

commerce any endangered wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. All such permits must also be consistent with the purposes and policy of the Act, as required by section 10(d), thereof.

International trade in these six species is expected to be minimal. The Service will review these species to determine whether any of them should be placed on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8A(e) of the Act, and whether they should be considered for other appropriate international agreements.

National Environmental Policy Act

The 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, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

Literature Cited

Collar, N.J., and P. Andrew. 1988. Birds to watch. The ICBP world checklist of threatened birds. International Council for Bird Preservation Tech. Publ., No. 8, xvi + 303 pp.

Collar, N.J., and S.N. Stuart. 1985. Threatened birds of Africa and related islands. The ICBP/IUCN red data book, part 1. International Council for Bird Preservation, Cambridge, England, xxxiv + 781 pp.

King, W.B. 1981. Endangered birds of the world. The ICBP bird red data book. Smithsonian Institution Press, Washington, DC.

Moors, P.J. 1985. Conservation of island birds. International Council for Bird Preservation Tech. Publ., No. 3, x + 271 pp.

Author

The primary author of this rule is Dr. Ronald M. Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703-358-1708 or FTS 921-1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation, and Wildlife.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is hereby amended 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. 99-825, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under BIRDS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
Guan, white-winged	<i>Penelope albipennis</i>	Peru	Entire	E	401	NA	NA
Ibis, northern bald	<i>Geronticus eremita</i>	Southern Europe, southwestern Asia, northern Africa	Entire	E	401	NA	NA
Owl, Madagascar red	<i>Tyto soumagnei</i>	Madagascar	Entire	E	401	NA	NA
Parakeet, Norfolk Island	<i>Cyanoramphus novaeseelandiae cookii</i>	Australia (Norfolk Island)	Entire	E	401	NA	NA
Parrot, red-tailed	<i>Amazona brasiliensis</i>	Brazil	Entire	E	401	NA	NA
Pheasant, cheer	<i>Catreus wallichii</i>	India, Nepal, Pakistan	Entire	E	401	NA	NA

Dated: September 24, 1990.
 Bruce Blanchard,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 90-23041 Filed 9-27-90; 8:45 am]
 BILLING CODE 4310-55-M

50 CFR Part 17
RIN 1018-AB38
Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant *Lepidium barnebyanum* (Barneby Ridge-cress)
AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.
SUMMARY: The U.S. Fish and Wildlife Service (Service) determines a plant, *Lepidium barnebyanum* (Barneby ridge-cress), to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). This species is known from one small limited population in Duchesne County,

Utah. Continued uncontrolled off-road vehicle use and development of oil and gas resources in the habitat of *L. barnebyanum* have the potential to cause the species to become extinct if adequate protective measures are not taken. This rule implements Federal protection provided by the Act for *Lepidium barnebyanum*.

EFFECTIVE DATE: October 29, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Salt Lake City Field Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: John L. England, botanist, at the above address (801/524-4430 or FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

In June 1947, a unique mustard was discovered by Rupert Barneby in the lower portions of Indian Creek Canyon in Utah's Uinta Basin. This plant was described first in the scientific literature as *Lepidium montanum* ssp. *demissum* (Hitchcock 1950). James Reveal reviewed the type specimen of *L. m. demissum* and obtained additional specimens of that taxon from the type locality. As a consequence of his evaluation of this taxon, Reveal described the mustard as *Lepidium barnebyanum* (Reveal 1967).

The common name used for *L. barnebyanum* in the Review of Plant Taxa for Listing as Endangered or Threatened Species published in the Federal Register on September 27, 1985 (50 FR 39526), was "Barneby pepper cress." Stanley Welsh gave this species the common name of "ridgecress" in *A Utah Flora* (Welsh et al. 1987). The Service has adopted Welsh's common name because it is a cress (mustard) endemic to ridges and has retained the specific epithet to honor the species' discoverer, thus the common name "Barneby ridge-cress." This common name was used in the Review of Plant Taxa for Listing as Endangered or Threatened Species published in the Federal Register on February 21, 1990 (55 FR 6184).

