

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Ribes Echinellum* (Miccosukee Gooseberry)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Ribes Echinellum* (Coville) Rehder (Miccosukee gooseberry) to be a threatened species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. *Ribes Echinellum* is found at only two locations, one in South Carolina and another, with two population segments, in Florida. *Ribes Echinellum* is threatened by potential recreational activities at both sites, and in Florida from development pressures and logging of its lakeshore habitat. This action will implement the protection provided by the Act for *Ribes Echinellum* (Miccosukee gooseberry).

DATE: The effective date of this rule is August 19, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, NC 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:**Background**

Ribes echinellum was first discovered by two Florida Botanists in the early spring of 1924, along the shore of Lake Miccosukee, in Jefferson County, Florida (Coville, 1924). *Ribes echinellum* remained known only from this one population along the shores of Lake Miccosukee for over 30 years, until a second population was located about 308 kilometers (200 miles) northeast in McCormick County, South Carolina, in 1957 (Radford, 1959). The South Carolina location is considered to represent one of the most unusual floristic assemblages in the two Carolinas (Radford and Martin, 1975). In 1984, an additional segment of the Florida population was discovered approximately 0.6 kilometers (1 mile) from the previously known plants. These locations remain the only known sites for *Ribes echinellum*.

This unique plant is a shrub that reaches 1 meter (3.3 feet) in height and forms patches that often measure several meters in diameter. The plant has spiny stems and three-lobed leaves that measure 1-2 centimeters (0.5-1 inch) in length. The flowers are greenish white and small. The fruits are spiny and measure up to 22 millimeters (1 inch) in diameter.

Past Federal Government actions involving *Ribes echinellum* began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review 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), now section 4(b)(3)(a), of the Act, and of its intention thereby to review the status of the covered plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Ribes echinellum* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *Ribes echinellum* was included as a category-1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending on 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 *Ribes echinellum*, was October 13, 1983. On October 13, 1983, the Service found that the petitioned listing of *Ribes echinellum* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. This finding was published in the **Federal Register** on January 20, 1984 (49 FR 2485). On August 31, 1984, the Service published a proposal to list *Ribes echinellum* as a threatened species (49 FR 34535). That proposal constituted the next one-year finding as required by the 1982 Amendments to the Endangered Species Act. The proposal provided information on the species' biology, status, and threats, and the potential implications of listing. The proposal also solicited comments on the status, distribution, and threats to the species.

Summary of Comments and Recommendations

In the August 31, 1984, proposed rule (49 FR 34535) 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. Newspaper notices were published in the *McCormick Messenger* McCormick, South Carolina, on September 13, 1984, and in the *Monticello News*, Monticello, Florida, on September 12, 1984, which invited public comment. On September 18, 1984, the Fish and Wildlife Service received request for a public hearing. A notice announcing the public hearing was published on October 22, 1984, in the **Federal Register** (49 FR 41266). Notice of the public hearing was also published in the *Monticello News* on October 24, 1984. Eleven substantive comments were received in response to the **Federal Register** and newspaper notifications. A public hearing was held on November 1984, in the Jefferson County Courthouse, Monticello, Florida. The comments and public hearing are summarized below.

The proposal was supported by the Governor of South Carolina, South Carolina Wildlife and Marine Resources Department, South Carolina Nature Conservancy, Florida Department of Agriculture, Florida Department of Environmental Regulation, Florida Native Plant Society, Apalachee Regional Planning Council, and Florida Natural Areas Inventory. The last named group also reported that a

previously unknown group of plants had been discovered in Florida in January 1984. The Orvis Company stated that it would cooperate with efforts to protect *Ribes echinellum* on its lands.

Woodlanders (a native plant dealer) provided information on its experience in propagating *Ribes echinellum*. It stated that the plant seemed to qualify for protection as a threatened species under the Endangered Species Act; however, it expressed doubts about the severity of threats to both the Florida and South Carolina populations of *Ribes echinellum*. The Service agrees that the threats facing the South Carolina population are not severe; however, the Florida population is not currently protected. The low number of populations and low total number of plants would have warranted endangered status if the threats had been more immediate.

Woodlanders further expressed concern that listing of the plant as a threatened species might restrict or prohibit its sale of cultivated *Ribes echinellum*. The merits of maintaining a commercial source of artificially propagated endangered and threatened plant species such as *Ribes echinellum* were also stated in the letter. The trade prohibitions, which are found in the Act and at 50 CFR 17.71 and 17.72, will prohibit interstate commerce in *Ribes echinellum*, except for the sale of seeds obtained from cultivated plants and shipped in containers clearly marked "cultivated origin." However, the Act and 50 CFR 17.72 also provide for issuance of permits to engage in interstate commerce of federally listed threatened plant species. The Service generally supports the commercial availability of federally listed endangered or threatened plant species, provided the original plant material is obtained in a manner that does not adversely affect wild populations of the species and the material in interstate commerce is of propagated origin.

An attorney representing an interested party in Florida requested a public hearing and asked for information about the specific location of the Florida population. Following a brief summary of the proposal, which included a review of current knowledge of the status of *Ribes echinellum*, the public hearing was opened to public comment. The above mentioned attorney stated that the best protection for *Ribes echinellum* would be provided if the Federal Government owned the land on which it occurred. He further indicated that the lands on which the Florida population occurs may in fact be owned by the State or Federal

Government. This attorney also requested an explanation of why the species was being proposed as a threatened species in 1984 when it was discovered in 1924 and had been under review by the Service for some time. A representative of the Apalachee Regional Planning Council read from the Council's letter indicating their support for threatened status. An attorney representing a landowner for part of the Florida population of *Ribes echinellum* requested information about restrictions that would be placed on his client if *Ribes echinellum* were listed as a threatened species. More detailed information about listing restrictions and the geographical location of the Florida population of *Ribes echinellum* has been provided to the interested party and his attorney.

