

digit, 3-digit, and ADC bundle levels are not permitted.

1. Line 1: Use L201, Column C.

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS WKG W FCM."

\* \* \* \* \*

9.2.6 Optional Tray Preparation—Flat-Size Pieces

\* \* \* \* \*

a. ADC \* \* \*

\* \* \* \* \*

[Revise item a2 to match the CIN code.]

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS," followed by "ADC," followed by "BC/NBC."

\* \* \* \* \*

c. Mixed ADC \* \* \*

\* \* \* \* \*

[Revise item c2 to match the CIN code.]

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS," followed by "BC/NBC WKG."

\* \* \* \* \*

10.0 Preparation for Merged Containerization of Bundles of Flats Using City State Product

10.1 Periodicals

\* \* \* \* \*

10.1.4 Sack Preparation and Labeling

\* \* \* \* \*

[Revise the preparation requirements in item h for origin mixed ADC mail.]

h. 3-digit through mixed ADC sacks. Any 5-digit scheme and 5-digit bundles remaining after preparing sacks under 10.1.4a through 10.1.4g, and all 3-digit scheme, 3-digit, ADC, origin mixed ADC, and mixed ADC bundles must be sacked and labeled according to the applicable requirements under 9.2 for cosacking of automation rate and presorted rate bundles, except if there are no automation rate pieces in the mailing job, sack and label under 707.22.6, or, if there are no presorted rate bundles in the mailing job, sack and label under 707.25.3.

\* \* \* \* \*

11.0 Preparation of Cobundled Automation Rate and Presorted Rate Flats

\* \* \* \* \*

11.2 Periodicals

\* \* \* \* \*

11.2.2 Bundle Preparation

\* \* \* \* \*

[Revise the bundling requirements in item g for origin mixed ADC mail.]

g. Origin mixed ADC, required; no minimum; for any remaining pieces for

destinations of the origin ZIP Code in L201, Column C, of the origin ZIP Code in Column A; tan Label X or OEL.

\* \* \* \* \*

707 Periodicals

\* \* \* \* \*

22.0 Preparation of Presorted Periodicals

\* \* \* \* \*

22.2 Bundle Preparation

\* \* \* \* \*

[Revise the bundle labeling requirements in item e for origin mixed ADC mail.]

e. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column C, of the origin ZIP Code in Column A; tan label X or OEL.

\* \* \* \* \*

22.6 Sack Preparation—Flat-Size Pieces and Irregular Parcels

\* \* \* \* \*

[Revise the sacking requirements in item f for origin mixed ADC mail.]

f. Origin mixed ADC, required; no minimum; for any remaining bundles for destinations in L201, Column C, of the origin ZIP Code in Column A.

1. Line 1: Use L201, Column C.

2. Line 2: "PER" or "NEWS" as applicable, followed by "FLTS" or "IRREG" as applicable, followed by "WKG W FCM."

\* \* \* \* \*

25.0 Preparation of Flat-Size Automation Periodicals

\* \* \* \* \*

25.2 Bundling and Labeling

\* \* \* \* \*

[Revise the bundling and labeling requirements in item f for origin mixed ADC mail.]

f. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column C, of the origin ZIP Code in Column A; tan label X or OEL.

\* \* \* \* \*

25.3 Sacking and Labeling

\* \* \* \* \*

[Revise the sacking and labeling requirements in item g for origin mixed ADC mail.]

g. Origin mixed ADC, required; no minimum; for any remaining pieces for destinations in L201, Column C, of the origin ZIP Code in Column A; labeling:

1. Line 1: Use L201, Column C.

2. Line 2: "PER FLTS WKG W FCM" or "NEWS FLTS WKG W FCM," as applicable.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR 111 to reflect these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E6-3143 Filed 3-6-06; 8:45 am]

BILLING CODE 7710-12-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List Agave eggersiana and Solanum conocarpum as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the plants Agave eggersiana (no common name) and Solanum conocarpum (marrón bacora) as endangered under the Endangered Species Act of 1973, as amended (Act). After reviewing the best available scientific and commercial information, we find that listing A. eggersiana and S. conocarpum is not warranted at this time. However, we will continue to seek new information on the biology of these species as well as potential threats. We also ask the public to submit to us any new information that becomes available concerning the status of, or threats to, A. eggersiana and S. conocarpum. This information will help us monitor the status of these species. If additional data become available, we may reassess the need for listing.