Lepidium barnebyanum is a perennial, herbaceous plant in the mustard family (Brassicaceae). It is approximately 5 to 15 centimeters (cm) (2 to 6 in.) tall and usually forms raised clumps or cushions (pulvinate growth form) up to 20 cm (8

in.) wide. The species arises from a deep woody taproot; its stems are smooth and hairless with narrow leaves clustering at the base of the plant. The species' cream-colored flowers are about 5 to 7 millimeters (mm) (0.25 in.) across and alternate along a stem rising 2.5 to 6 cm (1 to 2.5 in.) above the base of the plant. The flowers begin to bloom in early May. *L. barnebyanum* seeds are quite small, about 1 mm (0.04 in.) across, and are borne in elliptical seed pods called siliques, which are about 4 to 5 mm (0.2 in.) long. The seeds are shed beginning in June and continuing into July.

The habitat of *L. barnebyanum* is a discontinuous series of marly shale barrens on three ridgelines on either side of Indian Creek on the northeast margin of Indian Creek Canyon about 5 kilometers (km) (3 miles) south of Starvation Reservoir and the town of Duchesne, Utah. The species' habitat occurs at an elevation of 1,890 to 1,980 meters (6,200 to 6,500 feet) on poorly developed soils derived from marly shales in a zone of interbedding geologic strata from the Uinta and Green River Formations (Reveal 1967, Welsh and Reveal 1977, Welsh 1978, Welsh et al. 1987, U.S. Fish and Wildlife Service 1989).

The vegetation of the shale barrens, on which *L. barnebyanum* occurs, is dominated by plant species with pulvinate growth forms, including: *Hymenoxys acaulis*, *Arenaria hookeri*, *Townsendia mensana*, *Parthenium ligulatum*, and *L. barnebyanum* itself. Other associated plant species include: *Eriogonum batesianii*, *Astragalus spatulatus*, and *Castilleja scabrifida*. The shale barren pulvinate plant community of *L. barnebyanum* is a small inclusion within the broader pinyon-juniper woodland community, dominated by pinyon pine (*Pinus edulis*) and Utah juniper (*Juniperus osteosperma*), which characterize the general area (Welsh 1978, U.S. Fish and Wildlife Service 1989).

Lepidium barnebyanum is known from one population with four distinct stands with a total range that is about 8 km (5 miles) across on the Uintah and Ouray Reservation of the Ute Indian Tribe. The total population of *L. barnebyanum* is estimated to be about 5,000 individuals with an occupied habitat of less than 200 hectares (500 acres) (Kung 1989, U.S. Fish and Wildlife Service 1989). The entire population of *L. barnebyanum* is experiencing or is vulnerable to off-road vehicle damage and is within a recently established oil and gas field. Continued unrestricted

off-road vehicle use and future development of oil and gas wells and ancillary facilities is likely to endanger the continued existence of this species unless specific measures are taken to protect the occupied habitat of *L. barnebyanum*.

Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the report as a petition to list those taxa named therein under section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act), and its intention to review the status of those plants. *L. barnebyanum* was included in the July 1, 1975, notice on list "A" as endangered.

Lepidium barnebyanum was proposed by the Service for listing as endangered along with approximately 1,700 other vascular plant taxa on June 16, 1976 (41 FR 24523). General comments received on the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909). The 1978 amendments to the Act required that all proposals more than 2 years old be withdrawn, though proposals published before the date of enactment of the 1978 amendments could not be withdrawn before the end of a 1-year grace period beginning on the date of enactment. On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had not been made final (44 FR 70796), including *L. barnebyanum*.

The July 1975 notice was updated by notices in the Federal Register on December 15, 1980 (45 FR 82480), and again on September 27, 1985 (50 FR 39526). Both of the later notices included *L. barnebyanum* as a category 1 species. Category 1 comprises taxa for which the Service presently has significant biological information to support their being proposed to be listed as endangered or threatened species.

