

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Serianthes nelsonii* Merr. (Hayun Lagu or Tronkon Guafi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Serianthes nelsonii* (hayun lagu, tronkon guafi), to be an endangered species. This species is known from one mature tree located in the Territory of Guam and 64 known trees on the island of Rota, Commonwealth of the Northern Mariana Islands. The continued existence of this species is endangered by habitat degradation or destruction, typhoons and other natural or man-caused disasters, insect damage, and the cropping of seedlings by introduced deer and pigs. This determination that *Serianthes nelsonii* is an endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is March 20, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The earliest known collection of *Serianthes nelsonii* was that made on Guam by Alfred Marche, who botanically explored the Mariana Islands in the late 1880's. This material remained unstudied until 1947, when

F.R. Fosberg and M.-H. Sachet reported on it (Fosberg and Sachet 1957). In early 1918, Peter Nelson, of the Guam Experimental Station, received the first grant awarded from the Charles Budd Robinson, Jr., Memorial Fund of the New York Botanical Garden. This grant of 50 dollars was to assist him in field work on Guam. As stipulated by the grant, the first set of his collections was submitted to Elmer Merrill, a botanist at the Bureau of Science, Manila, to be identified. Merrill recognized the plant as new to science and in 1919 described it, naming it in Nelson's honor. The tree subsequently was discovered on Rota by R. Kanehira in the 1930's. It is believed to be endemic to those two islands.

There are two common names for the tree. On Guam it is called hayun lagu, which translates as "north wood." On Rota it is known as tronkon guafi (sometimes spelled trongkon) which means "fire tree."

Serianthes nelsonii is a large tree reaching a height of 60 feet or more and a trunk diameter of nearly six feet. The younger parts of the tree, the inflorescence, and the fruits are covered with rusty-brown hairs. The leaves are about ten inches long, doubly pinnate, and with 20 to 30 pairs of small, dark-green leaflets on each pinna. The flowers are shaped like small brushes, the petals nearly an inch long, pale greenish-white; the filaments extend about twice that length beyond the petals, and are white at the base, pink to maroon for most of their length, and tipped with a yellow anther. The fruit is a hard, dry pod, about 5 inches long by 1 inch wide, densely covered with rusty-brown hair.

It is not known if the tree was ever very common; however, large portions of native habitat on Guam and Rota have been destroyed by human activities, such as the recent clearing of native vegetation adjacent to one of the populations of this species on Rota. On Guam, trees are thought to have been destroyed in the past during land clearing on Andersen Air Force Base. Today, 65 individuals are estimated to be extant in the wild, all but one from Rota. The Guam tree is on Andersen Air Force Base and the Rota trees are on private and local government lands.

On December 14, 1981, Paul M. Calvo, then Governor of Guam, petitioned the Service to list *Serianthes nelsonii* as an endangered species. Subsequently, on February 15, 1983, the Service published a "Notice of findings on certain petitions and review of status" in the **Federal Register** (48 FR 6752), which included this species.

On November 28, 1983 (48 FR 53640), the Service published a supplementary notice of plant species under review for listing as endangered or threatened. *S. nelsonii* was included in that notice as a category-1 candidate, indicating that the Service then had sufficient information to propose listing it. On October 13, 1983, and again on October 12, 1984, the Service found that listing of the species was warranted, but precluded by other pending proposals, in accord with section 4(b)(3)(B)(iii) of the Endangered Species Act of 1973, as amended (Act). On October 25, 1985, the Service published a proposed rule in the **Federal Register** (50 FR 43423) based on information summarized in a detailed status report prepared by the Service (Herbst 1984). The Service now determines *Serianthes nelsonii* to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the October 25, 1985, proposed rule (50 FR 43423) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate Territorial and Commonwealth agencies and governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Pacific Daily News* on November 23, 1985, which invited general public comment. Eight letters of comment were received, including those from the Governor of the Commonwealth of the Northern Mariana Islands, the Director of the Guam Department of Agriculture, the Director of the Waimea Arboretum and Botanical Garden, three other Federal agencies, and two individuals. All comments received have been considered in formulating this final rule.

