
50 CFR Part 17**RIN 1018-AB66****Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant *Clematis morefieldii* (Morefield's Leather Flower)****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The Service proposes to list a plant, *Clematis morefieldii* (Morefield's leather flower), as an endangered species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. *Clematis morefieldii*

is currently believed extant at only five sites in Madison County, Alabama. Three historical populations have been destroyed and two of the remaining sites are imminently threatened by residential development. The continued existence of this species is also jeopardized due to its limited range, small populations, and reduced vigor at sites that are excessively shaded. This proposed rule, if made final, will extend the Act's protection to *Clematis morefieldii*. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments from all interested parties must be received by December 20, 1991. Public hearing requests must be received by December 5, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment,

during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Cary Norquist at the above address or telephone 601/965-4900 or FTS 490-4900.

SUPPLEMENTARY INFORMATION:**Background**

Clematis morefieldii is a perennial vine in the buttercup family (Ranunculaceae) and is a north Alabama endemic. It was first collected by Morefield in the early 1980's from Round Top Mountain in Madison County, Alabama, and later described by Kral (1987). This species is a member of the *Viornae* subsection of *Clematis*, which is noted for its narrow endemics (Kral 1987). *Clematis* in this subsection are distinguished by urn-shaped flowers which occur singly, or in few-flowered groups, in leaf axils. Their primary flower stalks (peduncles) are subtended by leafy bracts. *Clematis morefieldii* is closely related to *C. viorna*, a more variable species, but *C. morefieldii* has

dense white hairs on the shoot, velvety lower leaf surfaces, and stouter, usually shorter (15–25 millimeters (mm) or 0.6 to 1.0 inch long) peduncles with sessile to nearly sessile bracts at the base (Kral 1987). *Clematis morefieldii* attains heights up to 5 meters (16 feet) and its compound leaves may attain lengths of 2 decimeters (8 inches). Leaves have 9 to 11 leaflets and the terminal 1 to 3 leaflets form tendrils. The flowers are pinkish and 20 to 25 mm (0.8 to 1.0 inch) long. Fruits are clusters of achenes. *Clematis morefieldii* flowers from late May to early July.

Extensive surveys have been conducted for *C. morefieldii*. Currently, it is known from only five locations in Madison County, Alabama. The vines are rooted in basic clay-loam soils in rocky limestone woods on the south and southwest facing slopes of mountains. Plants often sprawl over shrubs and boulders or climb understory shrubs (Kral 1987). *Clematis morefieldii* occurs locally near seeps within a juniper-hardwoods community with *Cotinus obovatus* (smoketree) as the principal indicator species. Other associate hardwoods include *Carva ovata*, oaks (*Quercus shumardii*, *Q. muhlenbergia*, *Q. alba*, *Q. stellata*), *Ulmus*, and *Fraxinus americana*.

Four of the five populations are within 0.3 to 1.7 kilometers (km) (0.2 to 1.1 miles) of one another on the Huntsville—Monte Sano Mountain complex. A single vine is on one site, two sites have approximately 20 plants, and the fourth site has several hundred vines. The fifth site (on Keel Mountain) is disjunct, approximately eight km (six miles) from the other sites, and has an estimated 300 vines. On all sites, the plants are clustered within a small area (0.1 hectare (0.25 acre) or less) (Weber 1991). Two populations are located on public land currently owned by the city of Huntsville. The other sites are on private property.

Of the total eight reported populations (including historic and extant sites), three populations are believed to have been destroyed, and two of the remaining five extant sites, are imminently threatened by residential development. The continued existence of this species is also jeopardized due to its limited range, small population sizes, and reduced vigor at sites which are heavily shaded. Management may be necessary to maintain appropriate habitat.

Federal actions involving *Clematis morefieldii* began with field surveys in 1989, after the Service had been alerted to a newly described species of *Clematis* which appeared to be rare and facing imminent threats. In the February

21, 1990, publication of a notice of review for native plants in the *Federal Register* (50 FR 6184), *Clematis morefieldii* was included as a category 2 species (the specific name was misspelled in the notice). Category 2 species are those for which listing as endangered or threatened species may be warranted but for which substantial data on biological vulnerability and threats are not currently known or on file to support a proposed rule. The Service contracted for additional surveys in 1990 to further assess this species' rarity and threats to its existence. The contractor submitted a final report on this species' status in 1991. This report (Weber 1991) and other information support the proposed listing. The data demonstrate a limited distribution and continuing threats to the species.

Summary of Factors Affecting the Species

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 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 *Clematis morefieldii* Kral (Morefield's leather flower) are as follows:

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

This species' range is currently recognized as limited to five sites in northern Alabama, all in Madison County. While surveying potential habitat for additional populations, it was noted that residential development had destroyed or adversely modified similar habitats. Residential development on mountains in the Huntsville area is increasing. Two of the existing populations are imminently threatened due to their precarious location on lots in a residential area. Clearing has already impacted habitat and individuals on these sites. Destruction of these two sites would result in a 55 percent loss of total known individuals. At this time, only two of the five sites (respectively, 22 and 300 plants) appear to be secure. Within the last few years, three populations have been destroyed by road building, clearing, and herbicide use associated with residential development (Weber 1991).