DATES: The finding announced in this document was made on February 22, 2006.

ADDRESSES: The complete file for this finding is available for inspection, by appointment, during normal business hours at the Boquerón Ecological Services Field Office, U.S. Fish and Wildlife Service, Road 301, Km. 5.1 in Boquerón, Puerto Rico. Please submit any new information, materials, comments, or questions concerning these species or this finding to the above address or P.O. Box 491, Boquerón, Puerto Rico 00622.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jorge E. Saliva, Wildlife Biologist, Boquerón Field Office, at the address above (787-851-7297, ext. 224).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the List of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of receipt of the petition. The finding must be that the petitioned action is (a) Not warranted; (b) warranted; or (c) warranted, but that the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the List of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded be treated as though resubmitted on the date of such finding (that is, requiring a subsequent finding to be made within 12 months). Each subsequent 12-month finding will be published in the **Federal Register**.

On November 21, 1996, we received a petition from the U.S. Virgin Islands Department of Planning and Natural Resources (DPNR) requesting that we list two species of plants in the U.S. Virgin Islands as endangered: *Agave eggersiana* and *Solanum conocarpum*. We published our finding that the petition to list *A. eggersiana* and *S. conocarpum* presented substantial information indicating that the requested action may be warranted in the **Federal Register** on November 16, 1998 (63 FR 63659) and initiated a status review on these two plants. On September 1, 2004, a lawsuit was filed against the Department of the Interior and the Service by the Center for Biological Diversity challenging our alleged failure to publish a 12-month finding (*Center for Biological Diversity v. Gale Norton et al.*, Civil Action No. 1:04-CV-2553 CAP) (N.D. Ga.). In a Stipulated Settlement Agreement, signed April 27, 2005, we agreed to submit our 12-month finding to the **Federal Register** by February 28, 2006.

**Biology and Distribution**

*Agave eggersiana*

*Agave eggersiana* (no common name) is a flowering plant of the family

Agavaceae (century plant family) known only from the island of St. Croix in the U.S. Virgin Islands. Two other species occur naturally in the Virgin Islands, *A. missionum* (corita) and *A. sisalana* (sisal), neither of which are endemic to St. Croix. *A. eggersiana* was originally described in 1913 by Trelease from material collected on St. Croix, and it is distinguished from other members of the Agavaceae family by its acaulescent (without an evident leafy stem), non-suckering growth habit (does not reproduce vegetatively by forming offshoots around its base), and fleshy, nearly straight leaves with small marginal prickles (1.00 millimeter (mm) (0.04 inches (in)) long) that are nearly straight (Britton and Wilson 1923; Proctor and Acevedo-Rodríguez 2005). Its flowers are deep yellow, 5 to 6 centimeters (cm) (1.95 to 2.34 in) long. Fruits are unknown; after flowering, the panicles (inflorescence) produce numerous small vegetative bulbs, from which the species can be propagated (Proctor and Acevedo-Rodríguez 2005). There is no information available on the biology, ecology, and phenology of *A. eggersiana*.

*A. eggersiana* was originally collected in 1913 by Trelease on St. Croix (type location) (Britton and Wilson 1923; Acevedo-Rodríguez 1996; Proctor and Acevedo-Rodríguez 2005). Britton and Wilson (1923) reported the species from hillsides and plains in the eastern dry districts of St. Croix but did not provide population estimates. Information provided in the petition letter (B. Kojis and R. Boulon, DPNR, pers. comm. 1996) specified that the species was last observed growing in the wild around 1984 to 1986 on St. Croix. In a subsequent letter, DPNR stated that the species "may be extinct" but that "descendants from original plants may exist to the north of Great Pond near the original site of camp Arawak" (D. Plaskett, DPNR, pers. comm. 2003). However, no information was provided to clarify whether or not field surveys had been conducted in the area to search for the original plants. Furthermore, neither letter provided any scientific literature citations or systematic survey information in support of the possibility of extinction or, rather, extirpation from the wild. Proctor and Acevedo-Rodríguez (2005) provided a general description of the species and state that the species "now appears to be extinct in the wild." However, no citations or survey information were provided. The Service is uncertain about the original source that reported the extirpation of this species from the wild and has not

confirmed that any systematic surveys for this species have been conducted. Therefore, we believe that at present, the status of this species in the wild is unknown.

