

§ 7.44 Services Performed Without Charge or at a Reduced Charge.

(a) A fee is not to be charged to any requester making a request under subpart C for the first two hours of search time unless the records are requested for commercial use. For purposes of this subpart, when a computer search is required two hours of search time will be considered spent when the hourly costs of operating the central processing unit used to perform the search added to the computer operator's salary cost (hourly rate plus 16 percent) equals two hours of the computer operator's salary costs (hourly rate plus 16 percent).

(b) A fee is not to be charged for any time spent searching for a record requested under subpart C if the records are not for commercial use and the requester is a representative of the news media, an educational institution whose purpose is scholarly research, or a non-commercial scientific institution whose purpose is scientific research.

(c) A fee is not to be charged for duplication of the first 100 pages (standard paper, not larger than 8.5 x 14 inches) of records provided to any requester in response to a request under subpart C unless the records are requested for commercial use.

(d) A fee is not to be charged to any requester under subpart C to determine whether a record is exempt from mandatory disclosure unless the record is requested for commercial use. A review charge may not be charged except with respect to an initial review to determine the applicability of a particular exemption to a particular record or portion of a record. A review charge may not be assessed for review at the administrative appeal level. When records or portions of records withheld in full under an exemption that is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, this is considered an initial review for purposes of assessing a review charge.

(e) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(f) Factors to be considered by officials of the Department authorized to determine whether a waiver or reduction of fees will be granted include:

(1) Whether the subject matter of the requested records concerns the operations or activities of the Federal government;

(2) Whether the disclosure is likely to contribute to an understanding of Federal government operations or activities;

(3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons;

(4) Whether the contribution to public understanding of Federal government operations or activities will be significant;

(5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requester.

§ 7.45 Transcripts.

Transcripts of hearings or oral arguments are available for inspection. Where transcripts are prepared by a nongovernmental contractor, and the contract permits the Department to handle the reproduction of further copies, § 7.43 applies. Where the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

§ 7.46 Alternative Sources of Information.

In the interest of making documents of general interest publicly available at as low a cost as possible, alternative sources shall be arranged whenever possible. In appropriate instances, material that is published and offered for sale may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, Virginia 22151; or National Audio-Visual Center, National Archives and Records Administration, Capital Heights, MD 20743-3701.

Issued in Washington, DC, on May 31, 1996.

Federico Peña,
Secretary of Transportation.

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DEPARTMENT OF THE INTERIOR**50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on Proposed Threatened and Endangered Status for Five Plants and a Lizard From Monterey County, California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule; notice of public hearing and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing on the proposed endangered status for coastal dunes milkvetch (*Astragalus tener* var. *titi*), Yadon's piperia (*Piperia yadonii*), Hickman's potentilla (*Potentilla hickmanii*), Monterey clover (*Trifolium trichocalyx*) and the black legless lizard (*Anniella pulchra nigra*); and threatened status for Gowen cypress (*Cupressus goveniana* ssp. *goveniana*). In addition, the Service has reopened the comment period. All parties are invited to submit comments on this proposal.

DATES: The public hearing will be held from 6 p.m. to 8 p.m. on Wednesday, July 17, 1996, in Monterey, California. The public comment period now closes August 30, 1996. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Hyatt Regency Hotel, One Golf Course Road, Monterey, California. Written comments and materials concerning this proposal may be submitted at the hearing or sent directly to the Field Supervisor, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Connie Rutherford (see **ADDRESSES** section) or at 805/644-1766.

SUPPLEMENTARY INFORMATION:**Background**

Most of the habitat for the plants and lizard is found in coastal habitats in northern Monterey County. Coastal dunes milk-vetch and Monterey clover are restricted to private lands on the Monterey Peninsula. Hickman's potentilla is restricted to two populations: one on the Monterey

Peninsula, and one recently discovered near Devil's Slide in San Mateo County. Gowen cypress stands occur on the Monterey Peninsula, and at Point Lobos State Reserve five miles to the south. Yadon's piperia occurs primarily on private lands on the Monterey Peninsula, with other populations extending as far south as Palo Colorado Canyon, and as far north as Blohm Ranch north of Prunedale. The black legless lizard occurs on private and State Park lands between the Salinas and Carmel Rivers, on the Monterey Peninsula, and along Monterey Bay. A few populations of Yadon's piperia and the black legless lizard occur on Federal lands at Fort Ord.

The five plant taxa and the lizard are threatened by one or more of the following: alteration, destruction, and fragmentation of habitat resulting from urban and golf course development; recreational activities; highway widening; military activities; competition with non-native species; and alteration of natural fire cycles. All taxa are also threatened with stochastic extinction due to the small numbers of populations or individuals.

On August 2, 1995, the Service published a proposed rule on proposed endangered status for *Astragalus tener* var. *titi*, *Piperia yadonii*, *Potentilla hickmanii*, *Trifolium trichocalyx*, and the black legless lizard (*Anniella pulchra nigra*); and threatened status for Gowen cypress (*Cupressus goveniana* ssp. *goveniana* (60 FR 39326). Section 4(b)(5)(E) of the Act requires that a public hearing be held if one is requested within 45 days of the publication of the proposed rule in the Federal Register. Public hearing requests were received within the allotted time period from Robert D. Thornton of Nossaman, Guthner, Knox, and Elliot in Irvine, California. Because a Congressional moratorium on the Service's activities associated with final listing actions was in effect from April 1995 to April 1996, scheduling of the hearing had been delayed. The Service has scheduled a public hearing on July 17, 1996, at the Hyatt Regency Hotel, One Golf Course Road, Monterey, California.

Anyone wishing to make statements for the record should bring a written copy of their statements to the hearing. Oral statements may be limited in

length if the number of parties present at the hearing necessitates such a limitation. Oral and written comments receive equal consideration. The Service places no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Legal notices announcing the date, time, and location of the hearing are being published in newspapers concurrently with this Federal Register notice.

The comment period on the proposal was initially closed on October 17, 1995. To accommodate the hearing, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until August 30, 1996, to the Service office in the **ADDRESSES** section.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: June 19, 1996.

Thomas J. Dwyer,
Acting Regional Director, Region 1, U.S. Fish
and Wildlife Service.

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