

including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all reports of violation of the civil False Claims Act or violation of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of clause)

[FR Doc. E8-11137 Filed 5-15-08; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R6-ES-2008-0001; 92220-1113-0000-C6]

RIN 1018-AU67

#### Endangered and Threatened Wildlife and Plants; Proposed Removal of *Erigeron maguirei* From the Federal List of Endangered and Threatened Plants; Availability of Post-Delisting Monitoring Plan

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

**ACTION:** Proposed rule; notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.), propose to remove the plant *Erigeron maguirei* (commonly referred to as Maguire daisy) from the List of Endangered and Threatened Plants. The best scientific and commercial data available indicate that this species has recovered and no longer meets the definition of threatened or endangered under the Act. Our review of the status of this species shows that populations are stable, threats have been addressed, and adequate regulatory mechanisms ensure the species is not currently and is not likely to again become an endangered species within the foreseeable future in all or a significant portion of its range. We seek information, data, and comments from the public regarding *E. maguirei*, this proposal to delist, and the Post-Delisting Monitoring Plan. This proposed rule completes the 5-year status review initiated on April 7, 2006 (71 FR 17900).

**DATES:** We will accept comments received or postmarked on or before July 15, 2008. Public hearing requests must be received by June 30, 2008.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018-AU67; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

#### FOR FURTHER INFORMATION CONTACT:

Larry Crist, Field Supervisor, U.S. Fish and Wildlife Service, Utah Field Office, 2369 West Orton Circle, West Valley City, UT 84119, or telephone (801) 975-3330. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877-8337 for TTY assistance.

#### SUPPLEMENTARY INFORMATION:

##### Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we hereby request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological information concerning this species;

(2) Relevant data concerning any current or likely future threats (or lack thereof) to this species, including the extent and adequacy of Federal and State protection and management that would be provided to the *Erigeron maguirei* as a delisted species;

(3) Additional information concerning the range, distribution, population size, and population trends of this species, including the locations of any additional populations of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species; and

(5) Our draft Post-Delisting Monitoring Plan.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal

identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment during normal business hours at the Utah Field Office, 2369 West Orton Circle, West Valley City, UT 84119 (801/975-3330).

#### Public Hearing

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received by June 30, 2008. Such requests must be made in writing and addressed to the Field Supervisor (see **FOR FURTHER INFORMATION CONTACT** section).

#### Previous Federal Action

Section 12 of the Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27824) accepting the Smithsonian report as a petition to list taxa named therein under section 4(c)(2) (now 4(b)(3)) of the Act and announced our intention to review the status of those plants. *Erigeron maguirei* was included in that report (40 FR 27880, July 1, 1975). Maguire daisy is the common name for *Erigeron maguirei*, however we will use primarily the scientific name of this species throughout this proposed rule to clarify taxonomic issues or the legal status of the plant.

On June 16, 1976, we published a rule in the **Federal Register** (41 FR 24524) to designate approximately 1,700 vascular plant species, including *Erigeron maguirei*, as endangered pursuant to section 4 of the Act. The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979, we published a notice of withdrawal (44 FR 70796) of that portion of the June 16, 1976, proposal that had not been made final, which included *E. maguirei*.

On December 15, 1980, we published a revised notice of review for native plants in the **Federal Register** designating *Erigeron maguirei* as a candidate species (45 FR 82480). Section 4(b)(3)(B) of the 1982

amendments to the Act required that the Secretary of the Interior make a finding on a petition within 1 year of its receipt. In addition, section 2(b)(1) of the 1982 amendments to the Act required that all petitions pending as of October 13, 1982, be treated as if newly submitted on that date. Since the 1975 Smithsonian report was accepted as a petition, all the taxa contained in those notices, including *E. maguirei*, were treated as being newly petitioned as of October 13, 1982. On October 13, 1983, the Service made a 12-month finding that the petition to list *E. maguirei* var. *maguirei* was warranted but precluded by other listing actions of a higher priority. Notification of this finding was published in the **Federal Register** on November 28, 1983 (48 FR 53640).

On July 27, 1984, the Service published a proposed rule to designate *Erigeron maguirei* var. *maguirei* as an endangered species (49 FR 30211). The final rule designating the variety of the species as endangered was published on September 5, 1985 (50 FR 36089).

In 1983, *E. maguirei* var. *harrisonii* was described as a separate variety of *E. maguirei*. In this description, Welsh (1983a, p. 367) noted two previous collections of the variety at canyon bottom sites in Wayne County, Utah, in the 1930s. On September 27, 1985, the Service published a notice of review for plants (50 FR 39526) which included *Erigeron maguirei* var. *harrisonii* as a candidate species (50 FR 39548). *Erigeron maguirei* var. *harrisonii*

remained as a candidate through the revised plant notice of review published on September 30, 1993 (58 FR 51144).

