

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for *Clematis socialis*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a plant, *Clematis socialis* (Alabama leather flower), to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended (Act). *Clematis socialis* is only known from two sites in St. Clair and Cherokee Counties, Alabama. Threats to this species include herbicide application and mechanical disturbances associated with clearing and maintaining highway rights-of-way and potential land use changes. This proposed rule, if made final, will extend the Act's protection to *Clematis socialis*. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments from all interested parties must be received by February 4, 1986. Public hearing requests must be received by January 21, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment,

during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan (see **ADDRESSES** section) at 601/960-4900 or FTS 490-4900.

SUPPLEMENTARY INFORMATION:**Background**

Clematis socialis, a member of the family Ranunculaceae, was first collected in 1980 in St. Clair County, Alabama and was described in 1982 by Dr. Robert Kral. The most distinctive features are its rhizomatous habit and formation of dense clones with erect stems reaching 0.2-0.3 meters (7-12 inches) in height. Leaves are variable from the base to the apex of the stem. The lowermost leaves are scalelike, median leaves are simple, and upper leaves are 3- to 5- foliolage. The flowers, which bloom from April to May, are solitary, urn- to bell-shaped, and blue-violet in color. The fruits are aggregates of achenes. *Clematis socialis* superficially resembles the more widespread *Clematis crispa*, but can be distinguished by its erect stems, rhizomatous nature, solitary flowers, and lack of tendrils (Kral, 1982 and 1983).

Clematis socialis is only known from two sites in northeast Alabama in St. Clair and Cherokee Counties. Attempts to locate additional populations have been unsuccessful. At both sites the plants are rooted in sticky, silty clay amid grass-sedge vegetation along State maintained highway rights-of-way. In St. Clair County the plants also occur in privately owned, contiguous pine-hardwood bottoms. The St. Clair County site has been repeatedly disturbed, and many of the plants have been destroyed through heavy vehicular traffic associated with timbering on the

private land and clearing of the right-of-way. The continued existence of this species is also threatened by encroaching residential development and herbicide application.

On September 27, 1985 (50 FR 39525), the Service published a new plant notice of review, which included *Clematis socialis* as a category-1 species. Category-1 species are those for which data in the Service's possession indicate listing is warranted.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) 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. 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 *Clematis socialis* (Alabama leather flower) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. This species occurs on a roadside right-of-way and in the adjacent woodland in St. Clair County, Alabama; there are less than 50 clones and these are all restricted to 0.4 hectare (1 acre). Recently, diseased pines were removed from the site and, even though the opening of the canopy may have been beneficial, it is not known many plants were lost by mechanical disturbances when the timber was removed. The second population consists of only a few clones on a highway right-of-way in Cherokee County, Alabama. Due to its proximity to highways, *Clematis socialis* has suffered repeated disturbances in association with right-of-way

maintenance, including herbicide application, mowing, and scraping. The viability of this species has been additionally affected by erosion from adjacent roadside banks in St. Clair County. This erosion has caused many of the plants in the right-of-way to be covered by a thick layer of silt, in addition to changing the texture and drainage properties of the soil.

Clematis socialis is imminently threatened by encroaching residential development in St. Clair County. The private property on which this species occurs has been divided into individual lots and contiguous areas are rapidly being developed. Other land uses that are evident in the surrounding area forest management and pasturing for cattle.

The landowners have been informed of the *Clematis socialis* localities and the importance of protecting this rare species. Both the Alabama Highway Department and the private landowner have expressed an interest in cooperating with the Service in protecting *Clematis socialis*. Federal listing would enhance and reinforce any protective measures taken. Proper protection and management plans are needed for this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Due to the limited distribution and small population size of *Clematis socialis*, indiscriminate collecting of any nature could seriously affect this species and perhaps result in its extinction. Kral (1982, 1983) indicates that this species has excellent horticultural potential. Publicity regarding its rarity could generate such a demand.

C. *Disease or predation.* This species is not known to be threatened by disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* There are no State or Federal laws protecting *Clematis socialis* or its habitat. The Endangered Species Act would provide protection for this species through Section 9 and the recovery process.

E. *Other natural or manmade factors affecting its continued existence.* *Clematis socialis* is extremely vulnerable because of its restricted range and low numbers. Any natural or human-induced disturbance could seriously affect its viability and even cause extinction. Furthermore, due to the limited number of individuals, there is a small pool of genetic variability, which reduces the ability of this species to adapt to stress.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this

species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Clematis socialis* as endangered. Endangered status is proposed due to the species' restricted range and the multiplicity of threats facing it and its habitat. Critical habitat is not being proposed for reasons discussed in the following section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Clematis socialis* at this time. Publishing a detailed description and map of this species' habitat might stimulate public interest and make this species more vulnerable to taking by collectors (See factor "B" in the "Summary of Factors Affecting the Species"). Also, taking of listed plants is not prohibited by the Endangered Species Act, except from land under Federal jurisdiction. No benefit would be derived from designating critical habitat since the landowners are aware of the location and importance of protecting this species. Therefore, it would not be prudent or beneficial to determine critical habitat for *Clematis socialis* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following the listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now

under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species 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, the reasonable Federal agency must enter into formal consultation with the Service. No Federal involvement is anticipated for *Clematis socialis* at this time.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Clematis socialis*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would 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, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can 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 species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. *Clematis socialis* is not known to occur on Federal lands, and therefore no requests for permits are anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned

governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Clematis socialis*;
- (2) The location of any additional populations of *Clematis socialis* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;
- (3) Additional information concerning the range and distribution of this species; and
- (4) Current or planned activities in the subject area and their possible impacts on *Clematis socialis*.

Final promulgation of the regulation on *Clematis socialis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of 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 filed within

45 days of the date of the proposal. Such requests must be made in writing and addressed to the Endangered Species Field Station (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by 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 25, 1983 (48 FR 49244).

Literature Cited

Kral, R. 1982. A new *Clematis* from northeastern Alabama. *Rhodora* 84:285-291.
 Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. USDA, Forest Service Technical Publication R8-TP2, pp. 409-412.

Author

The primary author of this proposed rule is Ms. Cary Norquist, Endangered Species Field Station, U.S. Fish and Wildlife Service, 300 Woodrow Wilson

Avenue, Suite 316, Jackson, Mississippi 39213 (601/960-4900 or FTS 490-4900).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation 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: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-158, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Ranunculaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Ranunculaceae—Buttercup family:						
<i>Clematis socialis</i>	Alabama leather flower.....	U.S.A. (AL).....	E.....		NA.....	NA

Dated: November 1, 1985.
 P. Daniel Smith,
 Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 85-28949 Filed 12-5-85; 8:45 am]
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