Section 4(b)(3)(B) of the 1982 amendments to the Act requires the Secretary of the Interior to make findings on certain petitions within 1 year of their receipt. Section 2(b)(1) of the Act's amendments of 1982 further requires that all petitions pending as of October 13, 1982, be treated as having

been newly submitted on that date. Since the 1975 Smithsonian report was accepted as a petition, all the taxa contained in this notice, including *L. barnebyanum*, were treated as being newly petitioned on October 13, 1982. The deadline for a finding on such petitions, including that for *L. barnebyanum*, was October 13, 1983. Beginning on October 13, 1983, the Service has made successive 1-year findings that the petition to list *L. barnebyanum* was warranted, but precluded by other listing actions of higher priority. On November 27, 1989, the Service published in the Federal Register (54 FR 48781) a proposed rule to list *L. barnebyanum* as an endangered species. Publication of the aforementioned proposed rule constituted the final finding for this species.

Summary of Comments and Recommendations

In the November 27, 1989, proposed rule 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 State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the *Uintah Basin Standard* on December 27, 1989, and in the *Deseret News* and *The Salt Lake Tribune* on December 25, 1989, which invited general public comment.

Eleven commenters responded. Six commenters supported listing, while five were neutral. Three commenters provided additional or clarifying information that has been incorporated into this final rulemaking. Three commenters explicitly confirmed that the plant was rare or in danger of extinction. One commenter agreed that oil and gas drilling and off-road vehicle use was a threat. Commenters raising issues were as follows:

The Ute Indian Tribe was concerned about possible restrictions to oil and gas development in the habitat of *L. barnebyanum*, which could affect the future economic well-being of the Tribe. However, their letter also noted that "in the interest of protecting a rare plant species which is a natural feature of the land, the Ute Tribe is not opposed to proposed listing as endangered." The Tribe also stated that uncontrolled off-road vehicle use is prohibited on the Reservation, and that it is the policy of the Tribe to remove violators if apprehended.

In response to the Ute Indian Tribe's concern about economic impacts from

oil and gas development restrictions, Section 7 consultation will serve as the mechanism for identifying and resolving any conflicts which may arise between the conservation of *L. barnebyanum* and the development of oil and gas resources. The Service will work with the Ute Tribe, affected Federal and State agencies, and private energy developers to deal with such conflicts.

With regard to threats from off-road vehicles, Section 9 of the Act prohibits malicious damage or destruction of endangered plants on areas under Federal jurisdiction, and damage or destruction on any other area in knowing violation of State law or regulation, including State criminal trespass law. This statutory authority could be used by the Tribe to prevent and reduce off-road vehicle trespass on Reservation lands.

The State of Utah, though noting that the plant was "very scarce," also urged the Service to consider the economic impacts of the listing before making a decision on the status of *L. barnebyanum*. Under the Act, the Service is required to base listing decisions upon biological factors only. As noted above, the Service will work with affected parties if there is a conflict between species conservation and oil and gas development.

The Bureau of Land Management clarified their responsibility in regard to leasing oil and gas reserves and reviewing and authorizing oil and gas development on Indian lands. The Service has modified this rulemaking to reflect the Bureau of Land Management's actual responsibilities.

Two commenters supported restrictions on off-road vehicle use. As noted earlier, the Tribe already prohibits uncontrolled off-road vehicle use, and the listing of this species as endangered will provide statutory protection. Following listing, a recovery plan will be developed that will recommend appropriate means to deal with threats from off-road vehicles.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lepidium barnebyanum* should be classified as an endangered species. Procedures found at section 4(a) (1) of the Endangered Species Act 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 *Lepidium barnebyanum* Reveal (Barneby ridge-cress) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The total population of *L. barnebyanum* is estimated to be about 5,000 individuals on marly shale barrens on three ridgelines in the northeast portion of Indian Creek Canyon in Duchesne County, Utah (U.S. Fish and Wildlife Service 1989). The past distribution of *L. barnebyanum* is unknown (Welsh 1978). The species is evidently a narrow soil endemic, restricted to a white marly shale lens near the contact of Green River and Uinta geologic formations (Reveal 1967, Welsh and Reveal 1977, Welsh 1978, Welsh et al. 1987, U.S. Fish and Wildlife Service 1989). Similar shale barren habitat, occupied by many of the same species sympatric with *L. barnebyanum* (see "Background" section above), has been searched for additional populations of *L. barnebyanum* in the Uinta Basin of northeast Utah and adjacent Colorado. No other populations of the plant are known except for the one noted above (Reveal 1967, Welsh 1978, Kung 1989, U.S. Fish and Wildlife Service 1989).

