

Final promulgation of the regulation on *Juglans jamaicensis* 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 one or more public hearings on this proposal, if requested. Requests must be filed within 45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment and Environmental Impact Statements, 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

- Center for Plant Conservation. 1992. Report on the Rare Plants of Puerto Rico. Missouri Botanical Garden, St. Louis, Missouri.
- Little, E.L. Jr, R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands, Volume II. Agriculture Handbook No. 449. U.S. Department of Agriculture, Forest Service. Washington, DC. 1024 pp.
- Liogier, H.L., and L.F. Martorell. 1982. Flora of Puerto Rico and Adjacent Islands: a systematic synopsis. Editorial de la Universidad de Puerto Rico, Río Piedras, Puerto Rico. 342 pp.
- Proctor, G. R. 1992. Status report on *Juglans jamaicensis* C. DC. Unpublished report submitted to the U.S. Fish and Wildlife Service. 7 pp.

Author

The primary author of this proposed 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, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and Threatened Plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
<i>Juglans jamaicensis</i>	Nogal or West Indian walnut.	U.S.A. (PR), Hispaniola.	Juglandaceae	E		NA	NA
*	*	*	*	*	*		*

Dated: September 6, 1995.
John G. Rogers,
Acting Director, Fish and Wildlife Service.
[FR Doc. 95–24013 Filed 9–27–95; 8:45 am]
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50 CFR Part 17

RIN 1018–AD48

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant *Cordia Bellonis*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to determine *Cordia bellonis* (no common name) to be endangered pursuant to the Endangered Species Act (Act) of 1973, as amended. This shrub is endemic to Puerto Rico and restricted to three public forests: Maricao, Susúa, and Río Abajo. The

species is threatened by habitat loss, some forest management practices, and restricted distribution. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Cordia bellonis*.

DATES: Comments from all interested parties must be received by November 27, 1995. Public hearing requests must be received by November 13, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345.

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa Rivera at the Caribbean Field

Office address (809/851–7297) or Mr. William C. Hunter at the Atlanta Regional Office address (404/679–7130).

SUPPLEMENTARY INFORMATION:

Background

Cordia bellonis was described by Urban in 1899 from specimens collected by Paul Sintenis at “Monte Alegriello” in the municipality of Maricao, Puerto Rico (Urban 1899). The name of “Monte Alegriello” has disappeared from use, but according to Proctor (1991), N.L. Britton referred to “Monte Alegriello” as the peak at the extreme head of the Río Maricao, with an elevation of 900 meters (2,953 feet). This type location was developed for the installation of telecommunication towers. Paul Sintenis collected *Cordia bellonis* in the area known as Indiera Fría. The species was also collected by Britton and Brown in 1915 from Monte Cerrote near Adjuntas (Proctor 1991). Britton and Wilson (1925) described the species as

Varronia bellonis and identified its distribution as mountain-sides in the vicinity of Maricao. Liogier and Martorell (1982) stated that the species distribution was the mountain slopes and serpentine hills in northwestern districts of Puerto Rico. Proctor (1991) reported only 4 individuals of *Cordia bellonis* from Cañ Alto Ward in the Maricao Commonwealth Forest. Breckon and Kolterman (1993) reported 87 individuals at 17 localities in three areas in Maricao. Half of the localities consist of isolated individuals.

The species was reported for the first time in Susúa in 1992, where a small population of 5 individuals was found (Breckon and Kolterman 1993). *Cordia bellonis* was also unknown from the Río Abajo Commonwealth Forest until 1994 (Federal Highway Administration and Puerto Rico Highway and Transportation Authority 1994). Approximately 116 individuals were found in 12 localities. Eighty-seven (75 percent) of these individuals were removed to a nursery (for possible transplantation) because of the construction of the road PR 10 (PR Highway and Transportation Authority 1995).

Cordia bellonis has been found in serpentine soils at Maricao and Susúa at road edges, river margins, and on steep slopes (Breckon and Kolterman 1993). In Río Abajo Forest, the species was found either on sunny banks along dirt roads growing in thickets of vegetation or in open saddles between limestone hills (Federal Highway Administration and Puerto Rico Highway and Transportation Authority 1994).

