

SUMMARY: The Fish and Wildlife Service (Service) proposes to remove the plant *Hedeoma apiculatum* (McKittrick pennyroyal) and its critical habitat from the Federal List of Endangered and Threatened Plants (50 CFR 17.12 and 17.96). The species is endemic to the Guadalupe Mountains in Culberson County, Texas and Eddy County, New Mexico. Because of the range, the number of known populations, and the remote and inaccessible nature of the habitat, the Service believes that McKittrick pennyroyal is not in danger of becoming extinct throughout all or a significant portion of its range now or in the foreseeable future. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by November 23, 1992. Public hearing requests must be received by November 6, 1992.

ADDRESSES: Comments, requests for public hearing, and materials concerning this proposal should be sent to the Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, 3530 Pan American, N.E., suite D, Albuquerque, New Mexico 87107. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Anne Cully, at the above address (505/883-7877).

SUPPLEMENTARY INFORMATION:

Background

Hedeoma apiculatum (McKittrick pennyroyal) was first collected in 1882, but remained undescribed until 1939 (Epling and Stewart 1939). The plant is a perennial herb, 10-15 cm (4-6 in) tall, with dense tufts of leaves growing from woody rootstocks. The showy pink flowers are about 2 cm (0.8 in) long, solitary or in clusters, and emerge from among the leaves towards the apex of stems (Irving 1980).

McKittrick pennyroyal is endemic to the Guadalupe Mountains in Eddy County, New Mexico and Culberson County, Texas. It is found in fissures and weathered pockets in open limestone rock outcrops at elevations above 1,860 m (5,400 ft). The species prefers north facing cliffs and slopes, but can occur on any aspect of sheltered relatively moist outcrops (Irving 1980, Knight and Cully 1988, Sivinski and Lightfoot 1992).

McKittrick pennyroyal was listed July 13, 1982 (47 FR 30440) as a threatened species under the authority of the Endangered Species Act of 1973 (Act),

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB83

Endangered and Threatened Wildlife and Plants; Proposed Rule To Delist the Plant *Hedeoma apiculatum*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

as amended (16 U.S.C. 1531 *et. seq.*). Threats to the species at the time of listing were described as limited distribution, low numbers, and low reproductive potential, which made the species vulnerable to habitat disturbance. Since the listing, additional surveys in the Guadalupe Mountains in New Mexico and Texas have shown the plant to be more widespread and abundant than previously known.

Irving (1980) reported seven locations of McKittrick pennyroyal, from near Hunter Peak in Guadalupe Mountains National Park (GMNP), Texas, to Big Canyon, Guadalupe Mountains, New Mexico. Since 1980, the range has been extended north to Double Canyon, Guadalupe Mountains, New Mexico, with many new locations being discovered. New populations were reported by the National Park Service (NPS) in 1986 (Richard B. Smith, GMNP, *in litt.* 1986), New Mexico Energy, Minerals and Natural Resources Department (Knight and Cully 1989), U.S. Forest Service (Hayes 1988), Bureau of Land Management (BLM) (Dunmire 1990), and other sources. This information is summarized in Sivinski and Lightfoot (1992). A total of 13 Texas and 23 New Mexico locations are known at this time in an area approximately 21 km (13 mi) north to south by 8 km (5 mi) east to west in the Guadalupe Mountains of New Mexico and Texas. At the time of listing in 1982, plant numbers were estimated at 1,100. Although accurate counts and estimates are difficult to make, about 5,000 counted plants now comprise the 38 known locations.

Approximately 5-10 percent of an estimated 5,868 ha (14,500 ac) of potential habitat has been surveyed for the McKittrick pennyroyal, mostly along trails and canyon bottoms. Potential habitat is abundant, but very difficult to survey because of the steep broken terrain and the remoteness of the areas. It is likely that numerous groups of plants remain undiscovered throughout the suitable habitat and that additional surveys will continue to result in the discovery of new locations for the species (Sivinski and Lightfoot 1992).

