**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

## Endangered and Threatened Wildlife and Plants; Proposal To Determine Iliamna Corei (Peter's Mountain Mallow) To Be an Endangered Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to list *Iliamna corei* (Peter's Mountain Mallow) as an endangered species. This plant species occurs as a single population in western Virginia. Its continued existence is threatened by the encroachment of competing vegetation, habitat degradation, and low reproductive potential. The population, which occurs on private land, was also reduced in total area and number of plants by construction of a hiking trail in the early 1970's. Although the trail has now been abandoned, hikers occasionally follow the old path through the colony. Listing as endangered would provide the species protection under the Endangered Species Act of 1973, as amended. The Service seeks comments

and further information concerning this proposal.

**DATES:** Comments from all interested parties must be received by November 4, 1985. Public hearing requests must be received by October 18, 1985.

**ADDRESS:** Comments and materials concerning this proposal should be sent to: Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Dyer at the above address (617/965-5100 or FTS 829-9316).

**SUPPLEMENTARY INFORMATION:**

## Background

Peter's Mountain Mallow is a member of the Malvaceae (mallow family) and is presently known to exist in only one small population in western Virginia. The population occurs on private land near the summit of Peter's Mountain in Giles County. The perennial plants are 20 to 36 inches (0.5 to 0.9 meters) tall and appear somewhat like small hollyhocks with large rose or light pink flowers 1 to 2 inches (2.5 to 5.0 centimeters) across. The flowers have no fragrance and appear in late July and August. The short-stalked flowers occur in terminal clusters or in the axils of the upper leaves.

When the population was first discovered by Dr. Earl Core in 1927 (Strausbaugh and Core, 1932), approximately 50 plants were growing vigorously in the soil-filled pockets and crevices of an exposed sandstone outcrop. The plants were in full sunlight and produced an "abundant supply of seeds." The Peter's Mountain site was visited periodically in ensuing years and "40 clumps, with 1 to 15 plants in each clump" were counted in 1962 (Keener and Hardin, 1962). The plants were noted as being scattered through a 150 by 30 foot (45 by 9 meters) area following the ridge contour. Although the interpretation and counting of clumps, stems, or plants has not been uniformly applied over the years, there is little doubt that the population has declined considerly, as only 5 plants and 55 stems were observed in July, 1984.

Considerable debate has existed among botanists as to the taxonomic distinction between *Iliamna corei* and a closely related species, *Iliamna remota*, which is also a candidate for Federal listing. Because of the confusion, significant points in the taxonomic history of these two taxa will be summarized. The first collections of *Iliamna remota* were made in 1872, by E.J. Hill, on a gravelly island in the Kankakee River near Altorf, Illinois. The distinct nature of the species was not recognized at that time and the plants were identified as a western species of mallow, *Sphaeralcea acerifolia*, which occurs in the Rocky Mountains from Colorado to British Columbia. In 1899, Dr. Edward L. Green examined the Illinois plants, recognized differences between them and the widespread western species, and called the Kankakee River plants *Iliamna remota*. Meritt L. Fernald transferred the Kankakee plants to the related genus *Spaeralcea* under the name *Sphaeralcea remota* in the seventh edition of *Gray's Manual of Botany* (Fernald, 1908). Seeking to clarify the situation for the second edition of *An Illustrated Flora of the United States, Canada and the British Possessions from Newfoundland to the Parallel of the Southern Boundary of Virginia and from the Atlantic Ocean Westward to the 102nd Meridian*, Nathaniel Lord Britton called upon Earl E. Sherff for assistance in obtaining specimens from the Kankakee Island site. Sherff visited the site with the original discoverer, Mr. Hill, in 1912. They found a vigorous colony and obtained several plants for analysis. Dr. Britton then named the species as *Phymosia remota*.

Twenty years then passed before P.D. Strausbaugh and Dr. Earl Core published an account (Strausbaugh and Core, 1932) of Dr. Core's discovery of *Phymosia remota* on Peter's Mountain in August of 1927. Dr. Sherff was particularly interested in reading of the discovery because of the remarkable distance between the two populations and the differences in habitat types, i.e., mountain outcrop versus river island. Of equal interest to Sherff was a statement in the article that reported the Kankakee River population as having been destroyed.

