

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine *Erythronium Propullans* (Minnesota Trout Lily) To Be an Endangered Species**AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The Service proposes to list a plant, *Erythronium propullans* (Minnesota trout lily), as an endangered species. *Erythronium propullans* is presently known at only 14 sites, one to three acres each in size, with a total of a few hundred plants, in Rice and Goodhue Counties, Minnesota. The Minnesota trout lily is the only known plant species endemic to Minnesota. The species is vulnerable due to the low number of individuals, restricted distribution, expansion of housing projects, associated suburban development, and other modifications of natural habitat. A final determination of *Erythronium propullans* to be an endangered species will implement the protection provided by the Endangered Species Act of 1973, as amended. Critical habitat is not being proposed at this time. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by July 2, 1985. Public hearing requests must be received by June 17, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Division, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Engel (see **ADDRESSES** above) (612-725-3276 or FTS 725-3276).

SUPPLEMENTARY INFORMATION:**Background**

Erythronium propullans Gray is a member of the lily family. It was first discovered near St. Mary's College in Faribault, Minnesota, in 1870, and was described by Gray (1871). There have been no revisions of its taxonomic status since that time.

The lily-like plant is about 15 centimeters tall, with one pair of mottled

green, pointed leaves arising from near the base. A single nodding bell-shaped flower is at the end of a slender, leafless stalk. The recurved petals are pink or roseate. Perianth parts usually number four or five, rather than six as in other species of *Erythronium*. The flowers are generally distinguishable from those of *E. albidum*, the only other *Erythronium* found in the same habitat. The flowers of *E. propullans* are deeper pink in hue than the whitish-pink flowers of *E. albidum*. They are smaller (9-13 millimeters) than those of any other *Erythronium*. The fruits are also smaller and remain in a nodding or horizontal position at maturity.

The outstanding feature of *Erythronium propullans* is the production of a single bulblet from a lateral stem offset below the leaves (Morley, 1982). The other two species of *Erythronium* in Minnesota increase vegetatively by multiple basal offsets from the deeply buried bulbs (Banks, 1980).

Erythronium propullans is a spring ephemeral in deciduous forest blooming in April or May. The aerial parts of the plant completely disintegrate after the forest canopy fills out in early June. The species is usually associated with other spring ephemerals such as Dutchman's breeches (*Dicentra cucullaria*), white dog-tooth violet (*Erythronium albidum*), and snow trillium (*Trillium nivale*).

Erythronium propullans occurs in the wooded valleys along the Cannon and Zumbro Rivers in Rice and Goodhue Counties, Minnesota. It occupies sites on north-facing slopes, 15-27 meters above the stream beds. Occasionally, the plants occur in moderate to heavy shade, and occasionally on river floodplains (Morley, 1978). Plant colonies or clones are 2-5 decimeters or larger in diameter. Plants also occur as scattered individuals.

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. 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 this report as a petition within the context of Section 4(c)(2) of the Act (petition acceptance is now governed by Section 4(b)(3) of the Act, as amended), and of its intention to review the status of the plant taxa named within.

Erythronium propullans was named in the Smithsonian Report as threatened and was included in the Service's 1975 notice of review.

Erythronium propullans was also included as a category-1 species in an updated notice of review for plants published in the December 15, 1980 *Federal Register* (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The deadline for a finding on those species, including *Erythronium propullans*, was October 13, 1983. On October 13, 1983, and again on October 13, 1984, the petition finding was made that listing *Erythronium propullans* 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 reevaluation of the petition within 12 months, pursuant to section 4(B)(3)(C) (i) of the Act. Therefore, a new finding must be made; this proposed rule constitutes the new findings that the petitioned action is warranted and proposes to implement the action in accordance with section 4(b)(3)(B) (ii) of the Act.

Status reports compiled by Morley (1978) and Smith (1981) as well as other pertinent literature (see "References," below) provide the biological basis for this proposed rule. The data demonstrate low numbers of plants 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 promulgated to implement the listing provisions of the Act (to be codified at 50 CFR Part 424; see 49 FR 38900, October 1, 1984) 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 *Erythronium propullans* Gray (Minnesota trout lily) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. There are no historical data to indicate that the range of *Erythronium propullans* may have been larger at one time than it is now. Morley (1978) reported that road construction near the city of Faribault eliminated several colonies. Several large colonies located 1.5 miles

northeast of Faribault were destroyed by conversion of pastureland to cropland. Motorbikes have destroyed one colony within the city of Faribault (Morley, 1978). Threats to the urban sites are overutilization of a recreational potential (i.e., foot paths) and off-the-road vehicles. Other rural sites face destruction from the conversion of woodland to cropland.