On September 7, 1994 (59 FR 46219), the Service proposed to reclassify the species from endangered to threatened based on the new genetic information that led to a taxonomic revision, changing the entry for *Erigeron maguirei* var. *maguirei* to *E. maguirei*. The proposed rule noted that this entity also included the plant variety formerly known as *E. m.* var. *harrisonii*.

On June 19, 1996, the Service finalized the rule reclassifying Maguire daisy from endangered to threatened in large part due to a taxonomic revision and resultant increase in the population considered as *Erigeron maguirei* (61 FR 31054).

#### Species Information

A member of the sunflower family, *Erigeron maguirei* is a perennial herb with a branched woody base. Its stems and spatulate-shaped leaves are densely spreading and hairy. Its flowers are dime sized with white or pink petals. Bits of sand commonly cling to the hairs of the leaves and stems. The species is further described in our June 19, 1996, final rule reclassifying the species as threatened (61 FR 31054).

*Erigeron maguirei* has been located from 1,585 to 2,621 meters (m) (5,200 to 8,600 feet (ft)) in elevation (Clark et al. 2006, pp. 9–11). Highest plant densities occur on mesa tops between 1,829 and 2,134 m (6,000 and 7,000 ft) in elevation

(Kass 1990, p. 27; Service 1995, p. 2; Clark 2001, p. 15; Clark et al. 2006, p. 14).

The species occurs from the San Rafael Swell in Emery County, Utah, south into Wayne and Garfield Counties, Utah, through the Waterpocket Fold in Capitol Reef National Park (Capitol Reef) (Heil 1987, p. 5, figure 5; Heil 1989, p. 26; Kass 1990, pp. 23, 26–27; Harper and Van Buren 1998, appendix A; Clark 2001, p. 3; Clark 2002, pp. 13–14; Clark et al. 2005, p. 7; Clark et al. 2006, p. 7) (see Figure 1). *Erigeron maguirei* occurs primarily on the Navajo Sandstone formation. Individuals have been located within steep, narrow, dry, rocky, and sandy canyon or wash bottoms of the Wingate, Chinle, and Navajo Sandstone formations; sandstone walls of the Wingate, Navajo, and Cutler formations; cracks of large boulders; slickrock; and atop mesas of the Navajo Sandstone formation (Cronquist 1947, p. 165; Anderson 1982, pp. 1–2; Heil 1989, pp. 25–26; Kass 1990, p. 22; Harper and Van Buren 1998, p. 1). Populations within canyon bottoms are apparently established from seeds dispersed by wind or overland flow from source populations on the mesa tops (Heil 1989, p. 25; Kass 1990, p. 27; Service 1995, p. 2). These canyon populations are generally small compared with those on the mesa tops (Heil 1989, p. 25; Kass 1990, p. 27; Service 1995, p. 2).

