3, 1978 proposal (43 FR 28938-45) to list this butterfly as Endangered. The five criteria as described in that proposal are reprinted below:

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This species is exclusively peninsular, being restricted to the cool, fog-shrouded side of the Palos Verdes Hills. The only presently known population occupies several acres near the intersection of Los Verdes Drive and Hawthorne Boulevard. Accelerated residential and commercial development of the Palos Verdes Peninsula is threatening the continued existence of this species.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Not applicable to this species.

(3) *Disease or predation.* This factor is not known to affect the present status of this species.

(4) *The inadequacy of existing regulatory mechanisms.* There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or manmade factors affecting its continued existence.* None.

Since the July 3, 1978 proposal, the status of the Palos Verdes blue butterfly has changed with respect to the first factor. This changed status was described in the March 26, 1980, proposal of Critical Habitat for the butterfly. The colony of the butterfly at the type locality was extirpated by housing development. The three

presently known remaining colonies are threatened by weed control practices (rototilling) that adversely affect the larval food plant of the butterfly in two areas; overgrowth of weeds in another area; and recreational development.

Critical Habitat

Subsection 4(a)(1) of the Act states:

At the time any such regulation (to determine a species to be Endangered or Threatened) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

50 CFR Part 424 defines Critical Habitat as:

- (i) The specific areas within the geographical area occupied by the 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) which may require special management considerations or protection; and
- (ii) Specific areas outside the geographical area occupied by the species at the time it is listed in accordance upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service has concluded that three areas on the Palo Verdes peninsula, Los Angeles County, California, should be designated as Critical Habitat for the Palos Verdes blue butterfly. Because these very limited areas are the only known sites where the butterfly still occurs, the areas are essential for the conservation of the butterfly. The physical and biological features of the butterfly's habitat are such as to require management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis which has been used as the basis for a decision that economic and other impacts of this action are insignificant for the foreseeable future.

Effect of the Rulemaking

All prohibitions of 50 CFR 17.21 will apply to the Palos Verdes blue butterfly. These prohibitions, in part, 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 a commercial activity, or sell or offer for sale in interstate of foreign commerce this species.

It also will be illegal to possess, sell, deliver, carry, transport or ship any specimens illegally taken. Certain exceptions will apply to agents of the

Service and State conservation agencies. Permits for scientific purposes or for the enhancement of propagation or survival will be available in accordance with 50 CFR 17.22. Economic hardship permits would be available under 50 CFR 17.23.

Section 7(a) of the Act provides:

Federal Agency Actions and Consultations—(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal 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.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption of such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

(3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).

Provisions for Interagency Cooperation were published in the **Federal Register** on January 4, 1978 (43 FR 870-876), and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. The rule now being issued will require Federal agencies to satisfy these statutory and regulatory obligations with respect to the Palos Verdes blue butterfly. These agencies will be required not only to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of this species, but also to insure that their actions do not result in the destruction or adverse modifications of the habitat that has been determined by the Secretary to be critical.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any final regulation specifying Critical Habitat be accompanied by a brief description and evaluation of those

activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for the Palos Verdes blue butterfly.

(1) Weed control (rototilling) has eliminated much of the butterfly's larval food plant (*Astragalus trichopochus leucopsis*) in two of the Critical Habitat areas. Overgrowth of weeds has eliminated much of the food plant in the third Critical Habitat area.

(2) Recreational development may adversely affect one of the Critical Habitat areas (Frank Hesse Park).

No Federal involvement is known or anticipated in relation to the above activities. Critical Habitat designation is not expected to impact these activities.

Effect Internationally

The Service will review the status of the Palos Verdes blue butterfly to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The primary author of this rule is Dr. Michael M. Bentzien, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235-1975).

Regulations Promulgated

Accordingly, subparts B and I of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations are amended as follows:

§ 17.11 [Amended]

1. Section 17.11 is amended by adding the Palos Verdes blue butterfly to the list, alphabetically, under "Insecta" as indicated below:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Butterfly: Palos Verdes blue	<i>Glaucopsyche lygdamus palosverdesensis</i>	U.S.A.-California	NA	E		§ 17.95(i)	NA

§ 17.95 [Amended]

2. Section 17.95(i) is amended by adding Critical Habitat for the Palos Verdes blue butterfly as follows:

Palos Verdes Blue Butterfly

(*Glaucopsyche lygdamus palosverdesensis*)

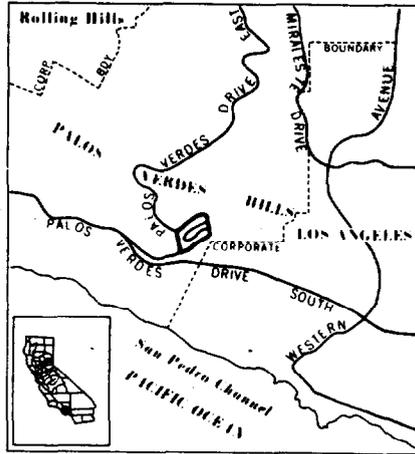
California. Los Angeles County.

1. Agua Amarga Canyon Zone. Palos Verdes Estates. A square area of land 0.4 x 0.4 kilometers located at the southeast corner of the southernmost corporate boundary of Palos Verdes Estates.

2. Frank Hesse Park Zone. Rancho Palos Verdes. An area enclosed by Hawthorne Boulevard, Locklenna Lane, and Verde Drive.

Palos Verdes Blue Butterfly

(*Agua Amarga Canyon and Frank Hesse Park Zones*) Los Angeles County, California

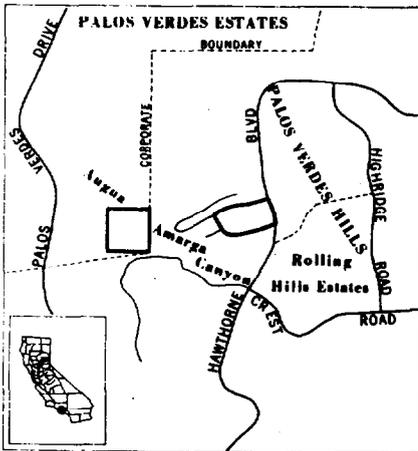


Dated: June 26, 1980.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

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BILLING CODE 4310-66-M



3. Palos Verdes Drive Zone. Rancho Palos Verdes. The Switchback area of Palos Verdes Drive East, bounded by a line connecting the two eastern curves, a line parallel to and 0.3 kilometers southwest of this line, and the upper and lower portions of Palos Verdes Drive East.

Palos Verdes Blue Butterfly

(*Palos Verdes Drive Zone*) Los Angeles County, California

Within these Critical Habitat areas, the known biological constituent elements essential to the conservation of this species are colonies of the larval foodplant,

Astragalus trichopodus leucopsis.