

**50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Final Rule To Determine *Primula Maguirei* (Maguire Primrose) To Be a Threatened Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service has determined *Primula maguirei* (Maguire primrose) to be a threatened species under the authority of the Endangered Species Act of 1973, as amended. Critical habitat is not included in this final rule. There are nine known populations of *Primula maguirei*; all are located in Logan Canyon, Cache County, Utah, on U.S. Forest Service lands. The species is found only on ledges and in cracks of vertical cliffs and outcroppings of rock within the canyon. The plant is threatened by rock climbing, collecting,

and potential campground and highway construction. The determination that *Primula maguirei* is a threatened species will provide it protection under the authority of the Endangered Species Act of 1973, as amended.

**DATES:** The effective date of this rule is September 20, 1985.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Regional Endangered Species Office, U.S. Fish and Wildlife Service, 134 Union Boulevard, Fourth Floor, Lakewood, Colorado, and at the Endangered Species Field Office, U.S. Fish and Wildlife Service, Room 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. England, Botanist, Endangered Species Field Office at the Salt Lake City address (801/524-4430 or FTS 586-4430).

**SUPPLEMENTARY INFORMATION:****Background**

*Primula maguirei* was first collected by Aldous and Owen on May 10, 1911, and was later described by L.O. Williams (Williams 1936). The plant is a

perennial herb, with conspicuous and showy lavender flowers. Stems are 1.5-4 inches (4-10 cm) tall and bear from one to three flowers. Leaves are broadly spatulate, rounded at the tip, and 1-2.5 inches (3-7 cm) long and 0.3-0.5 inch (0.9-1.3 cm) broad (Welsh and Thorne 1979).

This species is found only in Logan Canyon, Utah, and grows on damp ledges, crevices, and overhanging rocks of the canyon walls. It occurs within an area approximately 10 miles (16 km) by 0.5 mile (0.8 km) (L.M. Shultz, Utah State University, pers. comm. 1984). Montane shrubs, aspen, spruce, and fir are the dominant species of the plant community in this area. *Primula maguirei* is typically found on northerly exposures with a slope of 50 to 100 percent and at elevations of 4,800 to 5,500 feet (1,350-1,700 m). Geological formations of the canyon are composed mostly of carboniferous limestones and dolomites (Welsh 1979).

*Primula maguirei* was first observed in Logan Canyon in 1911, and was seen again in 1932, 1937, and periodically since then (A. Cronquist, New York Botanical Garden, pers. comm. 1984); however, there is no estimate of the number of plants found on these

occasions. At present, there are nine known populations, one of which contains approximately 100 plants, and the remainder of which contain fewer than 30 each. There appears to be good reproduction within populations and reestablishment of seedlings where habitat is unaltered and impacts minimal (L.M. Shultz, Utah State University, pers. comm. 1984). All populations are threatened by rock climbing and collecting. Some, including the largest and most vigorous extant populations, are threatened by potential highway construction.

Section 12 of the Endangered Species Act of 1973, directed the Secretary of the Smithsonian Institution to prepare a report on those plant species considered to be endangered, threatened, or extinct. This report was designated House Document No. 94-51 and was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the 1973 Act, (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention to review the status of the plant taxa named within. *Primula maguirei* was included in the report.

On December 15, 1980, the Service published a new notice of review for plants in the Federal Register (45 FR 82480), which included *Primula maguirei* as a Category 1 species. Category 1 comprises taxa for which the Service presently has substantial information on the biological vulnerability of and threats to the taxa to support the appropriateness of proposing to list the taxa as endangered or threatened species. The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Primula maguirei*, was October 13, 1983.

On October 13, 1983, the petition finding was made that listing *Primula maguirei* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such petitions are recycled under section 4(b)(3)(C)(i). The Service published a proposed rule to list *Primula maguirei* as a threatened species on April 13, 1984 (49 FR 14771), constituting the next 1-year finding that would have been required on or before October 13, 1984.

#### Summary of Comments and Recommendations

In the April 13, 1984, proposed rule (49 FR 14771) 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 State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Logan Herald Journal* on May 14, 1984, which invited general public comment. Six comments were received. Summaries of the comments and the Service's response are discussed below. No public hearing was requested prior to May 29, 1984. However, a meeting under the auspices of the Utah Governor's Office of Planning and Budget was held June 18, 1984. This meeting is also summarized below.