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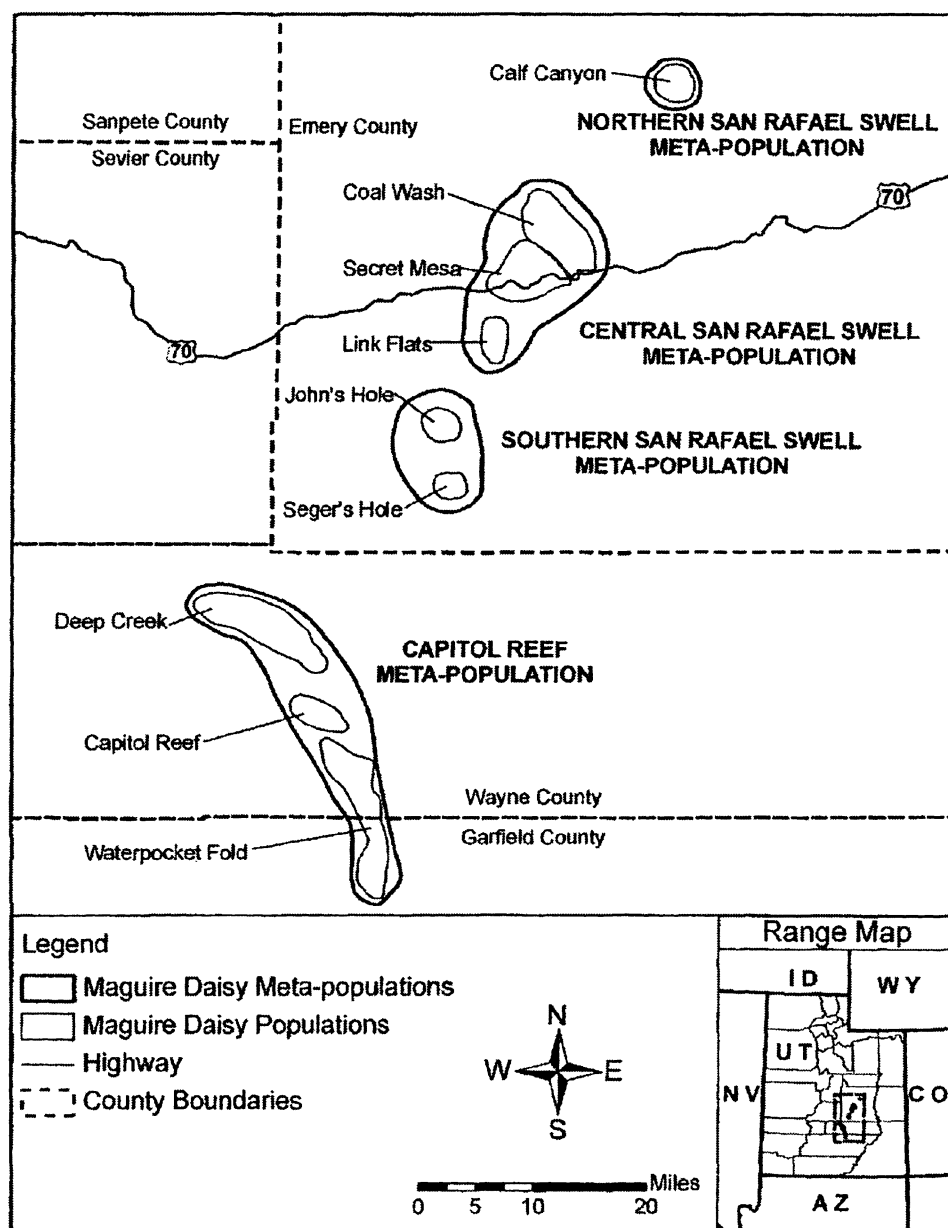


Figure 1. *Erigeron maguirei* Range (Clark et al. 2006, pp. 8-9)

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*Erigeron maguirei* has been found primarily in the Dwarf Mountain Mahogany Slickrock plant community, a community endemic to the Colorado Plateau Region (Heil 1989, p. 23; Clark 2001, pp. 15–16; Clark et al. 2006, p. 15). *E. maguirei* also is associated with pinyon/juniper—tall shrub, ponderosa pine—tall shrub slickrock pockets, mesic canyon bottoms, mountain shrub, and intermittent riparian communities (Kass 1990, p. 22; Harper and Van Buren 1998, p. 1; Clark 2002, pp. 15–16; Clark et al. 2005, p. 7; Clark et al. 2006, p. 15).

Flowering occurs from May to June and takes 4 to 6 weeks to go from the small green “button” bud stage to completion of anthesis, when the flower

is no longer open and functional (Alston and Tepedino 2005, p. 54; Clark et al. 2006, p. 17). It appears that *Erigeron maguirei* lacks self-compatibility, and that pollinators are necessary for cross pollination to occur (Alston and Tepedino 2005, p. 61). Because of the open nature of the flower head, *E. maguirei* tends to be visited by opportunistic insects searching for nectar (Alston and Tepedino 2005, p. 60). Pollinators include various flies, wasps, and bees (Alston and Tepedino 2005, p. 60).

Van Buren and Harper (2002, p. 1) collected demographic data on three *Erigeron maguirei* populations for a period of 9 years. The demographic data

collected included plant diameter, size class, plant height, plant condition, and number of flower heads produced for individual tagged plants (Van Buren and Harper 2002, p. 2). At the Eagle Canyon study site, 124 plants were tagged in 1992 and 41 of these were still alive in 2001 (Van Buren and Harper 2002, pp. 2–3). This demographic monitoring study suggests the species is long lived, has a low mortality rate, and has the ability to replace individuals at a rate that compensates for mortality (Van Buren and Harper 2002, pp. 2–5). Overall, monitored populations appear stable (Van Buren and Harper 2002, p. 2).