All currently known occurrences of *A. eggersiana* are plants that were cultivated. Britton and Wilson (1923) noted that *A. eggersiana* has been in cultivation on St. Croix and St. Thomas as an ornamental plant since the early 20th century. The 1996 petition letter reported the existence of several small populations of *A. eggersiana* established on St. Croix through propagation efforts conducted by local horticulturists and botanical gardens. They mentioned that propagated plants were distributed to private individuals for planting as an effort to prevent extinction of this species. However, no information was provided regarding the origin of propagated materials. D. Plaskett (pers. comm. 2003) stated that cultivated plants "have been established" and specified one privately owned residential location. We know of other cultivated specimens on the airport grounds in St. Croix, the University of Virgin Islands in St. Thomas (Acevedo-Rodríguez, Smithsonian Institution, pers. comm. 2005), and at botanical gardens in the United States, such as Fairchild Tropical Garden in Miami, Florida.

In summary, both the historic and present status of *A. eggersiana* are unknown; all known plant individuals are cultivars; systematic surveys for the species are lacking; no information is available on the species biology, ecology, and phenology; and no genetic studies have been conducted to determine if there is genetic variability among known individuals.

*Solanum conocarpum*

*Solanum conocarpum* (marrón bacora) is a dry forest shrub of the Solanaceae, or tomato, family that may attain 3 m (9.8 ft) in height. Its leaves are from 3.5 to 7 cm (0.62 to 1.5 in) wide, oblong-elliptic or oblanceolate (broader at the distal third than the middle), coriaceous (leathery texture), glabrous (not hairy), and have a yellowish midvein. The flowers are usually paired in nearly sessile (not stalked) lateral or terminal cymes (flat-topped flower cluster). The corolla consists of five separate petals that are light violet, greenish at the base, and about 2 cm (0.78 in) wide. The fruit, a berry, is ovoid-conical (teardrop shaped), 2 to 3 cm (0.78 to 1.2 in) long, and turns from green with white striations to golden yellow when ripe (Acevedo-Rodríguez 1996). Little is known about the reproductive biology

of this species (Ray and Stanford 2003). Ongoing propagation efforts (such as Ray 2005) will likely provide additional information.

Although in the petition letter B. Kojis and R. Boulon (pers. comm. 1996) suggested that *S. conocarpum* might be functionally dioecious (having male and female flowers on different plants), P. Acevedo-Rodríguez (pers. comm. 2002) contradicted this possibility. He believes that the species is not dioecious and documented flowers and fruits in one wild individual he discovered in the White Cliff area (although it was the only individual on that side of the island). Ray and Stanford (2003) documented that the seeds have thin coats and are therefore unlikely to be represented in the soil seed bank. Ray (2005) reported ample fruit and seed production in the wild. Although no seedling recruitment was observed in the wild by Ray and Stanford (2003) and J. Saliva (USFWS, pers. observation (obs.) 2004), Ray (2005) reported that a few seedlings were observed in the wild population located in Estate Concordia.

*S. conocarpum* was originally known from a type specimen collected by L.C. Richard at Coral Bay, St. John (U.S. Virgin Islands), in 1787 (Acevedo-Rodríguez 1996). Although no population estimates are available for the type locality, P. Acevedo-Rodríguez (pers. comm. 2002) reported that the species seemed to be locally common at the beginning of the 19th century. The species was rediscovered in 1992 by P. Acevedo-Rodríguez on the island of St. John (Ray and Stanford 2003). B. Kojis and R. Boulon (pers. comm. 1996) mentioned that only two individuals were known growing in the wild on St. John: One individual on Virgin Islands National Park (VINP) land, and the other growing on private land. These two localities are consistent with the localities reported by Acevedo-Rodríguez (1996; pers. comm. 2002), who described the habitat as dry, deciduous forest.