Sherff returned to the Kankakee River site in 1945, discovered "hundreds of plants flourishing" on the now abandoned island, and began a detailed study comparing the Illinois and Virginia populations. Dr. Sherff concluded that the Peter's Mountain and the Kankakee River plants appropriately belonged to the same species, but that the Virginia plants were a different variety, which he named *Iliamna remota* var. *corei* (Sherff, 1946). Later he concluded in fact that they were two separate species and in 1949 named the Peter's Mountain plants *Iliamna corei* (Sherff, 1949). Sherff's work has been the most comprehensive published analysis to date of the two populations. Although Kartesz (Kartesz and Kartesz, 1980) synonomized *Iliamna corei* under *Iliamna remota*, there appears to be no definitive and specific work on which to base that conclusion. The most recent work was conducted by William A. Pusateri, while a graduate student at Miami University. Mr. Pusateri is continuing his studies using more advanced techniques, including electrophoresis and chromosome analysis. Although he has not yet completed his investigations, he is of the opinion that Sherff's conclusion on the distinctiveness of the two species is correct (Pusateri, personal communication).

*Iliamna corei* was recognized as a "category-1" candidate for Federal listing in the Service's **Federal Register** notice of review of plant taxa for listing as endangered or threatened on December 15, 1980 (45 FR 82480). Category-1 taxa were defined as species for which sufficient information was on hand to support the biological appropriateness of proposing to list. The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982 be treated as having been newly submitted on that date. The species covered by the December 15, 1980, notice are treated as if under petition, and the deadline for making a finding on such species, including *Iliamna corei*, was October 13, 1983. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing of *Iliamna corei* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Notice of the 1983 finding was published on January 20, 1984 (49 FR 2485). Such a finding requires a recycling of the petition pursuant to section 4(b)(3)(c)(i) of the Act. Consequently, a new finding must be made on or before October 13, 1985; this proposed rule constitutes the finding that the listing of this species is warranted and proposes to implement the action, in accordance with section 4(b)(3)(B)(ii) of the Act.

Based on the continuing decline and the now precarious existence of the Peter's Mountain population of *Iliamna corei*, the Service considers that listing under the Act is warranted. Although *Iliamna remota* is also a candidate for Federal listing, sufficient information is not on hand to justify a proposal at this time. At least three wild or perhaps introduced populations of *Iliamna remota* are known to exist, and the literature refers to additional populations being established in home gardens and other "secure places." The original Kankakee River island site is

also now protected as a State ecological preserve.

**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 (49 FR 38900, October 1, 1984, codified at 50 CFR Part 424) 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 in *Iliamna corei* Sherff (Peter's Mountain mallow) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat degradation is the primary threat to the continued existence of *Iliamna corei*. The encroachment of competing vegetation and the subsequent reduction of direct sunlight reaching the plants appear to be major factors in the reduced size and reproductive vigor of the population. Historical references indicate that the population on the sandstone outcrop was previously open to a great deal more direct sunlight than is the case today. The growth of the forest canopy has been a factor, but the major threat is competition from an introduced herbaceous species, *Polymnia canadensis* (Canadian leafcup). Previous publications that list the woody and herbaceous plants growing in association with *Iliamna corei* (e.g., Keener and Hardin, 1962) make no reference to the leafcup, which now dominates the site. How the leafcup became established is open to speculation, but establishment could have been expedited by the completion of a nearby power transmission line or the construction of a hiking trail. Although the trail has now been abandoned, a number of *Iliamna* plants were destroyed when the trail was built through the colony.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Scientific collecting has been a problem, as many botanists have visited the site since the original discovery in 1927 to collect herbarium specimens. Local professors and students have visited the site for educational purposes.

The populations was once more vigorous and larger in numbers and in size, and some collecting might have been tolerated. Any further collecting, however, could be extremely detrimental. There is no known record of collection for commercial purposes; however, whole plants, fruits, and seeds have been taken for private purposes, particularly for home gardens.

