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Literature Cited

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Hubbs, C.L., R.R. Miller, and L.C. Hubbs. 1974. Hydrographic history and relict fishes of the north-central Great Basin. *Memoirs California Acad. Sci.* 7:1-259.

Miller, R.R. 1961. Man and the changing fish fauna of the American Southwest. *Pap. Michigan Acad. Sci. Arts Letters* 46:365-405.

Miller, R.R., and C.L. Hubbs. 1960. The spiny-rayed cyprinid fishes (Plagopterini) of the Colorado River System. *Misc. Publ. Mus. Zool., Univ. Michigan* 115:1-39.

Uyeno, T., and R.R. Miller. 1973. Chromosomes and the evolution of the plagopterin fishes (Cyprinidae) of the Colorado River System. *Copeia* 1973:776-782.

Author

The primary author of this final rule is Dr. Randy M. McNatt, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building, C, Reno, Nevada 89502 (702/784-5227 or FTS 470-5227).

List of Subjects in 50 CFR Part 17

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

Regulations 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 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the

following, in alphabetical order under "FISHES," 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						
FISHES							
Spinedace, Big Spring	<i>Lepidomeda mollispinis pratensis</i>	U.S.A. (NV).....	Entire.....	T	173	17.95(e)...	17.44(i)

3. Add the following as a new paragraph (i) to § 17.44:

§ 17.44 Special rules—fishes

* * * * *

(i) Big Spring spinedace, *Lepidomeda mollispinis pratensis*.

(1) All the provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to this species will also be a violation of the Endangered Species Act.

* * * * *

4. Amend § 17.95(e) by adding critical habitat of the Big Spring spinedace as follows: (The position of this entry under § 17.95(e) will follow the same sequence as the species occurs in § 17.11.)

§ 17.95 Critical habitat—Fish and wildlife.

(e) * * *

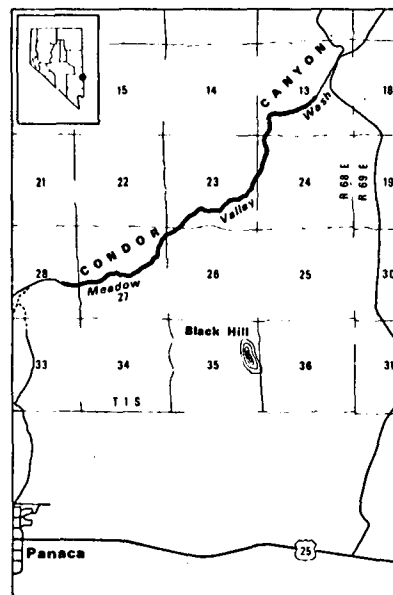
* * * * *

Big Spring Spinedace (*Lepidomeda mollispinis pratensis*)

Nevada. Condor Canyon, Lincoln County. Four stream miles of Meadow Vally Wash and 50 feet on either side of the stream as it flows through the following sections: T. 1 S., R. 68 E., Sections 13, 23, 24, 26, 27, and 28.

Known constituent elements include clean permanent flowing spring-fed stream with deep pool areas and shallow marshy areas along the shore and the absence of exotic fishes.

BIG SPRING SPINEDACE
Lincoln County, NEVADA



Dated: February 27, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-7357 Filed 3-27-85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Hutton Tui Chub and Fosskett Speckled Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Hutton tui chub (*Gila bicolor* ssp.) and Foskett speckled dace (*Rhinichthys osculus* ssp.) to be threatened species. A special rule is included, allowing take for certain purposes in accordance with Oregon State laws and regulations. Critical habitat is not being determined for these two fishes. This action is being taken because these species have a very restricted range, occur in low numbers, and occupy small springs that are extremely vulnerable to destruction or modification. Federal protection provided by the Endangered Species Act of 1973, as amended, will apply to the Hutton tui chub and the Foskett speckled dace on the effective date given below.