Acevedo-Rodríguez (1996) referenced the possibility of the species being present on St. Thomas and mentioned a collection of a sterile specimen from Virgin Gorda (British Virgin Islands (BVI)). Information provided by the B. Kojis and R. Boulon (pers. comm. 1996), however, reported the collection of a sterile specimen from Tortola, BVI. P. Acevedo-Rodríguez (pers. comm. 2002) clarified that his collection of the sterile specimen was from Virgin Gorda, but he believes that the specimen belongs to a different species, *Cestrum laurifolium*, and not *S. conocarpum*. However, no surveys have been conducted in St.

Thomas or the BVI to determine if this species is present.

On St. John, Ray and Stanford (2003) reported five mature individuals from a total of six individuals in two locations within VINP (Europa Bay and Reef Bay Valley) and two locations on private land (Base Hill and Sabbat Point). Ray (2005) reported two additional locations (Estate Concordia and Johnson, Friis, and John's Folly Bays) and estimates close to 200 individuals in the wild. The largest population of *S. conocarpum* is near Nanny Point in Estate Concordia (J. Saliva, pers. obs. 2004). This population consists of approximately 184 plants that had been distributed across three contiguous parcels of privately owned land. Recently, one of the private property owners donated a portion of his property with a significant number of plants to the VINP (R. Boulon, NPS, pers. comm. 2006). The next largest wild population consists of 33 plants located on private land above Johnson, Friis, and John's Folly Bays' catchments.

Several efforts have been conducted to propagate *S. conocarpum* in the last decade. B. Kojis and R. Boulon (pers. comm. 1996) reported that a local horticulturist, E. Gibney, was able to propagate the species by cuttings (asexually) collected from the two individuals known from the wild and to get them to reproduce sexually by dusting the flowers. They further report that the "many" seedlings produced "appear to grow vigorously." This information was corroborated by P. Acevedo-Rodríguez (pers. comm. 2002). He reported that Gibney has successfully reproduced this species and distributed specimens to various places in the Virgin Islands. He reported planted individuals (cultivars) in the Campus of the University of Virgin Islands in St. Thomas, which are sexually reproducing; a few more in the St. George Botanical Garden in St. Croix; and a few plants in Tortola, Cannel Bay Hotel on St. John, New York Botanical Garden, National Botanical Garden in Dominican Republic, and Puerto Rico Botanical Garden. He has performed germination tests and found 100 percent viability.

Ray and Stanford (2003) developed an implementation plan to conduct shadehouse propagation and reintroduce seedlings within the VINP on St. John. This project is in progress. R. Boulon (pers. comm. 2004) reported that Dr. Ray planted approximately 128 individuals in the park. Ray (2005) started a propagation project from cuttings (cloning) to augment populations of *S. conocarpum* in a private property on St. John. More than 300 cuttings were produced. Rooted

cuttings will be planted during the 2006 rainy season (April to May).

P. Acevedo-Rodríguez (pers. comm. 2002), believes that both *A. eggersiana* and *S. conocarpum* have either small populations or may be nearly extinct. However, he believes this is not due to the current threat of development, but rather past land use history on the islands of St. Croix and St. John. From the 1700s through the late 1800s, 95 percent or more of these islands suffered intensive and extensive deforestation. St. Croix was colonized in the mid-to late-1600s and sugar cane was the principal product through the late 19th century. St. John was colonized in the early 1700s and divided into estates that principally cultivated sugar cane and cotton on most of the island (Woodbury and Weaver 1987). Acevedo-Rodríguez (1996) believed that the first 130 years of colonization had been "particularly harsh" on the natural resources of St. John. However, Woodbury and Weaver (1987) report that many of the estates were abandoned by the late 19th century and that common trees and shrubs regenerated, resulting in most of the island being covered by secondary forest at the time of their report. Approximately three-quarters of St. John is under the administration of the VINP, which was established in 1956 (Woodbury and Weaver 1987).