B. Overutilization for commercial, recreational, scientific, or educational purposes. There is significant threat from wildflower collectors who may reduce populations in more accessible sites. One site was severely damaged in the early 1970's when a large number of plants were removed and replanted in the University of Minnesota Landscape arboretum (Smith, 1981).

C. Disease or predation. None Known.

D. The inadequacy of existing regulatory mechanisms. *Erythronium propullans* is officially listed as endangered by the State of Minnesota. The Endangered Species Act offers possibilities for protection of this taxon through Section 6 by cooperation between the State and the Service and through Section 7 (interagency cooperation) requirements. All known populations are privately owned. Two of the sites, with 20 and 110 colonies each, are owned by the Minnesota Chapter of The Nature Conservancy and are managed by them for the preservation of *Erythronium propullans*.

E. Other natural or manmade factors affecting its continued existence. None known.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this taxon, in determining to propose this rule. Based on this evaluation, the preferred action is to list *Erythronium propullans* as an endangered species, because of the known losses of local populations of this extremely rare species. For reasons detailed below, it is not considered prudent to propose designation of 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 any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of net benefit to the species involved (50 CFR 424.12). In the present case, the Service believes that designation of critical habitat would not be prudent because no

benefit to the taxon can be identified that would outweigh the potential threat of vandalism or collection, which might be exacerbated by the publication of a detailed critical habitat map.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act including 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 land acquisition, if necessary, and cooperation with the States; it also requires that recovery actions be carried out for all listed species. These actions are initiated by the Service following listing. The protection required by Federal agencies and applicable prohibitions 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 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 or to destroy or adversely modify its critical habitat. If an activity may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There are now known Federal activities planned in the range of *Erythronium propullans*.

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 respect to *Erythronium propullans*, all trade prohibitions of Section 9(a)(2) of the Act, as 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 would 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. International and interstate commerce in *Erythronium propullans* is not known to exist. It is anticipated that few trade permits would ever be sought or issued, since this plant is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species in areas under Federal jurisdiction. *Erythronium propullans*, however, does not occur on Federal lands.

If this species is listed under the Act, the Service will review it to determine whether it should be considered for placement upon one of the appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which is implemented through Section 8A of the Act, and whether it should be considered for other appropriate international agreements.

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 particularly are sought concerning:

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

(2) The location of any additional populations of *Erythronium propullans* 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; and

(4) Current or planned activities in the subject area and their possible impacts on *Erythronium propullans*.

Final promulgation of the regulation on *Erythronium propullans* 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 requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, 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. The reasons for this determination were published in the **Federal Register** (48 FR 49244) on October 25, 1983.

References

Banks, J. 1980. The reproductive biology of *Erythronium propullans* Gray and sympatric populations of *E. albidum* Nutt. (Liliaceae). Bull. Torrey Bot. Club 107:181-188.
 Gray, A. 1871. A new species of *Erythronium*. Amer. Nat. 5:298-300.
 Johnson, A.G. and M.K. Smithberg. 1968. A wildflower unique to Minnesota. Minnesota Horticulturalist 96:38-39.
 Morley, T. 1978. Distribution and rarity of *Erythronium propullans*. Phytologia 40(5):381-389.

———. 1982. Flowering frequency and vegetative reproduction in *Erythronium albidum* and *E. propullans*, and related observations. Bull. Torrey Bot. Club 109:169-176.
 Smith, W.R. 1981. Status report on *Erythronium propullans*. Unpubl. ms. Minnesota Dept. of Natural Resources. 9 pp.

Author

The primary author of this proposed rule is John G. Sidle (see **ADDRESSES** section) (612-725-3276 or FTS 725-3276).

List of Subjects in 50 CFR Part 17

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

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 Liliaceae, 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 | | | | | |
| Liliaceae—lily family | | | | | | |
| <i>Erythronium propullans</i> | Minnesota trout lily | U.S.A. (MN) | E | | NA | NA |

(Proposed: *Erythronium propullans* (Minnesota trout lily)—endangered)

Dated: March 25, 1985.

J. Craig Potter,
 Acting Assistant Secretary for Fish and Wildlife and Parks.

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