The occupied habitat of *L. barnebyanum* is being impacted by trampling from off-road vehicles. Motorcycles and four-wheeled all-terrain vehicles concentrate on the sparsely vegetated ridgelines which are *L. barnebyanum*'s only habitat (U.S. Fish and Wildlife Service 1989). In addition, the habitat of *L. barnebyanum* is within a proposed oil and gas field with several wells projected for development within or adjacent to the species' occupied habitat. The location of *L. barnebyanum* habitat on the top of relatively level ridgelines in an area of very steep general topographic relief exposes populations to an increased likelihood of habitat destruction from off-road vehicle trail riding and road and well site construction in connection with oil and gas development (Welsh 1978, Kung 1989, U.S. Fish and Wildlife Service 1989). With such a small total population and limited occupied habitat, any destruction, modification, or curtailment of habitat would have a highly detrimental effect on the species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No threats to *L. barnebyanum* from overutilization for commercial, recreational, scientific, or educational purposes are currently known.

C. *Disease or predation.* No significant threats to *L. barnebyanum*

from disease or predation are currently known.

D. The inadequacy of existing regulatory mechanisms. Prior to this rule, no Federal or State law or regulation protected *L. barnebyanum*. The Bureau of Indian Affairs and the Bureau of Land Management were aware of the precarious status of this species and as a matter of policy attempted to direct activities that may threaten the species away from its habitat on the Uintah and Ouray Reservation of the Ute Indian Tribe. This rule listing *L. barnebyanum* will significantly assist these Federal agencies by providing statutory authority for the protection of this species and its habitat and will encourage active management through the "Available Conservation Measures" discussed below.

E. Other natural or manmade factors affecting its continued existence. Compared to closely related taxa in the same genus, recent studies have shown *L. barnebyanum* to have a reduced seed/ovule ratio (i.e., a smaller percentage of embryonic seeds becoming mature seeds) (C. Davern, University of Utah, pers. comm., 1988). This would tend to lower reproductive success and reduce population viability. In addition, the restricted range and population of *L. barnebyanum* increases the possibility that inadvertent disturbance, either natural or human caused, could destroy a significant portion of the species' population and habitat. Finally, concern was expressed that sheep trailing or bedding along these ridgelines could negatively affect *L. barnebyanum*, though such negative effects have not been documented.

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 *Lepidium barnebyanum* as endangered. The species is threatened by surface disturbance from off-road vehicles that will probably intensify in the near future and by future energy development within its habitat. These factors could cause the species to become extinct within the foreseeable future throughout all or a significant portion of its range. Given the species' highly restricted distribution and the likelihood of future habitat destruction, the designation of endangered is considered by the Service to be a more appropriate designation than threatened for *L. barnebyanum*. For the reasons given below, it is not

considered prudent to designate critical habitat.

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 presently prudent for *L. barnebyanum* because possible adverse consequences from vandalism would likely outweigh the minimal benefits accruing from critical habitat designation.

As noted under Factor "A," *L. barnebyanum* occupies limited habitat on the top of three relatively level ridgelines. Designation of critical habitat would entail publication of a detailed description and map of this habitat in the Federal Register, exposing the species to the threat of vandalism. Lacking mobility, plants are more vulnerable to vandalism than animals. One person could easily vandalize the entire *L. barnebyanum* population with an off-road vehicle.

