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## Settlement reached on suit over habitat Environmental, business groups both seem satisfied

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The Bush administration has settled a lawsuit by California builders and ranchers by agreeing to reconsider protection of 288,000 acres of habitat for five imperiled plant and animal species, including 23,900 acres inhabited by a dwindling population of butterflies in San Mateo and Santa Clara counties.

The settlement was praised Monday by a property-rights lawyer as “a victory for a balanced approach to environmental policy.” It was also endorsed by two environmental groups that have accused the administration in the past of sacrificing wildlife and resources in collusive agreements with developers.

A key provision of the settlement preserves the status of the 288,000 acres as “critical habitat” while the U.S. Fish and Wildlife Service reconsiders whether that should be the permanent designation. That is a “big victory for the environment,” said attorney Andrew Wetzler of the Natural Resources Defense Council. A final decision from the agency is due by the end of 2008.

“We’re cautiously optimistic” that habitat for the five species will remain protected, said Peter Galvin of the Center for Biological Diversity. He said developers had originally challenged critical habitat for 27

California species but dismissed their claims against all but five as part of the settlement.

Critical habitat is an area the government designates as essential for the survival and recovery of threatened or endangered species. Development is not forbidden in the habitat, but federal land-management agencies are required to protect the species when issuing permits.

Environmentalists have repeatedly sued the Bush administration for failing to designate critical habitat promptly. Builders and business groups have complained that the designations are too broad and fail to take economic effects into proper account. A business-backed bill passed by the House, sponsored by Rep. Richard Pombo, R-Tracy, would abolish critical habitat.

The settlement, approved Friday by a federal judge in Sacramento, came in a suit filed last March by the Pacific Legal Foundation on behalf of the California Building Industry Association, the state Chamber of Commerce, the California State Grange and other groups. It challenged the Fish and Wildlife Service’s designation of critical habitat in California for 27 species, totaling 382,000 acres, in the last few years.

The groups argued that the federal agency designated far more land than needed to preserve the species and failed to weigh environmental

benefits against economic costs, as required by law, said Pacific Legal Foundation attorney Reed Hopper.

In the settlement, the business groups dismissed their complaints regarding habitat designated for 22 species, and the agency agreed to reconsider the other five, which cover 75 percent of the total acreage, Hopper said. The species are:

-- The bay checkerspot butterfly, a threatened species with 23,903 acres of habitat in San Mateo and Santa Clara counties.

-- The Monterey spineflower, a threatened species with 18,830 acres in Santa Cruz and Monterey counties.

-- The Quino checkerspot butterfly, an endangered species with 171,605 acres in Riverside and San Diego counties.

-- The San Bernardino kangaroo rat, an endangered species with 33,925 acres in Riverside and San Bernardino counties.

-- The La Graciosa thistle, an endangered species with 41,089 acres in San Luis Obispo and Santa Barbara counties.

Hopper said he expects most of the habitat areas to be reduced because the Fish and Wildlife Service has acknowledged that each of the designations was too broad. Smaller habitat areas would benefit developers

and home buyers, and might also help the species by making the government's conservation task more manageable, he said.

The federal agency made no such acknowledgement in a statement Monday, but said recent court rulings have required it to conduct "more extensive analysis of possible economic impacts" of critical habitat.

Wetzler said the Bush administration had agreed to reduce critical habitat by an average of 60 to 80 percent in settling similar suits elsewhere.