DATES: The effective date of this rule is April 29, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Office of Endangered Species, U.S. Fish and Wildlife Service, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The Hutton tui chub is found only in Hutton Spring, a small spring system with surface flow in two areas, located in the now dry Alkali Lake, in Lake County, south-central Oregon, and in another smaller unnamed spring, 3/8 mile southeast of Hutton Spring. Its numbers are estimated at no more than 450 (Bills 1977). The Foskett speckled dace occurs in Foskett Spring, a small spring system found in the Coleman Basin on the west side of the Warner Valley, Lake County, south-central Oregon. Current numbers are estimated at 1,500 (C. Bond, Oregon State University, pers. comm.). A transplant attempt was made in 1982 whereby some Foskett speckled dace were moved to a small pool on the south side of the Foskett Spring system. The evaluation of the success of this transplant is not yet available (N. Armantrout, Oregon Office of Bureau of Land Management, pers. comm.).

The tui chub, *Gila bicolor*, and the speckled dace, *Rhinichthys osculus*, were both described by Charles Girard in 1856. Descriptions of the undescribed subspecies, Hutton tui chub and the Foskett speckled dace, are being prepared under the direction of Dr. Carl Bond, Oregon State University.

Both fishes occur on private land and are threatened by actual or potential

modification of their habitats. These fishes have extremely limited distributions, occur in low numbers naturally, and inhabit springs that are susceptible to human disturbance. Factors that may jeopardize the species include: ground water pumping for irrigation, excessive trampling of the habitats by livestock, channeling of the springs for agricultural purposes, other mechanical manipulation of the spring habitats, and the presence of a chemical waste disposal site near Hutton Spring.

On December 30, 1982, the Service published a Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58454). The Hutton tui chub and Foskett speckled dace were included in the review as category-1 taxa, indicating that the Service had substantial information on hand to support proposing to list these fishes as endangered or threatened. On April 12, 1983, the Service was petitioned by the Desert Fishes Council to list these two fishes. The Service reviewed and evaluated the petition and determined that it did present evidence that the petitioned action may be warranted. The notice of finding for this petition was published in the *Federal Register* on June 14, 1983 (48 FR 27273). The proposal by the Service to list these two fishes as threatened was published on April 17, 1984 (49 FR 15099). A proposed special rule was included to allow take for certain purposes in accordance with Oregon State laws and regulations.

Summary of Comments and Recommendations

In the April 17, 1984, proposed rule (49 FR 15099) 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. A newspaper notice was published in *The Oregonian* on May 25, 1984, *The Bend Bulletin* on June 11, 1984, and *The Lake County Examiner* on May 30, 1984, which invited general public comment. Seven comments were received and are discussed below. No public hearing was requested or held.

Of the seven comments received, four were in support of the listing, two did not state whether or not they supported the listing, and the last was not substantive. Mr. William Haight of the Oregon Department of Fish and Wildlife supported the listing and suggested some minor rewording of the threat posed by further livestock grazing. Mr.

Haight indicated it is his impression that current grazing levels by livestock prevent the two springs from becoming overgrown with vegetation and therefore less suitable for the fishes. He believes an increase in grazing and trampling above current levels could definitely have adverse impacts on the fishes and their habitats. The Service agrees.

Comments submitted by the Peila family, the owners of Hutton Spring, stated that Hutton Spring is fenced and has been since at least 1976, thus precluding cattle from wallowing in the spring or "excessively trampling" the immediate area around the spring. The Service has reworded the "Factors Affecting the Species" section dealing with Hutton Spring to incorporate these comments. The Peilas did not state whether they supported or opposed listing these fishes but indicated they were concerned that listing the Hutton tui chub may be disadvantageous to the conservation of the species by drawing attention to its location. The Service shares this concern, but believes it has been adequately addressed by not designating critical habitat for either species, which would have required publication of a map giving the location of the springs.