Moreover, few additional benefits would be provided to the species by the critical habitat designation that would not already be provided by listing the species as endangered. Any Federal action (such as approving oil and gas leases or actions) that would impact the plant's habitat would affect the plants as rooted organisms and, consequently, would be addressed through section 7 consultation. In addition, section 9(a)(2)(B) of the Act makes it unlawful to remove and reduce to possession any endangered species of plant from areas under Federal jurisdiction or to maliciously damage or destroy such species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of State criminal trespass law. The Ute Tribe, Bureau of Indian Affairs, and the Bureau of Land Management are all aware of the occurrence of *L. barnebyanum* on Tribal lands and of their obligations under the Act. In addition, the Ute Tribe has expressed a desire to eliminate unauthorized trespass in the habitat of *L. barnebyanum*. Protection of species' habitat also will be accomplished through the recovery 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, Indian, 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)(2) requires Federal agencies to insure 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.

The entire known population of *L. barnebyanum* is on the Uintah and Ouray Reservation of the Ute Indian Tribe. The Bureau of Indian Affairs is responsible for assisting the Tribe in the resource management of Reservation lands, including the leasing of oil and gas resources, and as such would be responsible for the conservation of the plant on Tribal lands under authority of the Act. The Bureau of Land Management is responsible for reviewing and authorizing proposed operations on a leasehold within the Reservation, regardless of whether the lease is Indian or Federal. Both of these Federal agencies would be responsible for insuring that land actions in general, and those associated with mineral leasing and development specifically, are not likely to jeopardize the continued existence of *L. barnebyanum*.

The Service is willing to work with the Tribe to evaluate whether there are feasible means to reduce the threat posed by off-road vehicles.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species 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 statutory and regulatory 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, if any, trade permits would ever be sought or issued for *L. barnebyanum* 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 Office of Management Authority, U.S. Fish and Wildlife Service, room 432, 4401 N. Fairfax Drive, Arlington, Virginia 22203 (703/358-2093, FTS 921-2093).

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

Hitchcock, C.L. 1950. On the subspecies of *Lepidium montanum*. Madrono 10:155-159.
 Kung, P.E. 1989. Threatened and endangered species survey of three proposed well sites. Unpublished report prepared for Coors Energy Company, Golden, Colorado. 6 pp.
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 Welsh, S.L., N.D. Atwood, S. Goodrich, L.C. Higgins. 1987. A Utah flora. Great Basin Naturalist Memoirs, Number 9. 894 pp.
 Welsh, S.L., and J.L. Reveal. 1977. Utah flora: Brassicaceae (Cruciferae). Great Basin Naturalist 37(3):279-365.

Author

The primary author of this final rule is John L. England, botanist (see FOR FURTHER INFORMATION CONTACT).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

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: 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. Amend § 17.12(h) by adding the following, in alphabetical order under Brassicaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

• • • • •
 (h) • • •

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family:						
<i>Lepidium barnebyanum</i>	Barneby ridge-cress (= pepper cress).	U.S.A. (UT)	E	402	NA	NA

Dated: September 24, 1990.
 Bruce Blanchard,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 90-23042 Filed 9-27-90; 8:45 am]
 BILLING CODE 4310-55-M

50 CFR Part 17

RIN 1018-AB38

Endangered and Threatened Wildlife and Plants; Threatened Status for *Lesquerella lyrata* (Lyrate bladder-pod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Lesquerella lyrata* (lyrate bladder-pod), to be a threatened species under the authority contained in the Endangered Species Act (Act) of 1973, as amended. This species is currently known from only two populations in cedar glade areas of northwest Alabama (Colbert and Franklin Counties). It is extremely vulnerable due to its limited range, the loss of much suitable habitat from urbanization and agricultural practices and the apparent need for active management to sustain current populations. This action will extend the Act's protection to *Lesquerella lyrata*.

EFFECTIVE DATE: October 29, 1990.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business

hours at the Jackson, Mississippi, Field Office, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 318, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213.

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

SUPPLEMENTARY INFORMATION:

Background

Lesquerella lyrata, a member of the mustard family (Brassicaceae), is an annual that ranges from 1 to 3 decimeters (4 to 12 inches) in height. Plants are shortly pubescent and usually branched near the base. The stem leaves are alternate, ovate to elliptic in shape, smooth or toothed on the margins, with prominent ear-like projections at the