

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Dicerandra Immaculata* (Lakela's Mint)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Dicerandra immaculata* (Lakela's mint), a small plant in the mint family, to be an endangered species. *Dicerandra immaculata* is endemic to a very small area of ancient dunes near the Atlantic Coast in St. Lucie and Indian River Counties, Florida. All known colonies of *Dicerandra immaculata* occur on private property. The continued existence of this plant is endangered by sand mining, a fungal disease which attacks the seeds, and by the development of commercial and residential communities on the line of ancient dunes between Vero Beach and Fort Pierce. This proposal, if made final, would implement Federal protection and recovery provisions afforded by the Endangered Species Act of 1973, as amended, for *Dicerandra immaculata*.

DATES: Comments from all interested parties must be received by September 21, 1984.

Public hearing requests must be received by September 6, 1984.

ADDRESSES: Interested persons, organizations, and agencies are requested to submit comments to the Field Supervisor, Endangered Species

Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and material relating to this proposal are available for public inspection, by appointment, during normal business hours (7:00 a.m.-4:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Michael M. Bentzien at the above address (904791-2580 and FTS 946-2580), or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771 or FTS 235-2771).

SUPPLEMENTARY INFORMATION:**Background**

Dicerandra immaculata (Lakela's mint) is a low-growing, dome-shaped shrub of the mint family (Lamiaceae). The plants reach 38 centimeters (15 inches) in height, and bear erect flowers, in small cymes, at the tips of the stems. The spotless, lavender-rose to purplish (rarely white) corolla of the flower separates *Dicerandra immaculata* from other species of this genus occurring in the southeastern United States. *Dicerandra immaculata* was described by Olga Lakela in 1963, based on material collected in southern Indian River County, Florida, in 1962. The species is restricted to coastal sand pine scrub vegetation in Indian River and St. Lucie Counties, Florida. Florida sand scrub habitats are found on relict dunes along former ocean shorelines. The soils consist of highly drained, sterile sands.

In *Dicerandra immaculata* habitat, sand pine (*Pinus clausa*) forms an

overstory, while oaks (*Quercus geminata*, *Q. virginianam*, and *Q. myrtifolia*) form an understory. Other small trees or shrubs found in this plant community include scrub hickory (*Carya floridana*), cabbage palm (*Sabal palmetto*), saw palmetto (*Serenoa repens*), hog plum (*Ximenia americana*), and tough bumelia (*Bumelia tenax*). Epiphytes (*Tillandsia fasciculata* and *T. recurvata*) are present. *Dicerandra immaculata* is one of the rarest plants known from the sand scrub community type. Rare animals found in *Dicerandra immaculata* habitat include the Florida scrub jay (*Aphelocoma c. coerulescens*) and the scrub lizard (*Sceloporus woodi*). The Florida scrub jay is considered a threatened species by the State of Florida; the scrub lizard is considered rare by the Florida Committee on Rare and Endangered Plants and Animals.

Only 10 colonies of *Dicerandra immaculata* are known. They occur in an area 0.8 kilometers (0.5 mile) wide by 4.8 kilometers (3 miles) in Indian River and St. Lucie Counties, Florida, between the cities of Vero Beach and Fort Pierce. The plants occur in the vicinity of four small sandhills, with an elevation over 14 meters (45 feet), representing ancient coastal dunes. *Dicerandra immaculata* occurs on soil series of the Astatula, Paola, and St. Lucie sands. All known colonies occur on private property. The continued existence of this species is threatened by sand mining, commercial and residential development, and a fungal disease affecting the seeds.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the

Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Director published a notice of review in the *Federal Register* (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act. On June 16, 1976, the Director published a proposed rule in the *Federal Register* (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Dicerandra immaculata* was included in the Smithsonian report, the July 1, 1975, notice of review, and the June 16, 1976, proposal.

The 1978 Endangered Species Act Amendments required that all proposals over 2 years old be withdrawn, except that a 1 year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the June 6, 1976, proposal, along with four other proposals which had expired (44 FR 70796). On December 15, 1980, the Service published a revised notice of review in the *Federal Register* (45 FR 82479); *Dicerandra immaculata* was included in Table 3 as a category 1 species. Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the Act, as amended, further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Dicerandra immaculata* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petition for *Dicerandra immaculata* was warranted, and that although pending proposals had precluded proposal of *Dicerandra immaculata*, expeditious progress was being made to add this species to the list. This finding was published in the *Federal Register* on January 20, 1984 (49 FR 2485). Publication of this proposal constitutes the next one year finding requirement of October 13, 1984.