Dr. Carl Bond, Oregon State University, supported threatened status for both the species. Based on his work with these fishes, he believes that as long as access to open water is provided, they should survive.

A research biologist, Dr. Fred Bills, informed us that there is another spring, 3/8 mile from Hutton Spring, that contains Hutton tui chub. This second spring, which is part of the Hutton Spring system, is even smaller than the first and is only 11 feet in diameter. This second spring and its ephemeral outflow channel contains at most 150 chub. According to Dr. Bills, the site is unfenced and vulnerable to damage by livestock and human activities. He supported listing the Hutton tui chub and made no comments on the Foskett speckled dace.

Mr. Curt Soper, the Nature Conservancy's Data Base coordinator in Portland, Oregon, stated that trampling by livestock, particularly at Foskett Spring, is a detrimental factor that has resulted in a change in water flow, siltation, and accelerated erosion. The Nature Conservancy has been in active contact with the owners of both Foskett Spring and Hutton Spring in the hope of acquiring or otherwise protecting the two sites. As of yet, no official agreement has been reached.

One comment from Dr. Carl Schreck of the Service's Cooperative Fisheries Research Unit, indicated that fencing could create problems by allowing establishment of plants that would encroach on fish habitat. He did not state whether or not he supported listing.

Although there is obviously a difference of opinion as to the necessity to fence springs, it is clear that excessive livestock use has the potential to detrimentally affect the habitat. The measures required to maintain and/or enhance the habitat will be discussed and evaluated during development of recovery plans for these species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Hutton tui chub and Foskett speckled dace should be classified as threatened species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) 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 the Hutton tui chub (*Gila bicolor* ssp.) and Foskett speckled dace (*Rhinichthys osculus* ssp.) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. The Hutton tui chub is limited in distribution to two small springs and their outflows, which are vulnerable to modification or destruction. A portion of the larger Hutton Spring has already been enlarged by mechanical means. Channeling of water or ground water pumping (which could lower the water table) for irrigation purposes could destroy the spring ecosystem. Although excessive trampling of the habitat by watering livestock has occurred in the past (G. Kobetich, U.S. Fish and Wildlife Service, pers. comm., C Bond pers. comm.), Hutton Spring is fenced and livestock do not wallow in the spring or drink directly from it. The smaller spring is unfenced. Any further livestock trampling of the spring above current use levels could have a negative impact on Hutton tui chub.

The Foskett speckled dace has a very restricted distribution, occurring only in Foskett Spring and its outflow. It may also occur in a small spring pool on the south side of the Foskett Spring system where it was transplanted in 1982.

Pumping of ground water and concomitant lowering of the water table pose a potential threat to this subspecies. Mechanical modification of the aquatic ecosystem has occurred in the past as evidenced by remnants of a rock dam. Additional changes could be detrimental to the fish. The spring is also a livestock watering area and use above current levels would have a negative impact. The vulnerability of the habitat is accentuated by its very small size (flow rate less than 0.5 cfs).

B. Overutilization for commercial, recreational, scientific, or educational purposes. There is no indication that the Hutton tui chub or Foskett speckled dace are overutilized for any of these purposes.

C. Disease or predation. There are no known threats to the Hutton tui chub or Foskett speckled dace from disease or predation.

D. The inadequacy of existing regulatory mechanisms. The State of Oregon lists both the Hutton tui chub and Foskett speckled dace as "fully protected subspecies" under the Oregon Department of Fish and Wildlife regulations. These regulations prohibit taking of the fishes without an Oregon scientific collecting permit. However, no protection of the habitat is included in such a designation and no management or recovery plan exists for these subspecies.

E. Other natural or manmade factors affecting its continued existence. Hutton Spring is located approximately 1¼ miles north of a large chemical disposal site. Wastes from this dump have already contaminated the adjacent ground water, surface water, and air in the Alkali Lake area. It is likely that the spring habitat of the Hutton tui chub will become contaminated within the foreseeable future as levels of these toxic chemicals increase. This could endanger the Hutton tui chub and possibly result in its extinction if measures are not taken to prevent contamination of its habitat.

