

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Cornutia Obovata*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Cornutia obovata* (Palo de Nigua) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. Critical habitat is not proposed. *Cornutia obovata* is endemic to semievergreen seasonal forests of the limestone hills and lower mountains of northern and central Puerto Rico. The species is threatened by deforestation and extremely low population size. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Cornutia obovata*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 23, 1987. Public hearing requests must be received by June 8, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. David Densmore at the Caribbean Field Office address (809/851-7297) or Mr. Richard P. Ingram at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:**Background**

Cornutia obovata was first collected by Paul Sintenis in 1885 on Monte Torrecilla near Barranquitas in the mountains of central Puerto Rico. The species was known only from the type locality until 1938, when it was discovered in Río Abajo Commonwealth Forest. Recently, a single tree was found immediately to the west of Río Abajo near the Arecibo Observatory. However, a small population reported from Susúa Commonwealth Forest in southwestern Puerto Rico (Vivaldi and Woodbury 1961) has never been relocated. At present, only seven individuals are known to exist in two widely separated localities.

Cornutia obovata is an evergreen tree reaching 33 feet (10 meters) in height, with a trunk diameter of 6 inches (15 centimeters). The leaves are opposite,

obovate, blunt or rounded at the apex, with the lower surface finely hairy. The flowers are terminally clustered, tubular, and purplish in color. The fruits are small, round, and finely hairy. The species is endemic to semievergreen forests on both limestone and volcanic soils from 1,000 to 3,000 feet (300 to 900 meters) in elevation. The two sites where the species is known to occur are widely disjunct: Río Abajo Commonwealth Forest and its surrounding areas are within the limestone karst region of northern Puerto Rico, while Monte Torrecilla is located in the Central Cordillera, a montane region of volcanic origin.

Although deforestation had undoubtedly caused the loss of many populations or individuals of *Cornutia obovata*, the species has never been in larger numbers. It is known that individual trees have been lost to forest clearing for a variety of land uses.

Cornutia obovata was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Fish and Wildlife Service, as published in the *Federal Register* (45 FR 82480) dated December 15, 1980. The species was designated category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened), and was retained in category 1 in the November 28, 1983, update (48 FR 53640) of the 1980 notice, and the September 27, 1985, revised notice (50 FR 39528).

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service made subsequent petition findings in October of 1983, 1984, 1985, and 1986 that listing *Cornutia obovata* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This proposed rule indicates that the petitioned action is warranted, and constitutes a final required petition finding in accordance with section 4(b)(3)(B)(ii) of the Act.

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 *Cornutia obovata* Urban (Palo de Nigua) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Modification of habitat or direct destruction of plants appear to have been significant factors reducing the numbers of *Cornutia obovata* in the past. At present, two of the seven known individuals occur on private land, one near a trail utilized heavily by squatters, and one other near a Commonwealth of Puerto Rico communication facility that receives heavy use. Both of these areas are subject to deforestation for a variety of purposes, and thus this significant proportion of the remaining plants is at risk. The other five trees are within a unit of the Commonwealth Forest System, and will only be threatened if management policies allowing alteration of the vegetation fail to consider them.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Taking for these purposes has not been a documented factor in the decline of this species.

C. Disease or predation. Disease and predation have not been documented as factors in the decline of this species.

D. The inadequacy of existing regulatory mechanisms. The Commonwealth of Puerto Rico has recently adopted a regulation that recognizes and provides protection for certain Commonwealth listed species.

However, *Cornutia obovata* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. Other natural or manmade factors affecting its continued existence. With only seven plants known to exist, rarity is itself a factor affecting the survival of *Cornutia obovata*. The species has always been found as widely separated individual mature trees, without evidence of regeneration. Although it is unlikely that any single natural event could lead to its extinction, gradual attrition of individuals from a variety of natural causes appears likely. If still undetermined factors are preventing its reproduction by seed or vegetative means, there will be a net decline in its numbers and a loss of genetic diversity.

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 *Cornutia obovata* as endangered. Since there are so few individuals remaining and a continuing risk of damage to the plants and/or their habitat, endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" 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 this species at this time. The number of individuals of *Cornutia obovata* is sufficiently small that collecting or vandalism could seriously affect the survival of the species.

Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have or will be notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7

jeopardy standard. Therefore, it would not be prudent to determine critical habitat for *Cornutia obovata* 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, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following 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, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. 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 subsequently listed, 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 or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Cornutia obovata*, as discussed above. Federal involvement is not expected where the species is known to occur.

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 plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the

course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or to remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and Commonwealth 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 for *Cornutia obovata* will ever be sought or issued since the species is not known to be in cultivation and is uncommon in the wild. 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, DC 20240 (703-235-1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. 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 *Cornutia obovata*;
- (2) The location of any additional populations of *Cornutia obovata*, 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 areas and their possible impacts on *Cornutia obovata*.

Final promulgation of the regulation on *Cornutia obovata* 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 Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

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 1974, 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).

References Cited

Ayensu, E.S., and R.A. DeFilippis. 1978. Endangered and Threatened Plants of the

United States. Smithsonian Institution and World Wildlife Fund, Washington, DC xv + 403 pp.

Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Cornutia obovata* Urban. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 35 pp.

Author

The primary author of this proposed rule is Mr. David Denamore, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

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. 96-159, 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 Verbenaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Verbenaceae—Verbenaceae family:						
<i>Cornutia obovata</i>	Palo de Nigua	U.S.A. (PR)	E		NA	NA

Dated: March 24, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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