

location information, make a voice page, or to conduct a brief test.

(b) The FRS unit may transmit tones to make contact or to continue communications with a particular FRS unit. If the tone is audible (more than 300 Hertz), it must be transmitted continuously no longer than 15 seconds at one time. If the tone is subaudible (300 Hertz or less), it may be transmitted continuously only while you are talking. The FRS unit may transmit digital data containing location information. Digital data transmissions shall not exceed one second, must be initiated by a manual key press, and shall be limited to no more than one digital transmission within a ten-second period.

\* \* \* \* \*

3. Section 95.631 is amended by revising paragraph (d) to read as follows:

**§ 95.631 Emission types.**

\* \* \* \* \*

(d) An FRS unit may transmit only emission type F3E or F2D. A non-voice emission is limited to selective calling or tone-operated squelch tones to establish or continue voice communications or digital data transmission of location information.

\* \* \* \* \*

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AF84**

**Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Endangered Status of Two Plants, *Lomatium cookii* (Cook's Lomatium) and *Limnanthes floccosa* ssp. *grandiflora* (Large-Flowered Wooly Meadowfoam)**

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the re-opening of the comment period on the proposed listing of *Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* ssp. *grandiflora* (large-flowered wooly meadowfoam) as endangered species under the Endangered Species Act of 1973, as amended (Act). We are re-opening the comment period to provide the public an opportunity to

review additional information on the status, abundance, and distribution of these plants, and to request additional information and comments from the public regarding the proposed rule. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period; all comments will be fully considered in the final rule.

**DATES:** We will accept public comments until March 15, 2002.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 Southeast 98th Avenue, Portland, Oregon, 97266. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Judy Jacobs or Rollie White at the above address, phone: 503/231-6179, facsimile: 503/231-6195.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Lomatium cookii* (Cook's lomatium) and *Limnanthes floccosa* ssp. *grandiflora* (large-flowered wooly meadowfoam) are two plants that inhabit seasonally wet habitats known as vernal pools in the Agate Desert, an area of approximately 83 square kilometers (32 square miles) north of Medford, Jackson County, Oregon. Cook's lomatium also occurs on seasonally wet soils in the adjacent county to the west, Josephine County, Oregon. The continued existence of *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* is endangered primarily by destruction of their specialized vernal pool habitat by competition with non-native plants and industrial and residential development, including road and powerline construction and maintenance.

Agricultural conversion and off-road vehicle (ORV) use also contribute to destruction of the habitat required by these plants. *Lomatium cookii* sites in Josephine County are additionally threatened by habitat alteration associated with gold mining, certain proposed timber projects, and woody species encroachment resulting from fire suppression.

On May 15, 2000, the Service published a proposed rule to list *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* as endangered species and requested public comment for 60 days (65 FR 30941). On August 28, 2001, Siskiyou Regional Educational

Project filed a citizen suit alleging that the Service had failed to make a timely final determination on the listing and critical habitat designation of these two plants, consistent with the time frames set forth in section 4 of the Act (*Siskiyou Regional Educational Project v. Norton*, Civil No. 01-1208-KI (D. Ore)). We entered into a settlement agreement with the plaintiff and agreed to submit a final listing decision for publication in the **Federal Register** on or before October 31, 2002. By this notice, the Service is seeking updated information regarding the status, abundance, and distribution of these plants, as well as providing updated information now in the possession of the Service regarding the status of these two plants.

**Current Status**

The proposed rule published in May of 2000 did not contain data from surveys for these plants that had been conducted one month prior to publication of the proposed rule, during April of 2000 (David Evans and Associates 2000). Additional survey work was also conducted for both species in April of 2001. These data are provided below.

Each year, plant populations exhibit some natural variation in numbers, related primarily to temperature and rainfall conditions for that year. In general, numbers of annual plants, such as *Limnanthes floccosa* ssp. *grandiflora* may fluctuate more widely than those of perennial plants, such as *Lomatium cookii*. The year 2000 was a banner year for *Limnanthes floccosa* ssp. *grandiflora* populations due to the wet conditions that prevailed that year, but in 2001, a dry year, population numbers of this plant plummeted in many areas. For example, on a protected site owned by The Nature Conservancy (TNC), one *Limnanthes floccosa* ssp. *grandiflora* occurrence declined from 68,000 in 2000 to 39,000 in 2001. A site owned by the City of Medford, contained some 10,000 *Limnanthes floccosa* ssp. *grandiflora* individuals in the year 2000, while only 112 individuals were noted at this site in 2001 (D. Borgias, TNC, pers. comm. 2001). Year-to-year changes of this magnitude may be within the normal range of variation for this annual plant. However, it is possible that a number of consecutive drought years could eliminate some populations of *Limnanthes floccosa* ssp. *grandiflora*. In contrast, numbers of *Lomatium cookii* in the Agate Desert were generally stable or slightly increased from the year 2000 to 2001 (D. Borgias, TNC, pers. comm. 2001).

