

## 50 CFR Part 17

RIN 1018-AB42

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Five Plants From the Wahiawa Drainage Basin****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines five plants, *Cyanea undulata* (no common name (NCN)), *Dubautia pauciflora* (NCN), *Hesperomannia lydgatei* (NCN), *Labordia lydgatei* (kamakahala), and *Viola helenae* (NCN), to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act). These species are known only from the Wahiawa drainage basin located on the island of Kauai, Hawaii. The five plants have been variously affected and are threatened by one or more of the following: habitat degradation and competition by naturalized, exotic vegetation; predation by rats which eat fruit, seeds, or vegetative parts of the plants; habitat destruction and potential seed transport of exotic plants by feral pigs; a typhoon which opened some small areas and allowed exotic species to invade; and the potential for extinction because of the depauperate number of extant individuals and their severely restricted distribution. This rule implements the protection and recovery provisions provided by the Act for these species.

**EFFECTIVE DATE:** October 21, 1991.**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813.**FOR FURTHER INFORMATION CONTACT:** Derral R. Herbst, at the above address (808/541-2749 or FTS 551-2749).**SUPPLEMENTARY INFORMATION:****Background**

*Cyanea undulata*, *Dubautia pauciflora*, *Hesperomannia lydgatei*, *Labordia lydgatei*, and *Viola helenae* are endemic to the Wahiawa drainage basin in the Koloa District of southern Kauai. Kauai is the oldest of the eight major Hawaiian Islands. Because of its

age and relative isolation, the levels of floristic diversity and endemism are higher on Kauai than on any other island in the archipelago. The Wahiawa Mountains area has one of the oldest and most diverse montane wet forests in Hawaii. In addition to the wet forest ecosystem, permanent streams, bogs, and ridge summit habitats also comprise the Wahiawa Mountains area. The majority of the plant communities are primary in nature with high floristic endemism. There has been relatively little disturbance to the area in the past, but alien plants are encroaching and feral pigs are present. Listing these five endemic species as endangered will aid in protecting and improving this habitat which also is home to an additional 18 or more taxa of extremely rare plants.

The area is roughly triangular in shape with Kapalaoa, Mt. Kahili, and Puuauka forming the three corners; it is about 1,200 acres (485 hectares) in size. The elevation ranges from about 2,000 to 3,300 feet (ft) (610 to 1,000 meters (m)). The land is owned primarily by a single corporate landowner, with a small parcel of State-owned land forming one corner of the triangle. The Wahiawa drainage basin is an important source of water for the agricultural industry on this part of the island and is managed by the landowner to preserve water quality.

**Discussion of the Five Species**

Until its rediscovery on June 10, 1988, *Cyanea undulata* was known only from the type collection made by Charles Forbes in 1909 in the "damp woods surrounding the Wahiawa swamp," and an earlier collection, now lost, by the Reverend J.M. Lydgate in 1908, probably from the same area (Rock 1919). Forbes described the plant as a new species in 1912, naming it for the wavy appearance of its leaf margins (Forbes 1912). In 1987, Harold St. John, questioning the validity of the characters used to delineate the genus *Cyanea*, transferred all species of *Cyanea* to the closely related genus *Delissea* (St. John 1987a, St. John and Takeuchi 1987). The prior existence of the combination *Delissea undulata* necessitated a new name for *Cyanea undulata* when treated as a *Delissea*. For this reason, St. John published *Delissea forbesii* as a new name for *Cyanea undulata* (St. John 1987a), and 4 months later published *Delissea lydgatei* as the new name (St. John 1987b). The second name is superfluous and thus illegitimate. Few botanists accept St. John's taxonomy for this group, and continue to recognize the genus *Cyanea* (Lammers 1990).

*Cyanea undulata* is an unbranched shrub in the bellflower family (Campanulaceae) and is about 6 to 12 ft

(1.8 to 3.6 m) tall. The leaves are narrowly elliptic, about 12 to 16 inches (in) (30 to 40 centimeters (cm)) long and 1 to 2 in (3 to 5 cm) wide, with wavy margins; the upper surface is smooth, and the lower is covered with fine, rust-colored hairs. The leaf stem is winged throughout its length. The inflorescence is about 17 in (45 cm) long and bears five or six yellowish, slightly curved, hairy flowers. The fruit is an orange berry about 0.7 in (1.7 cm) long (Lammers 1990, Rock 1919, Wimmer 1943). The size, shape, and the wavy margins of the leaves distinguish this species from the rest of the genus.