Additional threats include the possible introduction of exotic fishes into the springs, which could have disastrous effects on the endemic Hutton tui chub and Foskett speckled dace, either through competitive exclusion, predation, or introduced disease. Because these fishes occur in such limited and remote areas, vandalism also poses a potential threat.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Hutton tui chub and

Foskett speckled dace as threatened. Because these species are still extant in their isolated spring habitats and the threats to them can be removed, these species are not in imminent danger of extinction and thus endangered status would not be appropriate.

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 prudent for these sub-species at this time. In the case of the Hutton tui chub and the Foskett speckled dace, the Service believes such critical habitat designations would be imprudent because they would increase the likelihood of vandalism to the small isolated springs that these fishes inhabit. The location of the springs is not well-known. A critical habitat proposal would necessitate publication of detailed maps depicting the exact location of the springs. Publication of critical habitat descriptions would make these species even more vulnerable, would increase enforcement problems, and would not be in the best interest of conserving these fishes.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm 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. 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)(2) requires Federal agencies to ensure that

activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed 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.

Several activities involving Federal agencies are presently known which may have an impact on the Hutton tui chub and Foskett speckled dace. With regard to the Hutton tui chub, during 1976, approximately 25,000 55-gallon drums of 2, 4-dichlorophenoxyacetic acid (2, 4-D) and methylchlorophenoxyacetic acid (MCPA) manufacturing residues were buried along the southwest margin of Alkali Lake. The barrels were severely damaged when initially buried and have since contaminated the ground water, surface water, and air in the Alkali Lake area. The disposal site is located approximately 1 3/4 miles south of Hutton Spring. Environmental dispersal of these herbicides and their by-products threatens the Hutton tui chub by contamination of the aquifers that supply water to the spring, contamination of the spring via surface flows, and by contamination of the spring by airborne evaporites. The Bureau of Land Management (BLM) and Environmental Protection Agency, in cooperation with the Oregon Department of Environmental Quality, are presently considering reclamation of the toxic waste disposal site. One commentor expressed the concern that a bombing range is being proposed for the Alkali Lake area. The Service has considered this potential action and believes that it would have no effect on the Hutton tui chub.

Grazing occurs in the vicinity of both Foskett Spring and Hutton Spring. Although the exact impact of grazing on the fishes has not been determined, uncontrolled trampling of the springs by livestock could probably have a negative effect on their aquatic ecosystems.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State

conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

The above discussion generally applies to threatened species of fish and wildlife. However, the Secretary has discretion under Section 4(d) of the Act to issue such special regulations as are necessary and advisable for the conservation of a threatened species. These fishes are threatened primarily by habitat disturbance or alteration, not by intentional, direct taking of the species or by commercialization. Given this fact and the fact that the State regulates direct taking of the species through the requirement of State collecting permits, the Service has concluded that the State's collection permit system is more than adequate to protect the species from excessive taking, so long as taking is limited to: Educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act. A separate Federal permit system is not required to address the current threats to the species. Therefore, the special rule allows takes to occur for the above stated purposes without the need for a Federal permit if a State collection permit is obtained and all other State wildlife conservation laws and regulations are satisfied. It should be recognized that any activities involving the taking of these species not otherwise enumerated in the special rule are prohibited. Without this special rule all of the prohibitions under 50 CFR 17.31 would apply. The Service believes that this special rule will allow for more efficient management of the species, thereby facilitating their conservation. For these reasons, the Service has concluded that this regulatory action is necessary and advisable for the

conservation of the Hutton tui chub and Foskett speckled dace.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under 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).

Literature Cited

Bills, Frederick. 1977. Taxonomic status of isolated populations of tui chub referred to as *Gila bicolor oregonensis* (Snyder). M.A. Thesis, Oregon State Univ., Corvallis, Oregon.