Five comments supported the listing of *Primula maguirei* as threatened without the designation of critical habitat and one comment opposed the listing of the species. The Forest Service expressed support for the proposal, and indicated that other activities such as the construction of trails, bike paths, and power transmission line corridors may be potential threats to *Primula maguirei*.

Utah Governor S.M. Matheson supported the proposal, and informed the Service that no populations of *Primula maguirei* have been identified on State lands. The final rule has been corrected to reflect this comment. The Governor's Office also indicated that the State has no plans for Highway 89 development at this time and the Utah Department of Transportation has no current plans for highway work in the vicinity of *Primula maguirei* that would affect the plant populations.

Dr. Arthur Cronquist of the New York Botanical Garden supported the proposal, and suggested the Service modify the collection dates to include several more, which he provided the Service. The final rule reflects this information. Two additional comments of general support for the proposal were received from G.E. Gordon, Utah Wildlife Federation, and L.M. Shultz, Utah State University.

The Utah Cattlemen's Association opposed the listing of *Primula maguirei* because of concern regarding the effect that a listed plant species would have on future U.S. Highway 89 improvement projects in Logan Canyon. Highway 89 is the primary route from the regional commercial and cultural center of Logan to summer cattle ranges in the Bear River Range and to agricultural areas of

the Bear Lake region of northern Utah and southeastern Idaho. The Utah Cattlemen's Association believes that public safety will be enhanced by improvements on Highway 89, which passes through *Primula maguirei* habitat, and that this should outweigh any consideration for absolute preservation of the Maguire primrose. It suggests that adequate protection could be extended to the species through the National Forest Management Act (Title 2600, Chapter 2670.3(2)). The Service recognizes the concerns of this group and will work with the necessary State and Federal agencies through the section 7 interagency consultation process in an effort to resolve potential conflicts between road construction and the conservation of *Primula maguirei* in Logan Canyon.

A public meeting was held on June 18, 1984, in Ogden, Utah. Representatives from the Utah Governor's Office, Utah Department of Transportation, Utah Division of Wildlife Resources, Utah Division of State Lands and Forestry, Utah State University, U.S. Forest Service, and U.S. Fish and Wildlife Service participated. The effect of listing *Primula maguirei* on possible future improvements on Highway 89 through Logan Canyon as well as foot trail and campground development was discussed. It was pointed out by Utah State University and U.S. Forest Service biologists that *Primula maguirei* is essentially restricted to north facing, moss covered limestone cliffs at or near the bottom of Logan Canyon. Alteration of the microenvironment of Logan Canyon may adversely affect the Maguire primrose. Two factors were identified as being of special concern:

1. Cold air drainage down Logan Canyon may be a factor in the location of specific populations of the Maguire primrose. Any change in the geomorphology of the canyon may alter the cold air drainage patterns which may in turn adversely affect one or more populations of the species.

2. Canyon bottom vegetation may have a moderating effect on adjacent cliffs that provide habitat for the Maguire primrose, buffering the possibly adverse thermal effect of the existing paved highway through the canyon. Removal of canyon bottom tree groves for highway or campground construction may alter the microenvironment of the lower canyon cliffs, which in turn may adversely affect populations of the species.

The State Department of Transportation and the U.S. Forest Service both stated that there are no current plans for highway or

campground improvements other than routine maintenance, and that populations of *Primula maguirei* would be avoided when projects are within its range. No State lands are in the immediate vicinity of *Primula maguirei* populations.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Primula maguirei* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) 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 *Primula maguirei* L.O. Williams (Maguire primrose) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Primula maguirei* is found only in Logan Canyon, Cache County, Utah (Welsh and Thorne 1979; Welsh 1979; Beedlow *et al.* 1980). A 1980 survey located two new populations in addition to the seven previously known, bringing the total known populations to nine (Beedlow *et al.* 1980). Increased human activities in Logan Canyon pose a threat to this species. Rock climbing activity is presently damaging some plants; climbers "clean" vegetation from cracks and ledges as they climb (Beedlow *et al.* 1980). Any transportation of utility construction along U.S. Highway 89 from the mouth of Logan Canyon to the Right Fork of Logan Canyon without consideration of *Primula maguirei* could impact the species. Development of campgrounds in the Logan Canyon area also may impact the species (Welsh 1979).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* *Primula maguirei* is a beautiful flowering plant that could be used for ornamental purposes and because of this is subject to overcollection. Therefore, exploitation for commercial and amateur gardening is a potential threat (Welsh and Thorne 1979).