All letters of comment strongly supported the listing of *Serianthes nelsonii* as an endangered species. Many of the letters contained additional information updating the data presented in the proposed rule. When appropriate, this information has been incorporated into this final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Serianthes nelsonii* 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 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 *Serianthes nelsonii* Merr. (hayun lagu, tronkon guafi) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Large portions of native habitat on Guam and Rota have been degraded or destroyed as a result of human activities. It is not known if this species was ever common, but undoubtedly it existed in greater numbers than it does today. Some of the early Nelson specimens appear to have been collected in areas now on Andersen Air Force Base, since cleared for buildings and other facilities. Another tree is known to have been inadvertently destroyed during land clearing on the base. Recent clearing of land on Rota for agricultural purposes has destroyed the limestone forest vegetation adjacent to one of the *Serianthes* populations on that island. Some of the trees are visible from the agricultural land.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known to be a problem. However, during Japanese occupation of the Northern Mariana Islands, many large trees were harvested. If *Serianthes* were present in the harvested areas, they probably were cut.

C. *Disease or predation.* Seedlings that have been transplanted from the wild into forest nursery plots have been very susceptible to mealy bug and scale insect damage. Although it is not known whether these insects affect plants in the wild, this may occur. Wild specimens are infested with an unidentified seed-boring insect, resulting in the destruction of much of their seed crop. A recent death of a tree on Guam is believed to have been at least partly due to termite infestation. At least three trees have produced seedlings, but, as no (Guam) or few (Rota) seedlings taller than 8 inches have been seen, it is believed that they are eaten by the introduced deer (Guam, Rota) and perhaps by wild pigs (Guam).

D. *The inadequacy of existing regulatory mechanisms.* *Serianthes nelsonii* was placed on the Guam Endangered Species List on September 24, 1981, and is thereby protected by the Endangered Species Act of Guam (Pub. L. 15-36), which prohibits trade in and import, export, and taking of listed species. Listing as endangered by the Federal Government under the

Endangered Species Act of 1973, as amended, provides additional protection through section 7 (interagency cooperation) and section 9 (prohibitions). Such action also facilitates cooperative efforts by the Service with the Government of Guam to protect the species and enhance its recovery (under section 6). The Commonwealth recognizes *S. nelsonii* as endangered, but has no protective regulations that apply to endangered plants. Nevertheless, the Commonwealth Government has indicated, in a letter of comment, its intention of working towards this species' conservation. In the Commonwealth, the U.S. Endangered Species Act also applies; however, a cooperative agreement under section 6 of the Act has not been completed.

E. Other natural or manmade factors affecting its continued existence. Typhoons are common in Micronesia. At least two of the few remaining trees have been damaged by the high winds of typhoons. The extremely small number of extant individuals coupled with a lack of seedlings contributes to this species' vulnerability. A single event such as a fire, a storm, or a natural fluctuation in the number of individuals could cause the demise of a significant percentage of the remaining members of the species.

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 *Serianthes nelsonii* as endangered. Endangered status reflects the destruction of native habitat that has occurred, the real and potential threats faced by the species and the low number of individuals extant. See the following "Critical Habitat" section for a discussion of why critical habitat is not being designated at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. Such a determination would result in no known benefit to the species. The remaining mature tree known from Guam is on Federal property, where no current or known future activity by the U.S. Air Force would adversely affect it. Should any potential adverse effects develop, the involved agencies could be

informed by means other than a critical habitat determination. In addition, publication of detailed range information for such an easily identifiable species that occurs in such small numbers would expose it to potential vandalism. Therefore, it would not be prudent to determine critical habitat for *Serianthes nelsonii* 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, Territorial, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States (including territories and commonwealths) and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. 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. The extant plant of *Serianthes nelsonii* on Guam is on Andersen Air Force Base. As the species is now listed as endangered, the Air Force is required to enter into consultation with the Service before undertaking or permitting any action that may affect the plant.

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. 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 this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from an area under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and Territorial or 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. Requests for trade permits for scientific purposes and for enhancing the propagation of the species, allowed under § 17.62, may result if an artificial propagation plan is pursued. Otherwise it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild. 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, DC 20240 (703/234-1903).

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

- Fosberg, F. R., and M.-H. Sachet. 1957. Plantes recoltées en Micronesie au XIX^e siècle. Bulletin du Museum d' Histoire Naturelle, Paris, Series 2, 29(5):428-438.
Herbst, D. 1984. Unpublished status survey of *Serianthes nelsonii* Merr. U.S. Fish and Wildlife Service. 50 pp.

Author

The primary author of this final rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation 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: 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. Amend § 17.12(h) by adding the following, in alphabetical order under

the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
FABACEAE—PEA FAMILY						
<i>Senanthes nelsonii</i>	Hayun Lagu (Guam) Tronkon guafi (Rota)....	Western Pacific Ocean: U.S.A. (Guam, Rota).	257		NA	NA

Dated: January 31, 1987.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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