*Cyanea undulata* is presently known from a single small population of about three or four individuals growing along the bank of a tributary of the Wahiawa Stream (Steven Perlman, Hawaii Plant Conservation Center, pers. comm., 1990). Several exotic plant species such as *Psidium cattleianum* (strawberry guava) and *Melastoma candidum* (melastoma) have invaded the drainage basin and are moving up along the stream (Timothy Flynn and David Lorence, National Tropical Botanical Garden, and S. Perlman, pers. comms., 1990). Habitat degradation and competition by exotic species are major threats to the native plants growing along the stream banks. The small number of extant individuals is in itself a considerable threat, because the limited gene pool may result in depressed reproductive vigor, or a single natural or man-caused environmental disturbance could destroy the only known existing population.

The earliest collections of *Dubautia pauciflora* were made in 1909 by C.N. Forbes and in 1911 by J.M. Lydgate, both from the "Wahiawa Mountains (on a) ridge just above tributary of the Wahiawa Stream." There is no further record of the species until it was rediscovered by S. Perlman in 1979 in the "Wahiawa Mts., on E facing ridge of 10° slope 30 m from an unnamed left (Hanapepe) fork of Wahiawa Stream \* \* \*." This is the same general area from which the Forbes and Lydgate collections were made, and consists of a population of about 30 plants. Two additional populations have been found since 1979. A population of about three plants is on the Mt. Kahili ridge that forms the eastern boundary of the Wahiawa drainage basin. The other is a small population along the east fork of the Wahiawa Stream (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). In 1981, H. St. John and G.D. Carr (1981) described the taxon as a new species, based on a specimen that Carr collected from the population

discovered by Perlman. The specific name denotes the fact that this species has the smallest number of florets (flowers) per head of any of the Hawaiian members of its tribe.

*Dubautia pauciflorula* is a member of the sunflower family (Asteraceae) and is a somewhat sprawling to erect shrub up to about 10 ft (3 m) tall. The leaves are clustered toward the ends of the branches, oppositely arranged, narrow, widening toward the tip, 3 to 8 in (8 to 21 cm) long, and up to 1.3 in (3.2 cm) wide. There are 50 to 500 heads in an open inflorescence 3 to 12 in (8 to 30 cm) long and 2 to 30 in (6 to 30 cm) wide; each head comprises 2 to 4 florets. The florets are yellow, while the stems and bracts of the heads are often purple. The fruits are small dry seeds, about 0.1 in (0.3 cm) long (Carr 1985, 1990; St. John and Carr 1981).

In addition to the threat posed due to the small number of remaining individuals, two other potential threats to *Dubautia pauciflorula* exist: One is habitat degradation and competition by invading exotic plants, which are now beginning to be observed in the area; the other is feral pigs. A few pigs have been seen and some rooting and disturbance have been observed in the area, but at present, it is not extensive. Feral pigs damage and destroy plants, their rooting opens areas allowing competing exotic plants to invade, and they transport seeds of alien plants (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990).

*Hesperomannia lydgatei* was first collected by J.M. Lydgate in the Wahiawa Mountains in 1908, and was named in his honor by C.N. Forbes the following year (Forbes 1909). The only other collection documenting the species' existence before its rediscovery by C.H. Lamoureux in 1955, was one made by Forbes in 1909. Today four populations of the species are known, all along or near the Wahiawa Stream or its tributaries. The first population is of four or five trees above Wahiawa Stream just behind Kanaele Bog. This population was estimated at 30 to 36 trees and seedlings in 1972. Another population of about 10 to 12 trees is farther upstream. A third population of 40 to 50 trees and a fourth population both grow along tributaries of the stream; about 10 years ago the fourth population was estimated to be between 100 to 125 plants. While the present size of this population is unknown, it probably is less than the original estimate (Hawaii Heritage Program Collection Log Sheet dated April 4, 1989; T. Flynn, D. Lorence, S. Perlman, pers. comms., 1990).

