
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service**50 CFR Part 17**
Endangered and Threatened Wildlife and Plants; Proposal To Determine "Townsendia Aprica" to be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules.

SUMMARY: The Service proposes to determine *Townsendia aprica* (Last Chance townsendia) to be an endangered species under the authority of the Endangered Species Act of 1973, as amended. The Last Chance townsendia has three small populations totaling approximately 220 individuals in Sevier and Emery Counties, Utah. Most of the plants are on public land managed by the Bureau of Land Management; a few are on private land. Trampling by cattle and off-road vehicle activity are current threats, and coal strip-mining and oil and gas exploration are potential threats to the populations. This proposal, if made final, would implement protection provided by the Endangered Species Act of 1973, as amended. The Service is requesting comments on this action.

DATE: Comments from all interested parties must be received by July 30, 1984. Public hearing requests must be received by July 13, 1984.

ADDRESS: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection during usual business hours of the Service's Regional Endangered Species Staff at 134 Union Boulevard, fourth floor, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Regional Botanist, Regional Endangered Species Staff at either address above (303/234-2496; FTS 234-2496).

**SUPPLEMENTARY INFORMATION:
Background**

Townsendia aprica (Last Chance townsendia) was discovered in 1966 by Stanley L. Welsh and James L. Reveal, and was described as a new species by them in 1968. It is a herbaceous perennial less than 2.5 cm tall and 2-6 cm wide, in the sunflower family (Asteraceae). Stems grow from an underground base and branch to form a dense mat or tuft low to the ground. The flower heads are about 2 cm wide with almost no stalk, and have distinctive yellow to golden rays. The ray florets are densely glandular, with a very short (1-2 mm long) pappus. The golden ray florets make the plant unusual in its genus; ray florets of the other known taxa are white, blue, or red when fresh (Welsh and Reveal, 1968), except in *Townsendia jonesii* var. *lutea* (Welsh, 1983), where the yellow is not so intense.

It appears that *Townsendia aprica* has never been abundant. At present, there are only three definitely known populations in eastern Sevier and adjacent western Emery Counties, Utah. A fourth nearby population in Emery County, Utah, has not been relocated (Atwood, 1984). A population believed to be this species, which was destroyed by gypsum mining in 1977, is now considered to have been *Townsendia jonesii* var. *lutea* (Walsh 1978, 1984). *Townsendia aprica* occurs on heavy clay soils of the Mancos Shale Formation, and is associated with the pinyon-juniper grasslands community. The species' location on this formation, which is underlain by coal, makes it subject to disturbance by mining activity. The populations are threatened by off-road vehicles, (ORV's), by potential coal strip-mining and/or oil and gas exploration, and one of them is currently threatened by cattle grazing and trampling.

Section 12 of the Endangered Species Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, 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 this report as a petition within the context of Section 4(c)(2) of the 1973 Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species

pursuant to Section 4 of the Act. This list 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 1975 Federal Register notice. *Townsendia aprica* was included in the July 1975 notice (40 FR 27880) and the June 1976 proposal (41 FR 24527). General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909-17916). Comments on this species that are received during the comment period for this new proposal will be summarized in the final rule.

The Endangered Species Act amendments of 1978 required that all proposals over 2 years old be withdrawn. On December 10, 1979, the Service published a notice of the withdrawal of the still applicable portions of the June 1976 proposal along with other proposals that had expired (44 FR 70796). The July 1975 notice was replaced on December 15, 1980, by the Service's publication in the Federal Register (45 FR 82479-82569) of a new notice of review for plants, which included *Townsendia aprica*. No comments on this species have been received in response to the 1980 notice. On February 15, 1983, the Service published a notice in the Federal Register (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted, in accord with Section 4(b)(3)(A) of the Act as amended in 1982.

On October 13, 1983, the petition finding was made that listing *Townsendia aprica* was warranted but precluded by other pending listing actions, in accordance with Section 4(b)(3)(B)(iii) of the Act; notification of the finding was published in the January 20, 1984, Federal Register (49 FR 2485). Such a finding requires a recycling of the petition, pursuant to Section 4(b)(3)(C)(i) of the Act. Therefore a new finding must be made; we find that the petitioned action is warranted and hereby publish the proposed rule to implement the action, in accord with Section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

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 (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of

the five factors described in that section. These factors and their application to *Townsendia aprica* Welsh *et Reveal*, Last Chance townsendia, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* It is believed that *Townsendia aprica* has never been abundant (Welsh, 1978). At present, there are three known populations within about a 12-mile radius, nearly all on public land managed by the Bureau of Land Management (BLM) in Sevier and Emery Counties, Utah. The first locality, discovered in 1966 about 6 miles south of Fremont Junction in eastern Sevier County, is on BLM land and in serious jeopardy of destruction by cattle trampling. A cattle driveway traverses this habitat, where only 35 individual plants may occur, although none could be located in the dry year of 1982. The second population, with about 135 plants, is located a few miles to the north near Rock Canyon on BLM land in western Emery County. It is threatened by ORV activity, and potentially threatened by coal strip-mining and oil and gas exploration (Harris, 1980; MacBryde, 1984). There are leases for coal, oil and gas, or both covering all of the population. Dr. Welsh and the BLM have done environmental inventory work with regard to the coal leasing, which led to the discoveries of this and the third population.

The third locality, with about 45 plants, is about 2 miles north of the second, near the Ivie Creek drainage, and is largely on public land managed by the BLM although about 20% is privately owned. Leases for coal and for oil and gas only exist on the public land; ORV activity is also a threat to the population. A 1971 collection (*Wright 51*) may represent a fourth population, perhaps 6 miles east of the second population near Rock Canyon, but the locality information is not definite.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* None.

