

DATES: Comments from all interested parties must be received by July 11, 1989. Public hearing requests must be received by June 26, 1989.

ADDRESSES: Comments and materials, and requests for public hearing 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, Suite 1282, 75 Spring Street, SW, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

Stahlia monosperma (cóbana negra) was placed in the genus *Stahlia* in 1881 in honor of Dr. Augustin Stahl, a physician and botanist of Puerto Rico who authored "Estudios sobre la flora de Puerto Rico." It is the only species in this genus. It was initially thought to be endemic to Puerto Rico and the adjacent island of Vieques, but was later collected in eastern Hispaniola. While at one time it was rather common on the edges of salt flats and shallow lagoons, filling or draining of these areas, cutting for use in furniture and fenceposts, and grazing have left only scattered small populations in Puerto Rico and Vieques. The largest remaining population occurs in the extreme southwest of Puerto Rico, an area currently subject to intense pressure for residential and tourist development (Department of Natural Resources 1988). Botanists from the Dr. Rafael M. Moscoso National Botanical Gardens in the Dominican Republic indicate that the species has been similarly affected in that part of the range.

Stahlia monosperma is a medium-sized evergreen tree that may reach 25 to 50 feet (8 to 16 meters) in height and 1 to 1½ feet (.3 to .5 meters) in diameter. The pinnately compound, alternate leaves have from 6 to 12 opposite leaflets with scattered black dots or glands on the lower surface. Racemes (3 to 6 inches or 7 to 15 centimeters) of yellow flowers are produced in April to May. The fruits are about 1 inch (2 to 3 cm) in diameter and have a thin, red fleshy covering surrounding the single, large seed. These fruits have the noticeable odor of a ripe apple. Seeds

are apparently animal dispersed and germinate after burial and when surface water has receded (Densmore 1987).

Only scattered populations are known to occur in Puerto Rico and the nearby island of Vieques. The largest population occurs on the southwestern coast of Puerto Rico near Boqueron. Here 23 mature trees have been observed along with a group of 35 seedlings, all on the edge of salt flats. It is found associated with black mangrove (*Avicennia germinans*) and buttonwood (*Conocarpus erectus*). Several more individuals, which have been planted, are known to occur in yards and roadways. Other mature trees are found near mangrove areas in Rio Grande on the northeast coast and on the edge of mangrove forest on Vieques, a 52 square mile island to the east of Puerto Rico. From 30 to 40 individuals occur on Vieques, all on U.S. Navy property. These populations are threatened by encroachment of development into these wetland areas and the elimination of mature trees. Establishment of seedlings is frequently difficult as they are either trampled or browsed by cattle grazing in the area.

Stahlia monosperma was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Fish and Wildlife Service, as published in the *Federal Register* (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53640) of the 1980 notice; and the September 27, 1985, revised notice (50 FR 39526). The species was designated category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three candidate notices.

In a notice published in the *Federal Register* on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service made subsequent petition findings in each October of 1983 through 1988 that listing *Stahlia monosperma* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. This proposed rule constitutes the final finding in accordance with section 4(b)(3)(B)(iii) of the Act.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for *Stahlia Monosperma*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Stahlia monosperma* (cóbana negra) to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. Critical habitat is not proposed. *Stahlia monosperma* is a medium-sized evergreen tree endemic to the island of Puerto Rico and the nearby Dominican Republic. The species is found in brackish, seasonally flooded wetlands in association with mangrove communities. *Stahlia monosperma* is affected by coastal development and the elimination of these wetlands by both filling and dredging, cutting for use in furniture and as fenceposts, and grazing. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Stahlia monosperma*. The Service seeks data and comments from the public on this proposal.

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 (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Stahlia monosperma* (cobana negra) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range

The most significant factor reducing the numbers of *Stahlia monosperma* has been the destruction and modification of habitat. Coastal development continues to encroach on coastal mangrove forests and salt flats. Both residential and tourist development complexes are proposed for southwestern Puerto Rico. Many trees are known to have been eliminated in this way. Although in many of these areas the mangroves are part of the Commonwealth Forest System, the specimens of *Stahlia monosperma* lie just inland of black mangrove and are therefore not included within the Forest boundaries.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Stahlia monosperma is highly valued for fenceposts and the species may have been greatly reduced in number by cutting of smaller size classes for this purpose. It is also suited for use in furniture.

C. Disease or predation

Disease has not been documented as a factor in the decline of this species. However, seedlings are apparently often short-lived in the wild, as those accessible to cattle are usually either trampled or browsed within one year following establishment. Some large trees have also been observed to be damaged by heavy browsing (Densmore 1987).

D. The inadequacy of existing regulatory mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Stahlia monosperma* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its

protection and possibilities for funding needed research.

E. Other natural or manmade factors affecting its continued existence

Other natural or manmade factors are not known to be significantly affecting the species at present.

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 *Stahlia monosperma* as threatened. Since the species appears to produce large quantities of viable seed, protection from the effects of grazing may increase natural colonization. Planting of this species has been successful and propagation efforts are ongoing by the Puerto Rico Department of Natural Resources. Therefore, threatened rather than endangered status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which 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. The number of individuals of *Stahlia monosperma* is sufficiently small that vandalism 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 this plant occurs can be identified without the designation of critical habitat. All involved agencies and key 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. Therefore, it would not be prudent to determine critical habitat for *Stahlia monosperma* 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, Commonwealth and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against 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)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. 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 such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Stahlia monosperma*, as discussed above. Federal involvement relates to the Army Corps of Engineers' regulatory program in areas under jurisdiction of Section 404 of the Clean Water Act, as well as internal actions taken by the Corps relative to U.S. Navy property.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or to remove and reduce the species to possession from areas under Federal

jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed plants the 1988 amendments (Pub. L. 100-478) to the Act prohibit their malicious damage or destruction on Federal lands, and their removal, cutting, digging up, or damaging or destroying in knowing violation of any State (Commonwealth) law or regulation, including State (Commonwealth) criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits for *Stahlia monosperma* will ever be sought or issued since the species is not known to be in commercial cultivation and is uncommon 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, P.O. Box 27329, Central Station, Washington, DC 20238-7329 (202/343-4955).

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 are particularly sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any

threat (or lack thereof) to *Stahlia monosperma*;

(2) The location of any additional populations of *Stahlia monosperma*, 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 and distribution of this species; and

(4) Current or planned activities in the subject areas and their possible impacts on *Stahlia monosperma*.

Final promulgation of the regulation on *Stahlia monosperma* 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 this 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 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

- Ayensu, E.S., and R.A. DeFilipps. 1978. Endangered and Threatened Plants of the United States, Smithsonian Institution and

World Wildlife Fund, Washington, DC. xv + 403 pp.

Densmore, R. 1987. Status report on *Stahlia monosperma* (cobana negra) in southwestern Puerto Rico. Unpublished report submitted to the Caribbean Field Office, U.S. Fish and Wildlife Service, Boquerón, Puerto Rico.

Department of Natural Resources, Natural Heritage Program. 1988. Status information on *Stahlia monosperma* in Puerto Rico and adjacent islands. San Juan, Puerto Rico.

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622 (809/851-7297).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, it is hereby proposed 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: 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; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
<i>Stahlia monosperma</i>	Cóbana negra	U.S.A. (PR), Dominican Republic	T	NA	NA


Steven Eugene Larsen,

*Acting Assistant Secretary for Fish and
Wildlife and Parks.*

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