#### Previous Federal Actions

We identified *A. eggersiana* as a category 2 candidate species in the Notice of Review published in the **Federal Register** on September 30, 1993 (58 FR 51144). Before 1996, a category 2 species was one for which the Service had information that proposing as endangered or threatened may be appropriate but for which sufficient information was not currently available to support a proposed rule. Designation of category 2 species was discontinued in the February 28, 1996, Notice of Review (61 FR 7596). This notice redefined candidates to include only species for which we have information needed to propose them for listing.

We previously considered *S. conocarpum* as a category 1 candidate species in the Notices of Review published on September 27, 1985 (50 FR 39526) and February 21, 1990 (55 FR 6184). Category 1 candidate species were species for which the Service had information to support a proposed rule to list them as endangered or threatened. We reclassified *S. conocarpum* to a category 2 candidate species in the Notice of Review published on September 30, 1993 (58 FR 51144), due to a lack of available

information on the species' distribution and abundance.

### Summary of Factors Affecting the Species

Section 4 of the Act, and implementing regulations at 50 CFR part 424, set forth procedures for adding species to the Federal List of Endangered and Threatened Wildlife and Plants. In making this finding, information regarding the status and threats to these species in relation to the five factors provided in section 4(a)(1) of the Act is summarized below. Listing determinations are made solely on the best scientific and commercial data available, taking into account any efforts being made by any State, private citizen, corporation, or foreign nation to protect the species. We have examined each of the five listing factors under the Act for their application to *A. eggersiana* and *S. conocarpum* as follows:

#### *Factor A: The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range*

*Agave eggersiana*: *A. eggersiana* is endemic to the island of St. Croix. Its status in the wild is uncertain, and all known individuals are cultivars planted as ornaments in several areas and facilities in St. Croix and St. Thomas (Proctor and Acevedo-Rodríguez 2005; P. Acevedo-Rodríguez, pers. comm. 2005; D. Plaskett, pers. comm. 2003; B. Kojis and R. Boulon, pers. comm. 1996; Britton and Wilson 1923). Acevedo-Rodríguez (pers. comm. 2002) believes that past land use history, as opposed to the current threat of development, is the likely cause of *A. eggersiana*'s apparent small population numbers.

We believe that there is not sufficient information to evaluate the extent and imminence of threats and cannot conclude that *A. eggersiana* is threatened or endangered due to the destruction and curtailment of its habitat or range. To our knowledge, no systematic surveys for the species have ever been conducted to determine its true status.

*Solanum conocarpum*: The presence of *S. conocarpum* in the wild has been confirmed only on the island of St. John. When the species was petitioned for listing in 1996, only two individuals were known to exist in the wild (B. Kojis and R. Boulon, pers. comm. 1996). Acevedo-Rodríguez (1996) suggests that as a result of destruction of more than 90 percent of the natural vegetation in St. John, primarily due to cultivation in the first 130 years of colonization, some of the native and endemic plant species have become extinct or nearly extinct.

For *S. conocarpum* specifically, P. Acevedo-Rodríguez, (pers. comm. 2002) believes that past land use history, as opposed to the current threat of development, was the likely cause of the species' apparent small population numbers. Furthermore, much of the island regenerated to varying degrees, including secondary successional forest (Woodbury and Weaver 1987; Acevedo-Rodríguez 1996).

At present, the species is known from almost 200 wild individuals in six locations. Of the six locations, three are on privately owned land, two are within VINP, and one occurs on both private and VINP land. At the site of the largest number of plants (Estate Concordia/VINP-area), the Service has been working with a private landowner and VINP to implement conservation measures for the species, to protect in perpetuity around 80 percent of the known population, and to expand the current propagation efforts to double existing population in the wild (400 to 500 individuals). Additionally, a portion of the private property where a large number of the plants in this area are found was recently donated to the VINP (R. Boulon, pers. comm. 2006). We do not have evidence suggesting that remaining localities under private ownership where *S. conocarpum* is found are under threat of development.