C. *Disease or predation.* Disease has not been a factor, but could become so due to the vulnerability of the extremely small population. White-tailed deer have also been known to browse the plants to some extent but do not appear to be a significant factor in reducing or suppressing the population.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Virginia does not presently list *Iliamna corei* under protection of the Endangered Plant and Insect Act. Under the State law, it is unlawful to dig, cut, process or collect, remove, transport, possess, sell, offer for sale, or give away listed plants other than from one's own land. Because the Federal Endangered Species Act does not prohibit the taking of endangered or threatened plants on non-Federal lands, the listing of *Iliamna corei* under State law would provide an important degree of proteciton. The authority to list plants under the State law is vested in the Virginia Assembly.

E. *Other natural or man-made factors affecting its continued existence.* Because of the small size of the only known population, its lack of vigor, and its presently low reproductive potential, a number of chance events such as fire, insect infestation or intensive browsing could become sigificant factors in the species' continued existence.

The Service has carefully assessed the best scientific 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 it to list *Iliamna corei* as endangered. Due to the continuing decline of the only known population and the rapid encroachment of competing vegetation, the plants are particularly vulnerable and in need of protection. Critical habitat is not proposed for this species for the reasons enumerated below.

**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 considers designation of critical habitat to be prudent when such designation will benefit the species involved. Due to the extremely small size of the existing population and the documented history of taking the plant for private cultivation and/or scientific purposes, the Service finds that designation of critical habitat is not prudent at this time. Publication of detailed habitat descriptions and maps could expose the species to more intense horticultural collecting, vandalism, or trampling by curiosity seekers. Designation of critical habitat would therefore not be likely to benefit the species' conservation.

**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 and State agencies and private conservation organizations and individuals. The Nature Conservancy has discussed protection strategies with the private individual who owns the land upon which this species occurs, and talks are continuing in hopes of achieving a formal protection agreement. Other conservation measures, including required protection efforts by Federal agencies and 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, and are now under revision (see proposal at 48 FR 29990, June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service an any action that is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify and area proposed to be designated as 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 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. Currently, however, there is no known Federal action likely to affect the site where Peter's Mountain Mallow occurs, and no critical habitat is proposed to be designated.

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 plant species. With certain exceptions, these prohibitions 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. 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. There is no known commercial trade in *Iliamna corei*, and the Service therefore anticipates few, if any, requests for such permits.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. This prohibition would apply to *Iliamna corei*, although no known populations exist on Federal lands. 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 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 are particularly sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Iliamna corei*;

(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 taxonomy, range, and distribution of this species; and

(4) Current or planned activities that may affect the existing population.

Final promulgation of a regulation on *Iliamna corei* 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 one is requested. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton, Massachusetts 02158.

## National Environmental Policy Act

The 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


Fernald, M.L. 1908. Gray's Manual of Botany, 7th Edition. American Book Company, New York

Kartesz, J.T., and R. Kartesz. 1980. A Synonymized Checklist of the Vascular Flora of the United States, Canada, and Greenland. University of North Carolina Press, Chapel Hill, North Carolina.

Keener, C.S. and J.W. Hardin. 1962. *Iliamna corei* Revisited. Castanea 27:176–178.

Sherff, E.E. 1946. Notes on Certain Plants in the Gray's Manual Range. Rhodora 48:89–96

Sherff, E.E. 1949. Miscellaneous Notes on Dicotyledonous Plants. American Journal of Botany 36:499–511.

Strausbaugh, P.D., and E.L. Core. 1932. *Phymosia remota*. Rhodora 34:142–146


## Author

The author of this proposed rule is Richard W. Dyer, Endangered Species Staff, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965-5100 or FTS 829-9316).

## 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 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, under the family Malvaceae, 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 rule |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| Malvaceae—Mallow Family: | | | | | | |
| * * * * | * * * * | * | * | * | | |
| *Iliamna corei* | Peter's Mountain mallow | U.S.A. (VA) | E | | NA | NA |
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Dated: August 13, 1985.

P. Daniel Smith,

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

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