At the time of listing, threats to the known locations, in addition to perceived vulnerability because of low numbers and limited distribution, included trail development and impacts from hikers. Management for the species in GMNP has included the designation of special management areas with limited public use, banning the use of horses on particular trails, and reducing levels of camping in certain sensitive areas (William P. Dunmire, Carlsbad

Caverns and Guadalupe Mountains National Parks, *in litt.* 1984; Robin Wobbenhorst, GMNP pers. comm. 1992). These management activities have reduced the human threats to McKittrick pennyroyal. The additional locations found since listing are in areas remote from human impacts, which provides a measure of security for the species.

Section 12 of the Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, which included McKittrick pennyroyal in the threatened category, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27832) accepting the Smithsonian Institution report as a petition within the context of section 4(b)(3) of the Act, and its intention thereby to review the status of the plant taxa named therein. McKittrick pennyroyal was proposed for listing as a threatened species with critical habitat on August 15, 1980 (45 FR 54662). The final rule listing McKittrick pennyroyal as a threatened species and designating its critical habitat was published July 13, 1982 (47 FR 30440). The McKittrick Pennyroyal Recovery Plan was completed in 1985 (U.S. Fish and Wildlife Service 1985).

Federal involvement with McKittrick pennyroyal subsequent to listing has included surveys for new locations, monitoring of known populations, protection from human impacts through limiting use in sensitive areas, and inclusion in the development of the U.S. Environmental Protection Agency's (EPA) pesticide labeling program for protection of endangered species. The species has been included in all section 7 consultations over Federal projects occurring in suitable habitat in Eddy County, New Mexico and Calhoun County, Texas. Except for consultations with EPA on pesticide labeling, there have been no other formal section 7 consultations involving this species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists of threatened and endangered species. The same procedures apply to reclassifying a species or removing it from these lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and

their application to *Hedeoma pniculatum* W.S. Stewart (McKittrick pennyroyal) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

McKittrick pennyroyal populations are scattered throughout a 166 square km (65 square mi) range. Surveys since listing have increased the known distribution and abundance of the species. At the time of listing, most of the few known populations were located adjacent to hiking trails. Management actions to protect the species and the discovery of a significant number of populations that are remote from human activity have significantly reduced the threat from recreational activities.

Potential threats to this species from modification or destruction of habitat included exploratory drilling for natural gas or other resources, and wildfire. Exploratory drilling is excluded from most McKittrick pennyroyal habitat because of the steepness of the outcrops upon which the species occurs. Little was known about the response of McKittrick pennyroyal to fire until 1990, when a fire burned 13,000 ha (33,000 ac) on the Lincoln National Forest, including much of the McKittrick pennyroyal habitat. In 1991, these areas were surveyed and numerous healthy plants were observed on canyon walls. Lack of fuel in these locations had apparently protected the McKittrick pennyroyal and associated plant species. Thus, it appears that wildfire is not a serious threat to the long-term survival of the species (Sivinski and Lightfoot 1992).

B. Overutilization for Commercial, Recreational, Scientific or Educational Purposes

The final rule listing McKittrick pennyroyal identified collection for cultivation in gardens as a potential threat. No evidence for this kind of activity has come to light since the species was listed. Because of the increase in distribution and numbers of plants that are now known, the potential threat from this activity has been reduced.

C. Disease or Predation

In the final listing rule, grazing was noted to have occurred at a single location. However, livestock are excluded from most of the habitat because of the steepness of the slopes. No other predators or disease organisms are known at this time.

D. The Inadequacy of Existing Regulatory Mechanisms

McKittrick pennyroyal is on the New Mexico State Endangered Species list (9-10-10 NMSA 1978; NMFRCD Rule No. 91-1) and the Texas list of Endangered, Threatened or Protected Native Plants (chapter 88, Texas Parks and Wildlife Code). It is considered a sensitive species by the U.S. Forest Service, and has received special management consideration by the NPS. All States and agencies will have the option of retaining this species on their various lists should it be removed from the Federal List of Endangered and Threatened Plants. The Forest Service will monitor the populations on Lincoln National Forest for at least the 5-year period required by the Endangered Species Act. The BLM is committed to monitoring the status of the species on their lands for at least the 5-year period required by the Act. Management actions taken by the NPS to protect the species will be left in place in Guadalupe Mountains National Park, and the status of the populations there will be monitored as required.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Long-term climate change from the more mesic Pleistocene to the present-day dry conditions may have caused the McKittrick pennyroyal to retreat from a more widespread distribution to the moist protected habitats of canyon walls and cliff faces. Further drying trends may pose a serious threat to the relictual habitats of this species. However, the rate of climatic change is sufficiently slow (and uncertain) that this threat is not expected to occur in the foreseeable future (Sivinski and Lightfoot 1992).