VINP manages for sensitive species, including *S. conocarpum*, within the park. VINP is currently working with the Service and an adjacent landowner in the development of conservation measures and recently accepted the donation of a portion of the private land into VINP ownership (R. Boulon, pers. comm. 2006). Additionally, VINP has a General Management Plan (GMP) that is in place and being implemented. One purpose of the GMP is to establish strategies and approaches to achieve and maintain desired conditions for the park's cultural and natural resources, including protecting native plants like *S. conocarpum* and their habitats.

While residential and tourism development may impact this species, we do not have information suggesting that these threats are occurring or are imminent. Furthermore, we do not know if the species now occurs on St. Thomas or the BVI. Therefore, we do not have sufficient information to conclude that *S. conocarpum* is either threatened or endangered due to the destruction and curtailment of its habitat or range.

#### *Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

The information available on the species does not suggest that overutilization for commercial, recreational, scientific, or educational purposes has contributed to the current status of either *A. eggersiana* or *S. conocarpum* or that any such activities are threats to these species.

#### *Factor C: Disease or Predation*

There have been no systematic studies to identify parasites or disease in these species. Therefore, the role of parasites or disease of *A. eggersiana* and *S. conocarpum* is unknown.

Feral pigs uproot juvenile plants and destroy the root system of other species of *Agave* on Mona Island, apparently to feed on or obtain moisture from the roots (J. Saliva, pers. obs. 1983, 1996). Theoretically, should *A. eggersiana* be reintroduced in the wild, it is possible that feral pigs could cause similar impacts, particularly to young plants.

Feral donkeys, pigs, and goats could directly and indirectly affect populations of *S. conocarpum* by uprooting and eating seedlings, destabilizing slopes, and dispersing exotic plant species, thus preventing or reducing sustainability of populations of *S. conocarpum*; however, the extent of such threats to the species is "speculative" (NPS 2003) and "imprecise" (NPS 2004). VINP is implementing reduction plans to control the populations of nonnative feral pigs, goats, and sheep within VINP (NPS 2003, 2004). Feral pig populations in VINP are low, and reduction efforts have been targeted to problem areas (NPS unpublished report. 2006). VINP believes some goats were removed from the park even before the reduction plan commenced, and that removal efforts by VINP were successful at two locations where there have been no reports of goats returning and vegetative growth has increased (NPS unpublished report 2006). Although vegetation trampling by donkeys has been observed at the Estate Concordia population of *S. conocarpum* (M. Carper, property owner, and J. Saliva, pers. obs., 2004), we do not have evidence to conclude that trampling has or would result in mortality of *S. conocarpum*.

No seedlings have been reported under mature *S. conocarpum* shrubs. Other than gravity, its fruit dispersal agent is unknown. Where shrub densities are high, hermit crabs have been observed feeding on the fruit (Ray 2005). Fruit and seed production in the largest known wild population of *S.*

*conocarpum* is reported as “ample” (Ray 2005). While hermit crabs consume fallen fruit in large quantities (Ray 2005), we do not know if the crabs act as seed predators (for example, by crushing seed embryos as they feed) and are partly responsible for the low seedling recruitment at this location.

At this time, there is no evidence that donkeys, pigs, or goats constitute a specific threat to *A. eggersiana* or *S. conocarpum* by feeding on young or adult, wild or reintroduced, individuals of these species. The effects of consumption of *S. conocarpum* fruits by hermit crabs are uncertain. Therefore, we believe that there is no substantial evidence indicating that either *A. eggersiana* or *S. conocarpum* is threatened or endangered due to disease or predation.

*Factor D: The Inadequacy of Existing Regulatory Mechanisms*

The Territory of the U.S. Virgin Islands currently considers *A. eggersiana* and *S. conocarpum* to be endangered under the Virgin Islands Indigenous and Endangered Species Act (V.I. Code, Title 12, Chapter 2), and has amended an existing regulation (Bill No. 18-0403) to protect endangered and threatened wildlife and plants by prohibiting the take, injury, or possession of indigenous plants.