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

This recently discovered species is currently not known to be a significant component of the commercial wildflower trade; however, it is attractive and has horticultural potential. Publicity from its listing could generate an increased demand. Taking and vandalism pose threats because of its visibility when flowering and the accessibility of many of the sites. Overcollecting for any purposes could extirpate populations, especially the sites with only a few plants.

C. Disease or Predation

Seed predation by insects was noted in several populations (Weber 1991) and requires further investigation.

D. The Inadequacy of Existing Regulatory Mechanisms

Although it is considered endangered in Alabama (Gunn, Alabama Heritage Program, pers. comm., 1991), there are no State or Federal laws protecting *Clematis morefieldii* or its habitat. Two populations (totaling <25 plants) occur on public land (city of Huntsville) and are currently protected. However, ownership, thus protection, for one of these sites is tenuous. There is a possibility that public ownership will revert to private landowners if sufficient funds are not available to complete payment (Weber 1991). The Act would strengthen existing protection, provide additional protection and encourage active management for *Clematis morefieldii* (see "Available Conservation Measures").

E. Other Natural or Manmade Factors Affecting Its Continued Existence

This species is extremely vulnerable because it has a limited range and low numbers of plants at many of the sites. One population has one plant, two have approximately 20 plants, and all sites occupy less than a 0.1 hectare (0.25 acre) in area. A single unnatural or natural disturbance could destroy a significant percentage of the known populations. In addition, the small number of individuals at three sites may indicate a limited gene pool and, without infusion of gene flow, it is questionable if these smaller populations can survive.

Clematis morefieldii appears to have restricted ecological requirements. Plants are locally distributed and seem to require areas where shale forms seeps which are moist for a good part of the year (Weber 1991). One population, located under a closed canopy, appeared to be stressed. Individuals

were smaller and fewer flowers were observed, when compared to populations where the canopy was somewhat "open". This species may require habitat management to curtail succession.

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 *Clematis morefieldii* as endangered. Endangered status is appropriate due to the species' restricted range and imminent threats facing several populations. An endangered species, as defined by the Act, is threatened with extinction throughout all or a significant portion of its range. Critical habitat is not being designated for reasons discussed in the following section.

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 same time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat presently is not prudent for this species. This recently discovered *Clematis* occurs in limited numbers at only five locations, three of which are easily accessible. Publication of critical habitat maps in the *Federal Register* and local newspapers would increase public interest and possibly lead to additional threats for this attractive species.

Take is regulated by the Act with respect to endangered plants only in cases of (1) removal and reduction to possession from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, damaging, or destroying these plants in knowing violation of any State law or regulation, including State criminal trespass law. However, the known populations of *Clematis morefieldii* are located only on private and city land. Although the species is listed as endangered by the State, the State law provides no protection from collecting or vandalism. While listing under the Act increases the public's awareness of the species' plight, it can also increase the desirability of a species to collectors. As stated previously, this *Clematis* is an attractive vine which may be attractive to the wildflower trade or novelty collectors. Discovery and elimination of even one population would compromise the survival of the species. It also could be adversely affected by increased visits to, and associated trampling of,

occupied sites as a result of critical habitat designation.

As discussed above, it would not now be prudent to determine critical habitat for *Clematis morefieldii*. All involved parties, including appropriate City and State agencies, and key private landowners, have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 consultation process.

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 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 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 listed subsequently, 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.

All presently known populations are located on private or city-owned land. The only currently known activity to be authorized, funded, or carried out by a Federal agency that would affect *Clematis morefieldii* is consideration of this species by the Environmental

Protection Agency relative to pesticide (herbicide) registration.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general 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, would 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 this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including 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 species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning 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 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; and

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

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to 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 received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to Complex Field Supervisor (see ADDRESSES section).

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

Kral, R. 1987. A new "Viorna" *Clematis* from northern Alabama. Ann. Missouri Bot. Gard. 74:665-669.
 Weber, S.F. 1991. Status report on *Clematis morefieldii*. Unpublished report to U.S. Fish and Wildlife Service, Southeast Region, Jackson, Mississippi. 10 pp. + appendix.

Author

The primary author of this proposed rule is Cary Norquist (see ADDRESSES section) 601/965-4900 or FTS 490-4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened species.
 Exports, Imports, Reporting and

recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

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:

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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Ranunculaceae, 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					
Ranunculaceae—Buttercup family:						
<i>Clematis morefieldii</i>	Morefield's leather flower.....	U.S.A. (AL).....	E		NA	NA

Dated: September 3, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

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