## Recovery

Recovery plans are not regulatory documents and are instead intended to provide guidance to the Service, States, and other partners on methods of minimizing threats to listed species and on criteria that may be used to determine when recovery is achieved. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may have been exceeded while other criteria may not have been accomplished. In that instance, the Service may judge that the threats have been minimized sufficiently, and the species is robust enough to reclassify from endangered to threatened or to delist. In other cases, recovery opportunities may have been recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan. Likewise, information on the species may be learned that was not known at the time the recovery plan was finalized. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The Maguire Daisy (*Erigeron maguirei*) Recovery Plan was approved by the Service on August 15, 1995. The Recovery Plan outlined three delisting criteria. These criteria, and the status of the species relative to these criteria, are outlined below.

*Delisting Criterion One—Locate and/or establish additional populations. Maintain 20 populations which have been demonstrated to be above minimum viable population levels. Until minimum viable population levels are determined, it is assumed that the minimum viable population level will be about 500 individuals (Service 1995, p. ii).* At the time the Recovery Plan was written, the species was known from 7 populations (32 sites) with the total population estimated at 5,000 (Service 1995, p. 2). To achieve this criterion, the Recovery Plan recommended land managers inventory suitable habitat to determine with a reasonable degree of accuracy its population and distribution (Service 1995, pp. ii, 6, 7, 12).

Thus, in 1999, the Service, the Bureau of Land Management (BLM), U.S.

Department of Agriculture Forest Service (Forest Service), and the National Park Service (NPS) established an Interagency Rare Plant Agreement to direct conservation measures for listed and sensitive plant species endemic to central Utah, including *Erigeron maguirei* (Clark 2002, p. 3). Through this interagency agreement, the agencies committed funding to survey and monitor *E. maguirei* throughout its range, regardless of agency boundaries (Clark 2002, p. 3). Beginning in 1999, these agencies hired an Interagency Botanist to oversee a team of seasonal employees, thus creating an Interagency Rare Plant Team (Forest Service et al. 2006, p. 6). As part of recovery activities for the *E. maguirei*, from 1999 to 2002, approximately 3,521 hectares (8,700 acres) were surveyed for *E. maguirei* on NPS, BLM, and Forest Service lands (Clark and Clark 1999, p. 45; Clark 2002, p. 13). During this period, approximately 2,445 person-hours were allocated by the Interagency Rare Plant Team for *E. maguirei* surveys (Clark 2002, p. 13).

The recovery criterion of maintaining 20 viable populations was based primarily on the assumption that numerous small sites would remain scattered and disconnected (Clark 2006c). Instead of identifying more populations, increased survey efforts conducted under Action 2.0 in the Recovery Plan identified both broader plant distributions and larger population sizes that are evenly distributed across the landscape (Harper and Van Buren 1998, p. 2; Clark and Clark 1999, p. 47; Clark 2001, p. 3; Clark 2002, pp. 13–14; Clark et al. 2005, p. 17; Clark et al. 2006, p. 17). Based on our current knowledge of the species, 9 known populations exist (118 sites) within 4 meta-populations comprised of approximately 164,250 *Erigeron maguirei* individuals (see Figure 1 and Table 1) (Clark et al. 2006, p. 16). *Sites* are defined as occurrence locations recorded by one or more researcher over time (Clark 2006b, p. 5). *Populations* are defined as groups of occurrence records (i.e., sites) located in the same geographic vicinity (Clark 2006b, p. 5). A *meta-population* is comprised of a number of individual populations less than 2.4 kilometers (1.5 miles) apart, typically linked by continuous suitable habitat (Clark 2006b, p. 5, Clark 2006c). The populations cannot be split into more than nine separate populations based on any meaningful criteria (Clark 2006c).

The range of the species is currently estimated at approximately 1,010 square kilometers (km) (390 square miles (mi)) and extends from the San Rafael Swell south through the Waterpocket Fold of Capitol Reef (see Figure 1) (Clark et al. 2006, p. 17). All three populations within the Capitol Reef Meta-Population are linked by contiguous suitable habitat. Although not necessary for recovery, Clark et al. (2006, p. 24) postulated that further survey work would likely find sufficient numbers of plants to link them into one contiguous population. A similar situation exists within the San Rafael Swell area where suitable habitat occurrences are separated by short distances (Clark et al. 2006, p. 24).

These large, connected, and evenly distributed populations provide the desired viability intended by the recovery plan. The 9 populations have more desirable biological attributes than the originally suggested 20 populations in the recovery plan. As mentioned above, the need for 20 populations was based on the assumption that the originally identified localities would remain widely scattered and the populations in those localities would remain small. However, the 9 current populations are well connected within 4 meta-populations, the meta-populations are distributed throughout the range of the species, and most of the populations within those meta-populations have large numbers of individuals. In fact, most of the populations are well above the minimum viable population size of 500 (see Table 1). Although some of the individual populations are below the minimum viable population size, those populations are connected to other populations within meta-populations, thereby increasing the species' robustness. In addition, recent population dynamics studies confirm the species' projected population stability (Van Buren and Harper 2002, pp. 1–5; Clark et al. 2006, p. 24). Demographic monitoring data suggests the species is long lived, has a low mortality rate, and has the ability to replace individuals at a rate that compensates for mortality (Van Buren and Harper 2002, pp. 2–5). The 9 current populations are functionally better than the estimated 20 populations originally identified in the recovery plan. Therefore, on the whole, the available data demonstrate that the intent of this recovery criterion has been met or exceeded.