*Hesperomannia lydgatei* is a member of the sunflower family and resembles a spineless tree thistle with pendent flowers. It is a small tree, rarely over 10 ft (3 m) tall. The leaves are paler beneath, alternately arranged, elliptic or lance-shaped, but wider above the middle, 4 to 12 in (10 to 30 cm) long, and 1.4 to 3.5 in (3.5 to 9 cm) wide. The flower heads are 1.5 to 2 in (4 to 5 cm) tall, with usually 4 or 5 heads on slender stems clustered at the ends of branches, pendent when mature. The flower heads are enclosed by four to eight circles of overlapping bracts, the outer ones brown or purplish, the inner ones silver. The florets are yellow and are split about to the middle into narrow lobes. Mature fruits are unknown (Carlquist 1957, Degener 1932, Fedde 1911, Forbes 1909, St. John 1981, Wagner *et al.* 1990). It is the only member of the genus on Kauai, and the only one with pendent flowers.

The threats to this species are similar to those for the preceding species: Competition from invading exotic plants, small numbers and sizes of populations, and increasing habitat degradation by feral pigs (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990).

*Labordia lydgatei* is known only from five collections: one by J.M. Lydgate in 1908 or 1909, two by C.N. Forbes in 1909, one by S. Perlman in 1987, and one by W.L. Wagner and C.T. Imada in 1988. The species presently is known from a single population of about three individuals located at the end of the valley above one of the tributaries of Wahiawa Stream (S. Perlman, pers. comm., 1990). C.N. Forbes described this species in 1916, naming it in honor of its discoverer, the Reverend Lydgate (Forbes 1916).

*Labordia lydgatei* is a member of the strychnine family (Loganiaceae) and is a many-branched shrub or small tree with sparsely hairy, square stems. The leaves are elliptic, often widening toward the tip, smooth above but with fine hairs on the lower surface; they are 2 to 4 in (5 to 10 cm) long and 0.8 to 2.8 in (2 to 7 cm) wide. The inflorescence comprises 6 to 21 small, slender, funnel-shaped, pale yellow flowers, each about 0.3 in (0.7 cm) long. The fruit is a small, two-parted, ovoid, woody capsule with a short, blunt beak at its tip (Forbes 1916, Sherff 1939, Wagner *et al.* 1990). This species can be separated from *L. tinifolia*, the only other member of the genus on this part of Kauai, by its sessile cymes. The small, restricted population and the likelihood of invasion by competing exotic species are the main threats to the species.

*Viola helenae* was collected by J.M. Lydgate in the Wahiawa Mountains in May, 1908. Using this specimen as the type, he and C.N. Forbes described the species the following year and named it for Lydgate's wife, Helen (Forbes 1909). Two years later, J.F. Rock (1911) described a similar plant from the island of Lanai as a variety of *Viola helenae*. The similarity between the two taxa is superficial, and most botanists today regard the Lanai plant as a distinct species (Becker 1916, St. John 1979, Wagner *et al.* 1990).

*Viola helenae*, a violet (Violaceae), is a small, erect, unbranched subshrub, 1 to 2.5 ft (30 to 80 cm) tall. The leaves, which are clustered toward the upper part of the stem, are lance-shaped, about 3 to 5 in (7.5 to 13 cm) long and 0.8 to 1 in (2 to 2.5 cm) wide. Below each leaf is a pair of narrow, membranous stipules (leaf-like structures), about 0.5 in (1.3 cm) long. The flowers are small, less than 0.4 in (1 cm) long, on stems about 1.8 in (4.5 cm) long, pale lavender or white, occurring singly or in pairs in the upper leaf axils. The fruit are capsules, about 0.5 in (1.1 cm) long (Fedde 1911, St. John 1989, Skottsberg 1940, Wagner *et al.* 1990). The lance-shaped leaves distinguish this species from all the other violets on this island.

