

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Cornutia obovata* (Palo de Nigua)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Cornutia obovata* (Palo de Nigua) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *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 final rule will implement the Federal protection and recovery provisions afforded by the Act for *Cornutia obovata*.

EFFECTIVE DATE: May 9, 1988.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. Pace at the Caribbean Field Office address (809/851-7297) or Mr. Tommy Turnipseed 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 Rio Abajo Commonwealth Forest. Recently, a single tree was found immediately to the west of Rio Abajo near the Arcibo Observatory. However, a small population reported from Susua Commonwealth Forest in southwestern Puerto Rico (Vivaldi and Woodbury 1981) 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: Rio 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 has undoubtedly caused the loss of many populations or individuals of *Cornutia obovata*, the species has never been found in large 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 39526).

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. The Service proposed listing *Cornutia obovata* on April 24, 1987 (52 FR 13792).

Summary of Comments and Recommendations

In the April 24, 1987, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, municipal governments, Federal

agencies, scientific organizations, and other parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in *The San Juan Star* on May 23, 1987. A public hearing was neither requested nor held. Five letters of comment were received from the Secretary of the Puerto Rico Department of Natural Resources, the Forest Supervisor of the Caribbean National Forest (U.S. Forest Service), administrators of the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (Jacksonville District Office), and the Natural History Society of Puerto Rico.

The Puerto Rico Department of Natural Resources supported the proposed listing, stating that a management plan for the Rio Abajo Commonwealth Forest is presently being prepared. The Environmental Protection Agency and the Corps of Engineers acknowledged the proposal, noting that they were not aware of any ongoing or proposed actions that would impact the species. The Forest Service acknowledged the proposal but stated that the species does not occur in the Caribbean National Forest. The Puerto Rico Natural History Society supported the proposed listing.

Summary of Factors Affecting the Species

After a thorough review and consideration of all the information available, the Service has determined that *Cornutia obovata* should be classified as endangered. Procedures found at 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 were followed. 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 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 several 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 make this rule final. Based on the 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. It is not prudent to designate critical habitat because doing so would increase the risk to this species, as detailed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate 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 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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed 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 designated 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. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, 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, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. 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 Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038-7329 (202/343-4955).

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 25, 1983 (48 FR 49244).

References Cited

- Ayensu, E.S., and R.A. DeFilipps. 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 final rule is Mr. David Densmore, Caribbean Field Office, U.S. Fish and Wildlife Service.

P.O. Box 491, Boqueron, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal

Regulations, is amended as set forth below:

PART 17—[AMENDED]

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.*); Pub.

L. 98-625, 100 Stat. 3500 (1988), unless otherwise noted.

2. 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.

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Verbenaceae—Verbena family:						
<i>Cornutia obovata</i>	Palo de Nigua	U.S.C. (PR)	E	307	NA	NA

Dated: March 24, 1988.
 Susan Recce,
 Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 88-7648 Filed 4-6-88; 8:45 am]
 BILLING CODE 4310-65-M