Author

The primary author of this final rule is Dr. Kathleen E. Franzreb, U.S. Fish and Wildlife Service, Endangered Species Office, 2800 Cottage Way, Room E-1823, Sacramento, California 95825 (916/484-4935 or FTS 468-4935).

List of Subjects in 50 CFR Part 17

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

Regulations 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 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Fishes," 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						
FISHES							
Chub, Hutton tui	<i>Gila bicolor</i> ssp.	U.S.A. (OR)	Entire	T	174	NA	17.44(f)
Dace, Foskett speckled.	<i>Rhinichthys osculus</i> ssp.	do	do	T	174	NA	17.44(f)

3. Add the following paragraph (f) as a special rule to § 17.44.

§ 17.44 Special rules—fishes.

(f) Hutton tui chub (*Gila bicolor* subspecies) and Foskett speckled dace (*Rhinichthys osculus* subspecies).

(1) No person shall take these species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of these species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (f) (1) through (3) of this section.

Dated: March 13, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-7358 Filed 3-27-85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Solidago spithamaea* (Blue Ridge Goldenrod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Solidago spithamaea* M. A. Curtis (Blue Ridge goldenrod) to be a threatened species under the authority contained in the Endangered Species Act of 1973 (Act), as amended. *Solidago spithamaea* is endemic to high mountain

peaks in North Carolina and Tennessee. Only three populations of *Solidago spithamaea* are known to exist; one is on public land administered by the U.S. Forest Service and the other two are on privately owned lands. Past loss of habitat and populations has occurred due to the recreational development of the high mountain peaks where this plant occurs. The continued existence of this plant is threatened by trampling and habitat disturbance due to heavy recreational use. This action will implement the protection provided by the Act, for *Solidago spithamaea*.

DATE: The effective date of this rule is April 29, 1985.

ADDRESSES: A complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie, Asheville Endangered Species Field Station (see ADDRESSES above, 704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Solidago spithamaea (Blue Ridge goldenrod) was described from material collected in North Carolina by M. A. Curtis in the 1830's (Massey, Whitson, and Atkinson 1980). Today, three populations of the species are known: Two in Avery County, North Carolina, and one on the border of Mitchell County, North Carolina, and Carter County, Tennessee. Two populations are located on privately owned lands and one is located on public lands administered by the U.S. Forest Service. Two additional populations were historically known for the species, but both sites have been developed and no Blue Ridge goldenrod have been relocated there during recent searches. It is believed either that the plant is extirpated from these sites or that the original reports were erroneous.

Solidago spithamaea is an erect perennial herb that arises from a short, stout rhizome and is a member of the aster family. The yellow flowers are borne in heads arranged in a corymbiform inflorescence. *Solidago spithamaea* grows above 4,600 feet

(1,400 meters) in dry rock crevices of granite outcrops on the high peaks of the Blue Ridge Mountains. The continued existence of *Solidago spithamaea* is threatened by trampling and habitat disturbance due to heavy recreational use of its habitat by hikers. Construction on new trails and other recreational improvements at any of the three sites where populations of this plant exists could further jeopardize the plant's continued existence. This rule determines *Solidago spithamaea* to be a threatened species and implements the protection provided by the Endangered Species Act of 1973, as amended.

Past Federal Government actions affecting this plant began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the *Federal Register* (40 FR 27823) of its acceptance of the report of the Smithsonian Institution 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). *Solidago spithamaea* was included in the Smithsonian report and the 1975 notice of review. On December 15, 1980, the Service published a revised notice of review of native plants in the *Federal Register* (45 FR 82480), and *Solidago spithamaea* was included in that notice as a category-1 species. Category-1 species are those for which date in the Service's possession indicate listing is warranted.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Solidago spithamaea* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Solidago spithamaea* was warranted, and that although other pending proposals had precluded its proposal, expeditious