The Service now possesses information on three status changes that

would be considered outside the natural range of year-to-year variation for these plants and that was not available to us during development of the proposed rule for these plants. Two of these involve increased population sizes at historical *Lomatium cookii* sites. One of these sites, on private land, was believed to contain some 6,000 plants historically. Surveys in 2000 and 2001 revealed an estimated 500,000 flowering individuals. Another population, located on Medford airport property, that was previously estimated at some 1,000 plants, was found in 1999 to contain over 5,000 flowering *Lomatium cookii* plants. However, this larger population was cut in two last year by development of a new taxiway at this airport (K. O'Hara, David Evans & Associates, pers. comm. 2001). The third status change is that in the year 2000, *Limnanthes floccosa* ssp. *grandiflora* was discovered at a new location. This occurrence, on private land, comprised approximately 1,000 flowering individuals.

The 2000–2001 observations of these two vernal pool plant species must be considered within the context of the status and trends of their habitat overall. Recent studies of the Agate Desert vernal pool hydrology and vegetation indicate that no intact vernal pool habitat remains (ONHP 1997, 1999). The latter study (ORNP 1999) indicates that the highest quality remaining Agate Desert vernal pool habitat, that with intact hydrology and altered vegetation, is now present on an approximately 17.6 percent of the area. This is a decrease from the earlier study (ONHP 1997), cited in the May, 2000, **Federal Register** proposal, which estimated that this highest quality remaining habitat occurred on 23.1 percent of the area. This reported decrease in the amount of best available habitat is partially due to better-refined mapping techniques, but there is evidence that additional land leveling also occurred between the two studies (ONHP 1999). Both reported and unreported fills of Agate Desert vernal pool wetlands are occurring continually (C. Tuss USFWS biologist, pers. comm. 2001). ONHP (1999) reports that over 19 percent of Agate Desert vernal pool habitat has been leveled, and development (structures, roads, and other impermeable surfaces) has occurred on an additional 41 percent of this area (ONHP 1999). Thus, over 60 percent of the habitat of these plants in the Agate Desert has been destroyed, and none of the remaining habitat has

escaped the invasion of weedy competitors. This compares with just under 60 percent habitat destruction reported in ONHP 1997 and in the proposed rule (65 FR 30941).

Recent evidence also indicates that non-native annual grasses are a greater problem than previously believed for *Lomatium cookii*, particularly in the Agate Desert. Unlike native perennial bunchgrasses that originally occupied the area, annual grasses die back each year, creating a buildup of thatch from the dead leaves that interferes with germination of *Lomatium cookii* seeds. Current observations indicate that without control of annual grasses through mowing, grazing or prescribed burns, *Lomatium cookii* populations tend to decrease over time, and could be extirpated within a relatively short time frame, due to this competition with non-native grasses (D. Borgias, TNC, pers. comm. 2001). In many cases, non-native plants have been purposefully planted, for livestock and other reasons, in the Agate Desert. For example, the Ken Denman Wildlife Reserve, encompassing some 720 hectares (1,780 acres) of Agate Desert land, is managed by the State primarily for waterfowl production. Much of this Reserve has been covered with log deck debris, plowed in strips and planted with non-native wildlife food plants (Brock 1987; J. Jacobs, pers. obs. 2000).

Populations of *Lomatium cookii* in Josephine County are becoming even more highly threatened by ORV use than they were at the time of the proposal. Over the past 2 years, gates erected by the Bureau of Land Management (BLM) to direct ORV traffic away from *Lomatium cookii* habitat have been repeatedly vandalized, and the intrusion into these areas continues. Particularly in the springtime, when the ground is wet and muddy (and *Lomatium cookii* plants are flowering), ORVs cause major rutting and disruption of *Lomatium cookii* habitat (L. Mazzu, BLM botanist, pers. comm. 2001).

Considering the above-noted population changes of *Lomatium cookii* and *Limnanthes floccosa* ssp. *grandiflora* in the Agate Desert over the past 2 years in light of historic loss of habitat (65 FR 30941) and ongoing threats to these plants and their habitat, we conclude that the best available information still indicates both are in danger of extinction throughout all or a significant portion of their range, fitting the definition of endangered under the Act.

## Public Comments Solicited

We will accept written comments and information during this re-opened comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any of several methods: (1) You may submit written comments and information to the State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 Southeast 98th Avenue, Portland, Oregon, 97266. (2) You may hand-deliver comments to our Oregon Fish and Wildlife Office at the address given above. Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the address under (1) above. Copies of the proposed rule is available on the Internet at our Web site [www.fws.gov](http://www.fws.gov) or by writing to the State Supervisor at the address under (1) above.

## References Cited

- David Evans and Associates. 2001. Agate Desert vernal pool surveys. (prepared for: Rogue Valley Council of Governments, Jackson County, Oregon), 16+ pp.
- Oregon Natural Heritage Program. 1997. Agate Desert vernal pool habitat: Preliminary mapping and Assessment. Report to Oregon Division of State Lands, Contract No. 10738–369, 23+pp.
- Oregon Natural Heritage Program. 1999. Assessment and map of the Agate Desert vernal pool ecosystem in Jackson County, Oregon: March 1998 imagery revision. Report to U.S. Fish and Wildlife Service, December 6, 1999, 15+pp.

## Author

The primary author of this notice is Judy Jacobs, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service (see ADDRESSES section).

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

Dated: December 6, 2001.

**Rowan W. Gould,**

*Regional Director, Region 1, Portland, Oregon.*  
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