TABLE 1.—ERIGERON MAGUIREI POPULATIONS, POPULATION ESTIMATES AND PROTECTIVE LAND MANAGEMENT DESIGNATIONS

Population	Population estimate	Number of sites	Land ownership **	Protective designations **	Percent of the species' range within the protective designation
<b>Northern San Rafael Swell Meta-Population</b>					
Calf Canyon * .....	2,000	1	BLM .....	ACEC .....	95
		2	SITLA .....	None .....	0
<b>Central San Rafael Swell Meta-Population</b>					
Coal Wash .....	100	6	BLM .....	WSA .....	90
				ACEC .....	100
Secret Mesa .....	9,000	9	BLM .....	WSA .....	90
				ACEC .....	100
	1,000	2	SITLA .....	None .....	0
Link Flats .....	200	4	BLM .....	None .....	0
	50	1	SITLA .....	None .....	0
<b>Southern San Rafael Swell Meta-Population</b>					
John's Hole .....	300	3	BLM .....	WSA .....	100
				ACEC .....	10
Seger's Hole .....	100	2	BLM .....	WSA .....	50
				ACEC .....	20
<b>Capitol Reef Meta-Population</b>					
Deep Creek .....	1,500	2	Forest Service .....	Proposed Botanical Area .....	1
	100,000	29	NPS .....	Primitive and Threshold Management Zone.	100
Capitol Reef .....	30,000	15	NPS .....	Primitive and Threshold Management Zone.	100
Waterpocket Fold .....	20,000	42	NPS .....	Primitive and Threshold Management Zone.	100
Totals .....	164,250	118	Various .....	Various .....	97

\* The Calf Canyon population estimate is from 1980. Due to inaccessibility, this site has not been revisited since 1980 and current population levels are unknown. However, other populations are doing well and there is no reason to believe that the Calf Canyon population is not also doing well (Clark 2007a). Current distribution among BLM and SITLA is also unknown although 1980 estimates suggest 25 percent of the range was on BLM land and 75 percent was on SITLA land.

\*\* SITLA = Utah's School of Public Land Trust; ACEC = Area of Critical Environmental Concern; WSA = Wilderness Study Area.

<sup>1</sup> 0% (will be 100% if proposed Botanical Area is finalized).

*Delisting Criterion Two—Establish formal land management designations for these populations which provide long-term, undisturbed habitat for Maguire daisy (Service 1995, p. ii). Delisting Criterion Three—Ensure that Maguire daisy and its habitat is protected from loss of individuals and environmental degradation (Service 1995, p. ii).* To achieve these criteria, the Recovery Plan recommends the Service and our partners “document the presence of, or, if necessary, establish formal land management designations which would provide for long-term protection for Maguire daisy and its habitat” (Service 1995, pp. ii, 6, 9, 12).

Approximately 97 percent of the species' range occurs on lands with substantial protective measures in place (see Table 1). Protections are afforded to populations occurring in Capitol Reef through the NPS General Management

Plan (Capitol Reef 1998, pp. 27–31). The BLM provides protections for populations occurring on their lands under the 1991 San Rafael Resource Management Plan (BLM 1991a, pp. 12–26, 63–64). Most of the habitat on BLM land is protected as Wilderness Study Areas or Areas of Critical Environmental Concern (see Factor D below). The BLM Price Field Office is currently proceeding with a revision of the 1991 Resource Management Plan (BLM 2004). The Record of Decision for the Final Resource Management Plan is scheduled to be completed by the summer of 2008 (BLM 2008a, p. 1). The Dixie National Forest and Fishlake National Forest released a draft Land Management Plan identifying the Billings Pass Botanical Area, which would provide protection to *Erigeron maguirei* (Forest Service 2006a, pp. 2c–17, 2c–18, 2c–43; Tait 2006). At the time

of this proposed rule, a schedule was not available for the completion of this document. The Fishlake National Forest Off-Highway Vehicle Route Designation Project (Forest Service 2006b, pp. 13, 20–21) will eliminate cross country travel on Forest Service lands throughout the range of the species; all habitat is a minimum of 0.8 km (0.5 mi) from existing or potential motorized routes on Fishlake National Forest lands (Forest Service 2006c, pp. 123, 260–263).