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—see proposal at 48 FR 36062, August 8, 1983)

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 *Dicerandra immaculata* Lakela (Lakela's mint) are as follows:

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

Dicerandra immaculata is known only from a 0.8 kilometers (0.5 mile) by 4.8 kilometers (3 miles) area in Indian River and St. Lucie Counties, Florida, between the cities of Vero Beach and Fort Pierce. Only 10 colonies of the plant are known; these are considered to represent a single population. All of the colonies occur on private land suitable for residential or commercial development. Most of one colony was recently destroyed by commercial development. Another site has been partially destroyed by clearing and construction of houses in a platted subdivision. Two other colonies are threatened by sand mining. This commercial and residential development has occurred in the last 2 years and such activities are expected to continue in the near future, affecting most or all of the remaining colonies of *Dicerandra immaculata*.

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

Not applicable.

C. Disease or Predation

Dicerandra immaculata is subject to mildew attack, which destroys the viability of the seeds before they are dispersed (Robinson, 1981).

D. The Inadequacy of Existing Regulatory Mechanisms.

No Federal, State, or local laws or regulations protect *Dicerandra immaculata* or its habitat at present.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Peninsular Florida has one of the highest human population growth rates in the United States. The current heavy development pressures on the limited uplands can be expected to intensify in the area in which *Dicerandra immaculata* occurs.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to prepare this rule. Based on this evaluation, the preferred action is to list *Dicerandra immaculata* as endangered. The few remaining colonies

of this species are continuing to decline and the plant is in danger of extinction throughout its range. Critical habitat is not being proposed for *Dicerandra immaculata*; the reason for this decision is discussed in the following section.

Critical Habitat

Section (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. This species is found only on small areas of privately-owned lands, where no Federal involvements are known at present. Publication of critical habitat maps in the *Federal Register* could attract attention to the limited remaining areas where *Dicerandra immaculata* occurs, subjecting the remaining sites to vandalism. The resultant attention could also encourage increased trespassing and frustrate property owners. Should future Federal activities take place in the areas in which *Dicerandra immaculata* occurs, the Service feels that such activities will be brought to the Service's attention without the designation of critical habitat.

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 States and requires that recovery actions be carried out for all listed species. Recovery actions are initiated by the Service following listing. The protection required by Federal agencies is discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their action with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR 402, and are now under revision (see proposal at 48 FR 29990; 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 or result in destruction or adverse modification of proposed critical habitat. When a species is 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. If a Federal action may affect the species, the Federal agency involved must enter into consultation with the Service. No Federal involvements affecting *Dicerandra immaculata* are known at present.

The act and implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions which apply to all endangered plant species. With respect to *Dicerandra immaculata*, 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 can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide activities involving endangered plant species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not cultivated nor common in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1967, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. *Dicerandra immaculata* is not known to occur in any area under Federal jurisdiction, so this prohibition would not apply. 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).

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 *Dicerandra immaculata*;
- (2) The location of any additional populations of *Dicerandra immaculata* 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;
- (4) Current or planned activities in the subject area and their possible impacts on *Dicerandra immaculata*.

Final promulgation of the regulation on *Dicerandra immaculata* 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 request must be made in writing and addressed to the Field Supervisor, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207.

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).

Literature Cited

Austin, D.F., C.E. Nauman, and B.E. Tatje. 1980. Endangered and threatened plant survey in southern Florida and the National Key Deer and Great White Heron National Wildlife Refuges, Monroe County, Florida. Report submitted to U.S. Fish and Wildlife Service, Atlanta, Georgia.

Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. Vol. II: Aquifoliaceae through Asteraceae. U.S.D.A. Forest Service Publication R8-TP2.

Lakela, O. 1963. *Dicerandra immaculata* Lakela, sp. nov. (Labiatae). Sida 1(3):184-185.

Robinson, A.F., Jr. 1981. *Dicerandra immaculata*. Status review prepared for U.S. Fish and Wildlife Service files. Jacksonville Endangered Species Field Station, Jacksonville, Florida.

Authors

The primary author of this proposed rule is Dr. Michael M. Bentzien, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2737 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580 or FTS 946-2580). Dr. Andrew F. Robinson, Jr., U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Portland, Oregon 97232, and Dr. Gail S. Baker, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99501, prepared preliminary listing documents on which this proposed rule is based. Ms. E. LaVerne Smith served 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 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, 93 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 Lamiaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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Species		Historic range	Stat.s	When listed	Critical habitat	Special rules
Scientific name	Common name					
Lamiaceae—Mint family:						
<i>Dicerandra immaculata</i>	Lakela's mint	U.S.A. (FL)	E		NA	NA

—Continued

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
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Dated: July 6, 1984.

Susan Recca,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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