*Viola helenae* is known from two populations, one along each branch of the Wahiawa Stream. The total number of individuals in the 2 populations is estimated at about 13 (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). The small number and restricted distribution of the species and resultant susceptibility to stochastic events threaten the plant with extinction. Some pig trails and rooting have been observed near this species, but the evidence of pig activity was localized and little was seen. However, destruction by feral pigs is a potential threat (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). Competition from naturalized plants also is a potential threat, as the species grows along the Wahiawa Stream, and exotic species of plants are moving up along the stream banks. A small population of three or four individuals of *V. helenae* disappeared soon after strawberry guava moved into the habitat where the tree canopy had been opened by Typhoon Iwa in 1982.

#### Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the

United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. *Hesperomannia lydgatei* and *Viola helenae* were considered to be endangered and *Labordia lydgatei* as threatened in that document. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Hesperomannia lydgatei* and *Viola helenae*. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). *Hesperomannia lydgatei* and *Viola helenae* were included as Category 1 candidates on all three lists, indicating that the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. *Labordia lydgatei* was included as a Category 2 candidate on the 1980 and 1985 lists, meaning that the Service had some evidence of vulnerability, but not enough data to support a listing proposal at the time. *Labordia lydgatei* was upgraded to Category 1 status on the 1990 list as a result of the Service receiving additional information. *Dubautia pauciflora* was included as a Category 1 candidate on the 1990 list, which was the first notice of review published after this plant was described as a new species. *Cyanea*

*undulata* was included as a Category 3A species in the 1990 list, meaning that the Service had reason to believe that the species was extinct. The updated information for the Hawaiian species on the 1990 list was submitted for publication prior to the rediscovery of *Cyanea undulata*.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, and 1989. On September 17, 1990, the Service published in the **Federal Register** (55 FR 38242) a proposal to list these five species as endangered. This proposal was based primarily on surveys done in the area by W.L. Wagner of the Smithsonian Institution, D. Lorence and T. Flynn of the National Tropical Botanical Garden, and C. Imada and W. Takeuchi of the Bernice P. Bishop Museum; information supplied by the Hawaii Heritage Program; and the observations of other botanists and naturalists. The Service now determines these five taxa to be endangered with the publication of this rule.

#### Summary of Comments and Recommendations

In the September 17, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the final listing decision. The public comment period ended on November 16, 1990. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Garden Island Sunday* on September 30, 1990, which invited general public comment. No public hearing was requested or held. Three conservation organizations responded to our request for comments. One organization stated that the proposed rule was consistent with the information on the five taxa that they had in their files, the second

organization supported the listing of the five species and informed the Service of the actions that they had undertaken on behalf of the species, the third had no comments.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that five plants, *Cyanea undulata*, *Dubautia pauciflora*, *Hesperomannia lydgatei*, *Labordia lydgatei*, and *Viola helenae*, should be classified as endangered species. Provisions found at section 4 of the Endangered Species Act (16 U.S.C. 1533) 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 *Cyanea undulata* C. Forbes (NCN), *Dubautia pauciflora* St. John and G. Carr (NCN), *Hesperomannia lydgatei* C. Forbes (NCN), *Labordia lydgatei* C. Forbes (kamakahala), and *Viola helenae* C. Forbes and Lydgate (NCN) are as follows:

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

Habitat degradation and competition by exotic species of plants appear to be the main threats to these five species. There has been relatively little disturbance to the Wahiawa drainage basin in the past, but several aggressive exotic species of plants, such as strawberry guava and melastoma have invaded the area and are moving up along the stream beds. All five species included in this proposal are presently known primarily from along the banks of the streams or near the stream beds. In 1982 Typhoon Iwa opened some small areas in the basin, allowing exotic species to invade. At least one population of *Viola helenae* succumbed as a result. Some feral pig trails and rooting have been seen in the area, but the rooting was localized and not much damage was noted. This situation could very quickly change, however, if the pig population increases. While foraging, pigs turn up several inches of the soil surface, and in so doing, damage and destroy plants, and open areas allowing exotic plants to invade. Pigs establish trails among feeding areas and transport seeds, both internally and externally, further aiding in the spread of exotic species.

**B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes**

Not known to be a factor. However, unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity and would seriously impact the species. Disturbance to the area by human trampling would promote greater ingress by competing exotic species.