The regulations in 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error. The Service believes that the data supporting the original classification were incomplete, and new data show that removing *Hedeoma apiculatum* from the List of Endangered and Threatened Plants is warranted.

The Service believes the species is not in danger of extinction throughout all or a significant portion of its range, nor is it likely to become an endangered or threatened species within the foreseeable future throughout all or significant portion of its range. Given the expanded range, increase in numbers of known locations and individuals, remote habitat, and the protection provided by that remoteness and difficulty of access, the Service

believes that *Hedeoma apiculatum* does not warrant the protection of the Act.

Effect of Rules

The proposed action would result in removal of this species from the List of Endangered and Threatened Plants. Federal agencies would no longer be required to consult with the Service to insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of McKittrick pennyroyal. Federal prohibitions under section 9 of the Act would no longer apply.

The 1988 Amendments to the Act require monitoring for at least 5 years after the determination that a species no longer needs the protection of the Act and its subsequent removal from the List of Threatened and Endangered Species (section 4(g)(1)). The Service and other federal agencies with responsibility for this species are committed to monitoring the status of the species and to determine the effect, if any, of removing the species from the protection provided by the Act. Monitoring standards and guidelines will be developed by the Service, NPS, BLM, Forest Service, and the States of New Mexico and Texas prior to delisting.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments pertaining to possible monitoring standards and guidelines to address the 5-year post-delisting are also requested. The Service particularly requests any information that would support retaining McKittrick pennyroyal as a threatened species. Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (See ADDRESSES).

National Environmental Policy Act

The Fish and Wildlife 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 Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 28, 1983 (48 FR 49244).

References Cited

- Dunmire, W.D. 1990. Biological inventory of Lonesome Ridge ACEC, Carlsbad Resource Area. Bureau of Land Management: An investigation of biological resources focusing on plant and animal communities with recommendations for future management actions. U.S.D.I. Bureau of Land Management, Carlsbad Resource Area, Carlsbad, New Mexico. 52 pp.
- Epling, C. and W.S. Stewart, 1939. A revision of *Hedeoma* with a review of allied genera. Report. Spec. Nov. Regni. Veg. Beihefte 115:1-49.
- Hayes, F.A. 1968. Report on a *Hedeoma* survey. U.S.D.A. Forest Service, Albuquerque, New Mexico. 9 pp.
- Irving, R.S. 1980. Status report on *Hedeoma apiculatum*. U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico. 16 pp.
- Knight, P.J. and A.C. Cully, 1988. Endangered plant study: Monitoring endangered plants, Project Number E-9-1, *Hedeoma apiculatum*. U.S. Fish and Wildlife Service, Division of Endangered Species, Albuquerque, New Mexico. 9 pp.
- Sivinski, R. and K. Lightfoot. 1992. Status summary for the McKittrick pennyroyal (*Hedeoma apiculatum*). U.S. Fish and Wildlife Service, Ecological Services Field Office, Albuquerque, New Mexico. 31 pp.
- U.S. Fish and Wildlife Service. 1985. McKittrick pennyroyal (*Hedeoma apiculatum* W.S. Stewart) Recovery Plan. U.S.D.I. Fish and Wildlife Service, Albuquerque, New Mexico. 46 pp.

Author

The primary author of this proposed rule is Anne Cully (See ADDRESSES).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—(AMENDED)

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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.

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by removing the entry "*Hedeoma apiculatum*" under LAMIACEAE, from the List of Endangered and Threatened Plants.

§ 17.96 [Amended]

3. It is further proposed to amend § 17.96(a) by removing the entry of "*Hedeoma apiculatum*" under LAMIACEAE in the designation of critical habitat.

Dated: September 4, 1992.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

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