C. *Disease or predation.* None known.

D. *The inadequacy of existing regulatory mechanisms.* No State laws or regulations currently protect *Primula maguirei*. The U.S. Forest Service has established a national policy, based on the National Forest Management Act, of

protecting species that it has designated as "sensitive" species (Title 2600, Chapter 2670.3(2)). *Primula maguirei* has received such a classification and hence it is the policy of the U.S. Forest Service to provide for its protection. Listing of this species under the Endangered Species Act will provide additional protection and the necessary regulations to aid the U.S. Forest Service in carrying out its national sensitive species policy on behalf of *Primula maguirei*.

E. *Other natural or manmade factors affecting its continued existence.* None known.

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 this evaluation, the preferred action is to list *Primula maguirei* as threatened. While not in immediate danger of extinction *Primula maguirei* is rare, restricted, and highly vulnerable to modification of its habitat. The status of threatened most closely follows the intent of the Endangered Species Act for this species. A decision to take no action would exclude *Primula maguirei* from needed protection available under the Act. For the reasons discussed below, critical habitat is not being determined.

#### 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 a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the species at this time. As discussed under factor B in the Summary of Factors Affecting the Species, *Primula maguirei* is potentially threatened by taking. Publication of critical habitat maps and descriptions would make this species even more vulnerable and increase enforcement problems. Because *Primula maguirei* occurs only on U.S. Forest Service land and the Act requires Federal agencies to carry out programs for the conservation of listed species, and because the Forest Service is aware of the localities of *Primula maguirei* and will need to protect its essential habitat once the species is listed, the determination of critical habitat would not provide any additional benefits for the species. Therefore, it would not be prudent to determine critical habitat for *Primula maguirei* 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 listing. The protection required of Federal agencies and 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)(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. The U.S. Forest Service is aware of the existence of *Primula maguirei* on its lands and is presently managing for its protection.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Primula maguirei*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, 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, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under

certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Primula maguirei*, although a potentially desirable horticultural species, is not common in cultivation. Its rarity in the wild also precludes any significant trade.

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. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Primula maguirei* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Primula maguirei* is known only from lands under the jurisdiction of the U.S. Forest Service. It is not known if a significant number of collecting permits will be requested. 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).

**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).

**Literature Cited**

Beedlow, Peter A., John C. Carter, and Frank J. Smith. 1980. *Primula maguirei* L. Wms. (Primulaceae): A Preliminary Report on the Population Biology of an Endemic Plant. Bio-Resources, Inc., Logan, Utah. 2 pp.

Welsh, S.L. 1979. Status Report: *Primula maguirei*. U.S. Fish and Wildlife Service, Denver, Colorado. 6 pp.

Welsh, S.L., and K.H. Thorne. 1979. Illustrated Manual of Proposed Endangered and Threatened Plants of Utah. U.S. Fish and Wildlife Service, Bureau of Land Management, and U.S. Forest Service, Denver, Colorado. 318 pp.

Williams, Louis O. 1936. Revision of the Western Primulas. American Midland Naturalist 17:741-748.

**Author**

The primary author of this final rule is Mr. John L. England, Endangered

Species Field Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104. Dr. James L. Miller of the Regional Endangered Species Division, U.S. Fish and Wildlife Service, Denver, Colorado, served as editor.

**List of Subjects in 50 CFR Part 17**

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

**Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended 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. Amend § 17.12(h) by adding the following, in alphabetical order under Primulaceae, 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					
Primulaceae—Primrose family: <i>Primula maguirei</i> .	Maguire primrose.....	U.S.A. (UT).....	T	197	NA	NA

Dated: August 8, 1985.  
**P. Daniel Smith,**  
 Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.  
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 BILLING CODE 4310-55-M