**C. Disease or Predation**

Not known to be applicable. However, rats are known from the area and damage to fruits, seeds, and plants from their foraging on other species has been observed. For example, most species of the genus *Cyanea* have thick, succulent bark. Some of the more common species of the genus have been girdled by rats, the bark perhaps providing a source of food. Also, rats have completely stripped the bark from a *Clermontia* shrub, a similar, closely related plant, growing at the edge of Kanaele Bog.

**D. The Inadequacy of Existing Regulatory Mechanisms**

State regulations prohibit the removal, destruction, or damage of plants found on State lands. However, the regulations are difficult to enforce because of limited personnel. Hawaii's Endangered Species Act (Hawaii Revised Statutes (HRS), section 195D-4(a)) states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Endangered Species Act (of 1973) shall be deemed to be an endangered species under the provisions of this chapter \* \* \*." Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, section 195D-5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of these five species will therefore reinforce and supplement the protection available to them under State law. The Federal Act also will offer additional protection to the five plant species because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy an endangered plant in an area not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law

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

The small number of populations and of individual plants of the five species included in this rule is in itself a considerable threat. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the known individuals of these species. One population of *Hesperomannia lydgatei* may contain more than 100 individuals, and therefore may not have a substantially limited gene pool; however, the small number of individuals remaining in the other populations and the small number of populations indicate that the species is vulnerable to threats associated with reduced reproductive vigor and unpredicted environmental disturbances.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cyanea undulata*, *Dubautia pauciflorula*, *Hesperomannia lydgatei*, *Labordia lydgatei* and *Viola helenae* as endangered. These species are threatened by the small size and restricted distribution of their populations and by encroachment and competition from exotic species of plants. They also face the potential threat of predation and damage to their habitat by rodents and feral pigs. Because these species are in danger of extinction throughout all or a significant portion of their range, they fit the definition of endangered as defined in the Act. Critical habitat is not being designated for these species for reasons discussed in the "Critical Habitat" section of this rule.

**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 concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species. Such a determination would result in no known benefit to the species. The few known populations are primarily on private land which is zoned as conservation land. State government agencies can be alerted to the presence of the plant without the publication of critical habitat descriptions and maps. The publication of such descriptions and

maps would make these plants more vulnerable to incidents of take or vandalism, thereby contributing to their decline, and increasing enforcement problems. The listing of species as endangered publicizes the rarity of the plants and, thus, can make these plants attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the landowners have been notified of the general location and importance of protecting habitat of these species. Protection of the species' habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for the five species covered in this rule is not prudent at this time, because such a designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of these species.

**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 activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. 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) of the Act 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. Although none of these species occur on Federal land, private activities requiring Federal permits or

funding can be affected. In this case, the Federal agency is responsible for consulting with the Service under section 7 of the Act to ensure that the activities they provide permits or funding for are not likely to jeopardize the continued existence of any listed species.

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. With respect to the five plants from the Wahaiwa drainage basin, 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 with respect to any endangered plant 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 these species in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy listed plants on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State 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 plant species under certain circumstances.

It is anticipated that few, if any, trade permits would ever be sought or issued because the species are not common in cultivation nor 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, 4401 North Fairfax Drive, room 432-ARLSQ, Arlington, Virginia 22203-3507 (703/358-2104, FTS 921-2093).

**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).

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

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

**Regulations 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:** 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 the families indicated, 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					
Asteraceae—Aster family:						
<i>Dubautia pauciflora</i>	None	U.S.A. (HI)	E	436	NA	NA
<i>Hesperomannia lydgatei</i>	None	U.S.A. (HI)	E	436	NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Campanulaceae—Bellflower family:						
<i>Cyanus undulata</i>	None	U.S.A. (HI)	E	436	NA	NA
Loganiaceae—Strychnine family:						
<i>Labordia hydgatei</i>	Kamakahala	U.S.A. (HI)	E	436	NA	NA
Violaceae—Violet family:						
<i>Viola helenae</i>	None	U.S.A. (HI)	E	436	NA	NA

Dated: August 27, 1991.

Richard N. Smith

Acting Director, Fish and Wildlife Service.

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