The available information on the species does not suggest that inadequacy of current regulatory mechanisms has contributed to the current status of either *A. eggersiana* or *S. conocarpum* or that such mechanisms are current threats to these species.

*Factor E: Other Natural or Manmade Factors Affecting the Continued Existence of the Species*

It appears that *A. eggersiana* may be extremely rare and its survival may be dependent on captive propagation and reintroduction. *A. eggersiana* is only found on the island of St. Croix, and it was last observed growing in the wild in the mid-1980s. Horticulturist M. Hays of the St. Georges Botanical Garden herbarium on St. Croix has propagated the species and distributed specimens to the public in the hope of “saving the species from extinction” (B. Kojis and R. Boulon, pers. comm. 1996). The status of the species in the wild is uncertain, and its apparent limited abundance and distribution are likely the result of past land use history. However, as systematic surveys of suitable habitat for this

species have never been conducted to our knowledge, we do not have enough information to determine the true status of this species in wild and therefore cannot conclude that the species is threatened or endangered due to other natural or manmade factors.

*S. conocarpum* is currently known from six locations on St. John. It is possible that the species may occur in St. Thomas or the BVI, or at other locations in St. John. However, no surveys have ever been conducted to our knowledge to determine if the species is present elsewhere. Using the best available scientific and commercial information, we are unable to determine that the small population size constitutes a threat or that it would render the species likely to become endangered or extinct in the near future. In the Caribbean, native plant species, particularly endemic species with limited distribution, may be vulnerable to natural or manmade events, such as hurricanes and human-induced fires. Fire is not a natural component of subtropical dry forest in Puerto Rico and the Virgin Islands. Thus, most species found in this type of forest are not fire-adapted. However, there is no information in the literature indicating that hurricanes or fires have affected the known populations of *S. conocarpum*. Furthermore, the VINP has a fire prevention plan which includes the protection of native species, including *S. conocarpum*. We do not have sufficient information to conclude that this species is threatened or endangered due to other natural or manmade factors.

**Finding**

We have carefully assessed the best scientific and commercial information available regarding threats faced by *Agave eggersiana* and *Solanum conocarpum*. We reviewed the petition, available published and unpublished scientific and commercial information, and consulted with recognized plant experts (including those most familiar with the species), and Territorial and other Federal resource agencies. We did not receive additional information from interested parties during the public comment period on our 90-day finding.

For us to make a “warranted” finding, the species must, at a minimum, meet the definition of a threatened species. In accordance with section 3(19) of the Act, a threatened species is one which

is likely to become endangered within the foreseeable future throughout all or a significant portion of its range.

Based on all the information we have gathered and reviewed, we found no evidence that either *A. eggersiana* or *S. conocarpum* are threatened or endangered by overutilization for commercial, recreational, or educational purposes, nor by inadequacies in the existing regulatory mechanisms. We also have no data to show that destruction or curtailment of the species’ habitat or range, disease or predation, or other natural or manmade factors threaten *A. eggersiana* or *S. conocarpum*. After reviewing the best available scientific and commercial information, we believe that we do not have sufficient information to determine the true status of either *Agave eggersiana* or *Solanum conocarpum* in the wild and cannot determine if either species meets the definition of threatened or endangered due to one or more of the five listing factors because we do not have sufficient evidence of which threats, if any, are operating on these species.

We will continue to monitor the status of these species and their habitats, and will accept additional information and comments at any time from all concerned governmental agencies, the scientific community, industry, and any other interested parties concerning this finding. This information will help us monitor and encourage beneficial measures for *A. eggersiana* and *S. conocarpum*.

**References Cited**

A complete list of all references cited herein is available upon request from the Field Supervisor, Boquerón Field Office (see **ADDRESSES** section).

**Author**

The primary author of this document is the Boquerón Field Office (see **ADDRESSES** section).

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 22, 2006.

**Marshall P. Jones, Jr.,**

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. E6-3095 Filed 3-6-06; 8:45 am]

**BILLING CODE 4310-55-P**