The Utah State School and Institutional Trust Lands (SITLA) owns lands that contain less than 2 percent of all known or estimated *Erigeron maguirei* plants. While SITLA does not have a specific management plan to benefit *E. maguirei*, we do not believe this is necessary to achieve the recovery criterion.

Since its 1985 listing, Federal land management agencies have worked collaboratively to ensure long-term protection of *Erigeron maguirei* and its habitat. Land management plans, policies, and regulations that provide protection to *E. maguirei* are in place. More information regarding the protection of *E. maguirei* through land management designations is contained within Factor D of the Summary of Factors Affecting the Species.

To further ensure these efforts continue post-delisting, the Interagency Rare Plant Team has developed the Central Utah Navajo Sandstone Endemics Conservation Agreement and Conservation Strategy (hereafter referred to as the Conservation Strategy), a multi-year joint project by the Forest Service, BLM, NPS, and the Service (Forest Service et al. 2006). We believe the Conservation Strategy will ensure conservation efforts that have occurred for the species since formation of the Interagency Rare Plant Team in 1999 will continue. The Conservation Strategy, signed by the Forest Service, BLM, NPS, and the Service in September 2006, outlines the procedural provisions under which the Federal agencies will manage *Erigeron maguirei* into the foreseeable future (Forest Service et al. 2006, pp. 24–25). In addition, the Conservation Strategy documents the conservation actions needed to manage potential factors impacting the species and to promote the conservation and perpetuation of *E. maguirei* (Forest Service et al. 2006, pp. 38–47). The Conservation Strategy can be viewed in its entirety at: <http://mountain-prairie.fws.gov/species/plants/maguiredaisy/>. Copies can also be obtained from the Utah field office (see **FOR FURTHER INFORMATION CONTACT**).

Based on the best available data, we have determined that the intent of the first criterion has been achieved and the second and third recovery criterion have been met. Current estimates suggest approximately 97 percent of all known individuals occur on lands with formal land management designations that provide for the long-term protection of the habitat. This ensures *Erigeron maguirei* and its habitat are protected from loss of individuals and environmental degradation.

#### Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. “Species” is defined by the Act as including any species or subspecies of

fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the “species” is determined we then evaluate whether that species may be endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened (as is the case with the Maguire daisy); and/or (3) the original scientific data used at the time the species was classified were in error.

A recovered species is one that no longer meets the Act’s definition of threatened or endangered. Determining whether a species is recovered requires consideration of the same five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as threatened or endangered, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act’s protections.

A species is “endangered” for purposes of the Act if it is in danger of extinction throughout all or a “significant portion of its range” and is “threatened” if it is likely to become endangered within the foreseeable future throughout all or a “significant portion of its range.” The word “range” in the significant portion of its range (SPR) phrase refers to the range in which the species currently exists. For the purposes of this analysis, we will evaluate whether the currently listed species, the *Erigeron maguirei*, should be considered threatened or endangered. Then we will consider whether there are any portions of the species’ range in danger of extinction or likely to become endangered within the foreseeable future.

Foreseeable future is determined by the Service on a case-by-case basis, taking into account a variety of species-specific factors such as lifespan, genetics, breeding behavior, demography, threat-projection timeframes, and environmental variability. In this case, we do not foresee any significant changes in the level of threats for *Erigeron maguirei*. Land management designations

(described below) provide long-term security for approximately 97 percent of known plants. Other factors once thought capable of significantly impacting the species are now predicted to have little or no impact on the species’ long-term conservation status. While we could consider the species secure in perpetuity, such a timeframe would introduce an unreasonable level of uncertainty into our analysis. Therefore, for the purpose of our analysis, we consider a timeframe over which it would be reasonable to expect population level or demographic effects to be detected. For the purposes of this proposed rule, we consider “foreseeable future” for *E. maguirei* to be up to 30 years. The species has been shown to live past 9 years of age and may live between 20 and 30 years (Van Buren and Harper 2002, appendices; England 2007). The available data also demonstrate that plants may begin flowering as early as 1 year and may be able to replace themselves within as little as 2 years, depending upon conditions (Van Buren and Harper 2002, appendices). Consideration of factors potentially impacting the species for up to 30 years would incorporate the long life of an individual and allow for up to 15 possible generations. We believe this represents a reasonable biological timeframe to measure demographic changes that could reflect potential threat factors.

The following analysis examines all five factors currently affecting, or that are likely to affect, *Erigeron maguirei* within the foreseeable future.

#### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

The current range of *Erigeron maguirei* includes 9 populations (118 sites) within 4 meta-populations across approximately 1,010 square km (390 square mi) of southeastern Utah. These populations extend from the San Rafael Swell south through the Waterpocket Fold of Capitol Reef (see Figure 1) (Clark et al. 2006, p. 17). The three largest populations, including over 91 percent of all known plants, occur primarily within Capitol Reef. One of these three populations (Deep Creek) also includes a small portion, less than 1 percent of all the known plants, on National Forest lands. The other six populations (Calf Canyon, Coal Wash, Secret Mesa, Link Flats, John’s Hole, and Seger’s Hole) are managed primarily by the BLM. A portion of three of these six populations (Calf Canyon, Secret Mesa, and Link Flats) also occurs on Utah’s School of Public Land Trust (SITLA) lands. Table

1 provides further detail on populations and land ownership.

When the species was originally listed, the main threat was loss of habitat specifically due to mining claims for uranium, energy exploration, grazing, and off-road vehicle recreation (50 FR 36089–36091, September 5, 1985). In addition, flooding has also been seen as a potential threat in the recent years. We address these threats to *Erigeron maguirei* below.

**Mineral Exploration and Development Overview**—Mineral exploration and development were listed as threats in the 1985 listing, in the 1995 Recovery Plan, and in the 1996 downlisting (50 FR 36089, September 5, 1985; Service 1995, p. 5; 61 FR 31054, 31056, June 19, 1996). Only one active mine exists within the range of *Erigeron maguirei* populations according to the Utah Mineral Occurrence System (Utah Geological Survey (UGS) 2007; Clark et al. 2006, p. 9). This mine, the Lucky Strike Mine, is discussed below.

**Uranium**—Uranium mining began in the western United States in 1871 (Ringholz 1994, p. 2). In 1952, geologist Charles Steen found the first noteworthy deposits of uranium ore in Utah (Ringholz 1994, p. 2). By the end of 1962, Utah had produced approximately 9 million tons of ore (Ringholz 1994, p. 2). The Atomic Energy Commission held ample uranium ore reserves and by 1970 stopped buying uranium (Ringholz 1994, p. 3). When nuclear power plants came on-line in the mid-1970s, a brief second boom was experienced (Ringholz 1994, p. 3). However, foreign competition, Federal regulations, and nuclear fears led to an abandonment of domestic uranium mining (Ringholz 1994, p. 3). A recent surge in prices has led to a resurgence in prospectors staking and buying up uranium claims.

According to the Utah Mineral Occurrence System database, 12 known uranium mineral locations overlap the mapped *Erigeron maguirei* populations (UGS 2007; Clark et al. 2006, p. 16). Only the Lucky Strike Mine is active (UGS 2007). This mine occurs along the southern edge of the mapped Link Flats population (Central San Rafael Swell Meta-Population) and is accessed via an existing road that enters the population from the south (UGS 2007; Clark et al. 2006, p. 9). It is not anticipated that the mine will adversely impact substantial portions of this population in the foreseeable future as it lies on the periphery of the population and is accessed via an existing road. The remaining 11 locations include 6 sites that never produced and 5 sites that only reached small production levels (UGS 2007). All 11 of these locations

occur on the periphery of the mapped populations (UGS 2007; Clark et al. 2006, p. 16).

Uranium is restricted to geologic formations such as the Moss Back Member, Monitor Butte Member, and the Mottled Siltstone Unit of the Chinle Formation, while the Maguire daisy primarily occurs in the Navajo Sandstone geologic formation. The most substantial impact of uranium mining would likely be indirectly from crossing suitable habitat while accessing the desired geologic formation (Utah Geological Survey (UGS) 2007; Clark et al. 2006, p. 20). Based on the locations of past exploration coupled with the geologic requirements of uranium, we foresee minimal potential impacts from uranium mining to the species as a whole in the foreseeable future.

**Gypsum**—Although not specifically mentioned in any previous Service threats assessment, gypsum mining also occurs in the vicinity of *Erigeron maguirei*. While *E. maguirei* does not occur in the geologic formation that contains commercial quality gypsum, suitable habitat may be crossed while accessing the more desirable geologic formations (Clark et al. 2006, p. 20). According to the Utah Mineral Occurrence System database, one gypsum occurrence that never produced lies within the mapped Deep Creek population within Capitol Reef (UGS 2007). This occurrence is located on the periphery of the mapped population and within the Primitive Management Zone (Capitol Reef 1998, p. 27; UGS 2007). NPS regulations protect this population by limiting access (Capitol Reef 1998, p. 27). Travel through this Management Zone is limited to cross-country hiking or horseback riding on unimproved trails and routes (Capitol Reef 1998, pp. 28–29). Within the Primitive Management Zone, developments are not permitted and physical modifications are not allowed except for natural or cultural resource protection (Capitol Reef 1998, p. 29). More importantly, lands are withdrawn from mining and mineral exploration in Capitol Reef (Clark et al. 2006, p. 21). Therefore, gypsum mining impacts to the *E. maguirei* are not likely in the foreseeable future.