Cordia bellonis is an arching to erect shrub of about 1 to 2 meters (3.3 to 6.6 feet) high with very slender twigs appressed-puberulous. The leaves are alternate, oblong to oblong-lanceolate, chartaceous, 2 to 6 centimeters (0.79 to 2.36 inches) long, usually 2.5 to 3 times longer than wide, finely scabrous on upper side, and puberulous beneath. The apex is acute, the base acute or obtuse, the margins are dentate on the apical third, and the petioles are 2 to 7 millimeters (0.08 to 0.28 inches) long. The inflorescence is axillary, subglomerate, nearly sessile, and few-flowered. The calyx in bud is globose-obovoid, 2 millimeters (0.08 inches) long, appressed-puberulous, and with 4 triangular lobes. The corolla is white with 4 subcylindric lobes. The drupe is ovoid, pointed and 5 millimeters (0.20 inches) in length (Proctor 1991). Flowers are unisexual and the plants are dioecious (Breckon and Kolterman 1993).

The species is threatened by habitat destruction and modification, forest

management practices, and restricted distribution. Seventy-five percent of the individuals known from Río Abajo Commonwealth Forest were removed from the forest for the construction of a highway. Breckon and Kolterman (1994) reported that 14 individuals from Maricao appeared to have been eliminated due to clearing along the roadside of the forest. Restricted distribution and its dioecious condition would be a limiting factor for the species. The dioecious condition would require outcrossing, and would pose a threat to a rare plant species. Furthermore, in a large number of the localities where the species is found, the shrub occurred as isolated individuals.

Cordia bellonis was designated a category 2 candidate species (species for which information in the possession of the Service indicates that proposing to list as endangered or threatened is possibly appropriate, but for which sufficient data on biological vulnerability and threat are not currently available to support proposed rules) in the Federal Register notice of review for plant taxa dated September 30, 1993 (58 FR 51144). The species was recommended for listing by Proctor (1991) in a Status Report prepared for the species. In further studies conducted for the species, Breckon and Kolterman (1993) also recommended the species for listing. *Cordia bellonis* is considered a critical plant by the Natural Heritage Program of the Puerto Rico Department of Natural and Environmental Resources.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act 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 section 4(a)(1). These factors and their application to *Cordia bellonis* Urban [*Varronia bellonis* (Urban) Britton], are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of the habitat may be one of the most significant factors affecting the numbers and distribution of *Cordia bellonis*. This species is only known from three areas in Puerto Rico; Maricao, Susúa, and Río Abajo. In Maricao, the species is found at 17 localities in three areas, for a total of 87 individuals. Fourteen of these individuals have been eliminated due to

clearing along the roadside. Half of the localities consist of isolated individuals. The dioecious condition of the species would be a factor limiting reproduction by these individuals. Because the majority of these individuals occur along both sides of two public roads, maintenance of road sides, as well as fires and vandalism, would result in the loss of these individuals.

In Susúa, a small population of only 5 individuals was found in 1992. The species was previously unknown from this area. This small population may be affected by forest management practices. *Cordia bellonis* was also unknown from the Río Abajo forest until 1994. Approximately 116 individuals were found in 12 localities. The localities, each consisting of no more than a few individuals, were scattered along a proposed highway. All the individuals along the proposed route have been removed for possible future transplantation (87 individuals). An area designated for compensation (mitigation) for the proposed highway presently supports eight of the remaining 29 individuals from the original population (116 individuals). The species is also known from a private landholding where extraction of fill material for the construction of the road will likely result in the loss of these plants. The rareness and restricted distribution make this species very vulnerable to habitat destruction and modification.

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 to certain Commonwealth listed species. *Cordia bellonis*, however, is not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed for research.

E. *Other natural or manmade factors affecting its continued existence.* Two significant factors affecting this species are its limited distribution and dioecious condition. The limited distribution of this species makes it particularly vulnerable to extinction from catastrophic events and local land management practices. As a dioecious plant, *Cordia bellonis* requires

outcrossing to successfully reproduce. Being dioecious creates a serious limiting factor affecting the continued existence of this rare plant since most known individuals are widely separated from each other and, therefore, unlikely to reproduce.

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 propose this rule. Based on this evaluation, the preferred action is to list *Cordia bellonis* as endangered. The rarity of this plant and the loss of any individual makes the species ever more vulnerable to extinction. Only 121 individuals of *Cordia bellonis* are known to occur in the wild. Cutting and habitat modification may dramatically affect this endemic plant. 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 in the "Critical Habitat" section of this rule.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate 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 *Cordia bellonis*. Service regulations (50 CFR 424.12 (a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of

critical habitat would not be beneficial to the species.

