

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-AB75

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant *Auerodendron pauciflorum*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service determines *Auerodendron pauciflorum* (no common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. This evergreen shrub is endemic to Puerto Rico, where only 10 individuals are known to exist in the limestone hills of Isabela in the northwestern part of the island. The primary threat to the species is habitat destruction from development. This final rule will implement the Act's protection and recovery provisions for *Auerodendron pauciflorum*.

EFFECTIVE DATE: April 1, 1994.

**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, Boquerón, Puerto Rico 00622; and at the Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/679-7096).

## SUPPLEMENTARY INFORMATION:

## Background

*Auerodendron pauciflorum* was first discovered by Mr. Roy Woodbury in 1976 in the limestone hills of Isabela in northwestern Puerto Rico. It was later described by Alain Liogier in 1982. This was also the first record of this genus in Puerto Rico.

*Auerodendron pauciflorum* is an evergreen shrub or small tree which may reach up to 5 meters in height. The leaves are opposite or subopposite, ovate to ovate-elliptic, 6 to 15 centimeters long and 3.5 to 6 centimeters wide, glabrous, and with minute black glandular dots. Paired ovate-triangular, ciliate stipules, 1.5 millimeters long, are present at the base of the petiole. The peduncles vary from 5 to 7 millimeters in length. Two to

three flowers are borne in the leaf axils. The calyx tube is broadly campanulate, 2 millimeters long and 3 millimeters wide. The fruit is unknown at the present time (Proctor 1991).

*Auerodendron pauciflorum* is restricted to the semi-evergreen forests (subtropical moist forest life zone) of the limestone hills of Isabela in northwestern Puerto Rico at elevations of less than 100 meters. Only 10 individual plants are known from the edges of these limestone cliffs (Proctor 1991). Hills in the area were destroyed for the construction of the existing Highway 2. The area is privately owned and presently under intense pressure for rural, urban and tourist development. The construction of a resort development, including 7 hotels, 5 golf courses, 36 tennis courts and 1,300 housing units is proposed for the area.

*Auerodendron pauciflorum* was included as a Category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the February 21, 1990 (55 FR 6184) notice of review. A proposal to list *Auerodendron pauciflorum* as endangered was published on March 18, 1993 (58 FR 14541).

## Summary of Comments and Recommendations

In the March 18, 1993, proposed rule and associated notifications, all interested parties<sup>1</sup> were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, universities and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the San Juan Star on April 4, 1993. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources supported the listing of *Auerodendron pauciflorum* as an endangered species. It stated that the species is only known from one site, the type locality, and is a member of a genus which consists of only seven species endemic to the West Indies.

Dr. Duane Kolterman and Dr. Gary Breckon, of the University of Puerto Rico at Mayaguez, also supported the listing of the species as endangered. They stated that the species is one of the rarest plants in Puerto Rico and that an additional threat is the construction of transmission towers for the cellular telephone industry.

## Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Auerodendron pauciflorum* should be classified as an endangered species. 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 endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Auerodendron pauciflorum* Alain are as follows:

## A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

*Auerodendron pauciflorum* is found on privately owned land currently subject to intense pressure for rural, urban and tourist development. Hills in this area were destroyed for the construction of Highway 2. A large resort complex is currently proposed for the area and many hills are being utilized for the construction of transmission towers. Limestone hills are continuously being leveled for the production of construction material. These factors, as well as random cutting and the harvesting of yams, have contributed to the decline of the species and continue to threaten the remaining individuals.

## 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 adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Auerodendron pauciflorum* is not yet on the Commonwealth list. Federal listing provides immediate protection and enhances its protection and possibilities for funding needed research.

## E. Other Natural or Manmade Factors Affecting Its Continued Existence

One of the most important factors affecting the continued survival of this species is its limited distribution.

Because so few individuals are known to occur in a limited area, the risk of extinction is extremely high. The fruit has not been described and seedlings have not been observed in the field.

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 *Auerodendron pauciflorum* as endangered. Only 1 population consisting of 10 individuals is known to exist. Deforestation for rural, urban, and tourist development are imminent threats to the survival of the species. Therefore, endangered rather than threatened 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 propose critical habitat at the time the species is proposed 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 *Auerodendron pauciflorum* is sufficiently small that vandalism and collection 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 these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been 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.

#### 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 certain activities involving listed plants 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)(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 proposed for *Auerodendron pauciflorum*, as discussed above. Federal involvement may occur through the funding of residential developments by agencies such as the Farmers Home Administration.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general 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 any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any Commonwealth law or regulation, including Commonwealth criminal trespass law. 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

*Auerodendron pauciflorum* 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 listed plants and inquiries regarding prohibitions and permits should be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 420C, Arlington, Virginia 22203 (703/358-2104).

#### 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

- Liogier, A. 1982. *Auerodendron pauciflorum* Alain. *Phytologia* 50(3):164-166.  
Proctor, G.R. 1991. Status report on *Auerodendron pauciflorum* Alain. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Boquerón, Puerto Rico. 8 pp.

#### Author

The primary author of this rule is Ms. Susan Silander, 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 species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### 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:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Rhamnaceae, to the List of Endangered and Threatened Plants to read as follows:

#### § 17.12 Endangered and threatened plants.

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(h) \* \* \*

Species		Historic range	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common name					
Rhamnaceae—Buckthorn family:						
<i>Auerodendron pauciflorum</i>	None .....	U.S.A. (PR) .....	E	531	NA	NA

Dated: February 15, 1994.

**Mollie H. Beattie,**

*Director, Fish and Wildlife Service.*

[FR Doc. 94-4723 Filed 3-1-94; 8:45 am]

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