Notwithstanding comments to the contrary, the information currently available to the Service indicates that all segments of the Florida population of *Ribes echinellum* are located on privately owned land. Further examination of land ownership of this population may be an appropriate part of future recovery efforts for this species. Information about the discovery of the Miccosukee gooseberry is included in the "Background" section of this rule. The reasons for the extended period of time that has elapsed since *Ribes echinellum* was first recognized as a potential candidate for protection under the Act and the August 31, 1984, proposal to list it as a threatened species are also reviewed in the "Background" section of this rule. The potential restrictions on the actions of private landowners are reviewed in the "Available Conservation Measures" section of this rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Ribes echinellum* (Miccosukee gooseberry) 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 *Ribes echinellum* (Coville) Rehder (Miccosukee gooseberry) (Syn: *Grossularia echinella* Coville), are as follows:

A. *The present or threatened destruction, modification, or curtailment*

of its habitat or range. Because of its localization to only two populations, *Ribes echinellum* is particularly vulnerable to any natural or human-influenced disturbance. The South Carolina population occurs on lands managed as a nature preserve by the South Carolina Wildlife and Marine Resources Department. Increased visitation by the public to this area could increase the risk of accidental destruction and trampling. Additional protection and management planning is needed at the South Carolina site. Also, research is needed to determine the management needs for *Ribes echinellum*.

The species' continued existence is more tenuous in Florida. The Florida population is on privately owned lands and the sites have potential for lakeside development. The present owners have no plans to sell or develop the sites, but subsequent owners may well choose to develop the sites for homesites or recreational developments if protection planning does not occur. Logging of the associated hardwoods and severe fire could pose additional threats to the Florida population (Milstead, 1978). Logging has occurred near part of the Florida site, with observed detrimental effects (Kral, 1977).

Both populations of *Ribes echinellum* occur at sites (riverbank and lakeshore) that have potential for recreational use. If this recreational use is not controlled with the protection of *Ribes echinellum* as a primary consideration, negative impacts to the populations could result.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. The Miccosukee gooseberry is not in demand for these purposes at present, but, with publicity, such a demand could occur.

C. *Disease or predation.* None known.

D. *The inadequacy of existing regulatory mechanisms.* *Ribes echinellum* is afforded limited protection under Florida State law, Chapter 65-426, which includes prohibitions concerning taking, transport, and the sale of plants listed under the Florida law. South Carolina does not have a State law to protect endangered plants, but *Ribes echinellum* is indirectly protected under the Natural Area prohibitions against unauthorized plant taking. The Endangered Species Act will offer additional protection for the species.

E. *Other natural or manmade factors affecting its continued existence.* The small size and number of the populations cause this species to be in

jeopardy due to natural perturbations such as lightning fires or to natural fluctuations in the numbers of extant individuals. The South Carolina population is threatened by competition from the introduced vine, Japanese honeysuckle (*Lonicera japonica*).

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 *Ribes echinellum* as threatened. With only two populations of this species known to exist, it warrants protection under the Act; threatened status seems appropriate since one of the sites is in State ownership and managed as a natural area. For the reasons given below, critical habitat is not being designated.

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 *Ribes echinellum* at this time. Taking is not prohibited by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. Publication of critical habitat descriptions would make this species even more vulnerable to taking and increase enforcement problems. Although South Carolina State law prohibits unauthorized plant taking from natural areas, drawing attention to the site could increase enforcement problems. Increased visitation at both populations, stimulated by critical habitat designation, could also result in trampling problems. Both the appropriate South Carolina land-management agency and the Florida landowners have been informed of the locations of this species and the importance of protecting *Ribes echinellum*, so no additional benefits from the notification function of a critical habitat designation are expected. Therefore, it would not be prudent to determine critical habitat for *Ribes echinellum* 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 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 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. No Federal involvement is expected or known for *Ribes echinellum*.

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 *Ribes echinellum*, 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 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 *Ribes echinellum* 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. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Ribes echinellum* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through section 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 final regulations will be issued following public comment. As this species is not known to occur on Federal lands, no collecting permit requests 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).

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).

References Cited

- Coville, F.V. 1924. *Grossularia echinella*, a spiny-fruited gooseberry from Florida. *Journal of Agricultural Research* 28:71-76.
- Kral, R. 1977. Personal communication by letter to Dr. R.R. Altevogt (then Staff Botanist at the Office of Endangered Species, Washington, D.C.) regarding the Florida population he visited in 1977.
- Milstead, W.L. 1978. Status report on *Ribes echinellum*. U.S. Fish and Wildlife Service, Atlanta, Georgia. 19 pp.
- Radford, A.E. 1959. A relict plant community in South Carolina. *Journal of the Elisha Mitchell Scientific Society* 75:35-43.
- Radford, A.E., and D.L. Martin. 1975. Potential Ecological Natural Landmarks, Piedmont Region, Eastern United States. UNC-Chapel Hill, North Carolina. 4 pp.

Authors

The primary authors of this rule are Ms. LaVerne Smith and Mr. Quinn P. Sinnott, Office of Endangered Species, U.S. Fish and Wildlife Service,