The number of populations of *Cordia bellonis* is sufficiently small and accessible. Vandalism and cutting 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. The precarious status of *Cordia bellonis* necessitates identical thresholds for determining adverse modification of critical habitat and jeopardizing the continued existence of the species. Therefore, no benefit from designating critical habitat would occur for this 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 practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States 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)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorized, fund, or carry out are not likely to jeopardize the

continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The majority of the populations of *Cordia bellonis* known from Maricao are found along both sides of roads PR #120 and PR #362. Any widening of these roads, installation of water and sewer pipelines, and the installation of powerlines along these roads may adversely affect the species. These activities could be funded by Federal agencies (for example, the Federal Highway Administration, U.S. Housing and Urban Development, or Farmer's Home Administration). *Cordia bellonis* was seriously affected by the construction of a highway in the Río Abajo Commonwealth Forest. This road was funded by the Federal Highway Administration and 75 percent of the individuals of *Cordia bellonis* were removed from the Forest for possible future transplantation.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All 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, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions 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 plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. Few trade permits for this plant 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 species and inquiries about prohibitions and permits may be addressed to

Service's Southeast Regional Office, 1875 Century Boulevard, Atlanta, Georgia 30345.

It is the policy of the Service, published in the Federal Register on July 1, 1994 (50 FR 34272), to identify to the maximum extent practicable those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effect of listing on proposed or ongoing activities. The only known populations of *Cordia alliodora* are restricted to three Commonwealth forests: Maricao, Susúa and Río Abajo. Since there is no Federal ownership, and the species is not currently in trade, the only potential section 9 involvement would relate to removing or damaging the plant in knowing violation of Commonwealth criminal trespass law. Section 15.01(b) of the Commonwealth "Regulation to Govern the Management of Threatened and Endangered Species in the Commonwealth of Puerto Rico" states: "It is illegal to take, cut, mutilate, uproot, burn or excavate any endangered plant species or part thereof within the jurisdiction of the Commonwealth of Puerto Rico." The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Caribbean Field Office (see ADDRESSES section). Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Atlanta, Georgia 30345-3301 (404/679-7096).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. 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 this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

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

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

(4) Current or planned activities in the subject areas and their possible impacts on this species.

Final promulgation of a regulation(s) on this species 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 one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the Federal Register. Such requests must be made in writing and be addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessment and Environmental Impact Statements, 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

- Breckon, G.J., and D.A. Kolterman. 1993. *Cordia alliodora* Urban [Boraginaceae]. Final report under cooperative agreement No. 14-16-0004-92-970 between U.S. Fish and Wildlife Service and the University of Puerto Rico, Mayaguez Campus. 14 pp.
- Breckon, G.J., and D.A. Kolterman. 1994. *Cordia alliodora* Urban [Boraginaceae]. Final report under cooperative agreement No. 14-16-0004-93-973 between U.S. Fish and Wildlife Service and the University of Puerto Rico, Mayaguez Campus. 4 pp.

Britton, N.L., and P. Wilson. 1925. Scientific survey of Porto Rico and the Virgin Islands. Volume VI-Part 1. Botany of Porto Rico and the Virgin Islands. Descriptive flora-Spermatophyta (continued). New York Academy of Sciences, New York. 158 pp.

Federal Highway Administration and the Puerto Rico Highway and Transportation Authority. 1994. Biological Assessment Relocation of PR-10 Utuado, Puerto Rico. Unpublished Report.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. Editorial de la Universidad de Puerto Rico, Río Piedras, Puerto Rico. 342 pp.

Proctor, G. 1991. Puerto Rican plant species of concern: Status and recommendations. Miscellaneous Scientific Publication No.2. Department of Natural and Environmental Resources, San Juan, Puerto Rico. 59-61 p.

Puerto Rico Highway and Transportation Authority. 1995. Report to U.S. Fish and Wildlife Service on plant species, Puerto Rican boa and monitoring program of the broad-winged hawk PR-10 Highway, Arecibo-Utuado. Unpublished report.

Urban. 1899. Symb. Antill. 1:393.

Author

The primary author of this proposed rule is Ms. Marelisa Rivera, 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.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, 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	Family name	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
<i>Cordia bellonis</i>	None	U.S.A. (PR)	Boraginaceae	E		NA	NA
*	*	*	*	*	*	*	

Dated: September 6, 1995.
John G. Rogers,
Acting Director, Fish and Wildlife Service.
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