C. *Disease or predation.* The habitat of Last Chance townsendia in the first population, south of Fremont Junction, is heavily grazed, as well as trampled, by cattle (Welsh, 1978).

D. *The inadequacy of existing regulatory mechanisms.* *Townsendia aprica* is not protected by any Federal or State laws or regulations. Known populations of *Townsendia aprica* are found on BLM and private lands. Although the BLM is aware of this species, it is not currently obligated to regulate activities so as to provide for the conservation of the species. The Endangered Species Act offers

possibilities for protection of this species through Section 7 (interagency cooperation) requirements and through Section 9, which prohibits removal and reduction to possession of listed plants on areas under Federal jurisdiction.

E. *Other natural or manmade factors affecting its continued existence.* The small size and number of populations of *Townsendia aprica* make it vulnerable to fluctuations in ecological and genetic factors.

The careful assessment of the best scientific information available, as well as the best assessment of the past, present, and future threats faced by this species were considered in determining the preferred action of this rule. Based on this evaluation, the preferred action is to list *Townsendia aprica* as an endangered species. With only about 220 individuals known, the damage occurring, and other damage possible at the species' three locales, endangered status seems an accurate assessment of the species' condition. It is not prudent to propose critical habitat because doing so would increase risk for the species, as discussed below.

Critical Habitat

The Endangered Species Act in Section 4(a)(3), as amended, requires that to the maximum extent prudent and determinable the Secretary designate any habitat of a species that is considered to be 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, because of the potential for vandalism. Listing highlights the rarity of a plant and can attract the attention of vandals. The species is moreover threatened by off-road vehicles damaging it and its habitat, and its localities are readily accessible by road. Publication of critical habitat descriptions and maps, together with the publicity attendant upon listing, would single out the location of each population and make this species even more vulnerable and increase enforcement problems. Therefore, it would not be prudent to designate critical habitat for *Townsendia aprica* 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 the possibility for land acquisition and cooperative efforts with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service as appropriate following listing. The protection required by Federal agencies and taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires all Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this provision of the Act are codified at 50 CFR 402, and are now under revision (see proposal at 48 FR 29989; June 29, 1983). Section 7(a)(4) requires Federal agencies to informally confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species. If a species is subsequently listed, 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 the species. If an action may affect a listed species, the Federal agency must enter into formal consultation with the Service. Possible effects of this rule on the BLM might include restricting traffic to some existing roads and establishment of some fencing to control cattle and vehicles, as well as exercising care in administering leases so that the species is accommodated in exploration or development activity.

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 plant species. With respect to *Townsendia aprica*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would 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. Certain exceptions could 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 species, under certain circumstances. No such trade in *Townsendia aprica* is known. It is anticipated that few trade permits would ever be sought or issued since this species is not known in cultivation,

is not common in the wild, and is not of particular trade interest.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. The new prohibition would apply to *Townsendia aprica*. Permits for exceptions to this prohibition are available through Section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and these will be made final following public comment. *Townsendia aprica* occurs primarily on public lands managed by the BLM. It is anticipated that few taking permits for the species would ever be requested, as this plant is not common in the wild and has not been of interest to collectors. 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).

If this species is listed under the Act, the Service will review it to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through Section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of each endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Townsendia aprica*;

(2) The location of any additional populations of *Townsendia aprica* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Townsendia aprica*.

Final promulgation of the regulation on *Townsendia aprica* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

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

- Atwood, N. D. 1984. Personal communication to B. MacBryde.
- Harris, J. 1980. Inventory of Endangered and Threatened Plants on Proposed Coal Lease Lands in Emery County. Bureau of Land Management, Moab, Utah. 3 pp.
- MacBryde, B. 1984. Supplemental Status Information, *Townsendia aprica*, January 1984. U.S. Fish and Wildlife Service, Washington, D.C. 1 p.
- Welsh, S. L. 1978. Status Report: *Townsendia aprica*. U.S. Fish and Wildlife Service, Denver, Colorado. 6 pp.
- Welsh, S. L. 1983. Utah Flora: Compositae (Asteraceae). Great Basin Naturalist 43(2):179-357.
- Welsh, S. L. 1984. Personal communication to B. MacBryde.
- Welsh, S. L., and J. L. Reveal. 1968. A New Species of *Townsendia* (Compositae) from Utah. *Brittonia* 20:375-377.
- 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, U.S. Forest Service, Denver, Colorado. 318 pp.

Authors

The primary authors of this proposed rule are Julie Bridenbaugh, then of the Endangered Species Staff, U.S. Fish and Wildlife Service, Denver Regional Office, Denver, Colorado, and Dr. Bruce MacBryde of the Washington Office of Endangered Species. Dr. James Miller of the Service's Denver Endangered Species Staff assisted as editor.

List of Subjects in 50 CFR Part 17
 Endangered and threatened wildlife,
 Fish, Marine mammals, Plants
 (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to

amend Part 17, Subchapter B of Chapter
 I, Title 50 of the United States Code of
 Federal Regulations, as set forth below:

1. The authority citation for Part 17
 reads 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. It is proposed to amend § 17.12(h)
 by adding the following in alphabetical
 order under family Asteraceae 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>Townsendia aprica</i>	Last Chance townsendia	U.S.A. (UT)	E		NA	NA

Dated: May 18, 1984.

G. Ray Arnett,
*Assistant Secretary for Fish and Wildlife and
 Parks.*

[FR Doc. 84-14212 Filed 5-25-84; 8:45 am]

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