**Oil Shale and Tar Sands**—The Conservation Strategy does not recognize oil shale and tar sands as a threat (Forest Service et al. 2006, p. 37). However, the mapped populations of Calf Canyon, Secret Mesa, and Link Flats overlap the mapped tar sand areas as depicted on the Energy Resources Map of Utah (Automated Geographic Reference Center (AGRC) 2001a, 2001b; Clark et al. 2006, p. 9). Tar sands are a

mixture of sand or clay, water, and extremely heavy crude oil. Typically, strip mining is the most efficient method of extraction, but other approaches include the injection of steam and/or solvents to reduce the oils viscosity allowing the oil to be pumped out of the well.

Ten percent of the mapped Calf Canyon population overlaps that of the mapped high probability tar sand areas and probable tar sand areas (AGRC 2001b; Clark et al. 2006, p. 9). The Secret Mesa population contains a small area of tar sands (AGRC 2001a; Clark et al. 2006, p. 9). The Link Flats population contains a small area of tar sands, and approximately 2 percent of the mapped area overlaps that of the mapped probable and highly probable tar sand areas (AGRC 2001a, 2001b; Clark et al. 2006, p. 9). Portions of the mapped Calf Canyon, Secret Mesa, and Link Flats populations have been identified in the Draft Oil Shale and Tar Sands Resource Management Plan Amendments to Address Land Use Allocations in Colorado, Utah, and Wyoming and Programmatic Environmental Impact Statement (BLM 2007, pp. 3–127 and 3–163; Clark et al. 2006, p. 9). The purpose of the draft programmatic Environmental Impact Statement is to describe where oil shale and tar sands resources are present, and to decide which areas will be open to application for commercial leasing, exploration, and development (BLM 2007, pp. 1–2). The final Programmatic Environmental Impact Statement is expected to be published in 2008 (BLM 2008b). A final determination on this proposed delisting rule will not be completed until the programmatic Environmental Impact Statement is finalized; and the Record of Decision will be analyzed as part of our final determination. If tar sands development does occur in the San Rafael Swell area, the loss of significant portions of these populations from this activity is not anticipated because the mineral resources occur along the periphery of the mapped populations and only contain a small percentage of the mapped area.

Impacts to individual plants from tar sands development may still occur. These impacts can be a result of vegetation clearing, habitat fragmentation, alteration of topography, changes in drainage patterns, erosion, sedimentation from runoff, oil and contaminant spills, fugitive dust, injury or mortality of individual plants, human collection, increased human access, spread of invasive plant species, and air pollution (BLM 2007, pp. 5–77). In addition, we believe the development of

tar sands may also impact pollinator species. Given where development is likely to occur and the locations of where plants occur, we expect impacts to the species to be minor.

Additionally, protective land management designations apply to the Secret Mesa population. Ninety percent of the BLM portion of the mapped Secret Mesa population occurs within Sid's Mountain and Devils Canyon WSAs (Clark et al. 2005, pp. 16–17; Ivory 2006). As stated previously, WSAs are designated as primitive-class areas and are to be managed free of evidence of human use and to maintain an environment of isolation (BLM 1991a, p. 89). Only temporary uses, and those that create no new surface disturbance nor involve permanent placement of structures, are permitted within WSAs (BLM 1976, p. 2). All WSAs are closed to use and development of minerals (BLM 1991a, pp. 19, 64).

**Oil and Gas Exploration and Development**—Oil and gas exploration and development were listed as threats in the listing rule, Recovery Plan, and downlisting rule (50 FR 36089, September 5, 1985; Service 1995, p. 5; 61 FR 31054, 31056, June 19, 1996). Oil and gas leases were located in the area of the last known *Erigeron maguirei* site at the time of the 1985 listing (50 FR 36090, September 5, 1985).

Lands within Capitol Reef have been withdrawn from oil and gas exploration and development (Forest Service et al. 2006, p. 56). The BLM and Forest Service lands are open to oil and gas leasing, but the potential for oil and gas is low in the Navajo Sandstone formation where *Erigeron maguirei* occurs (Forest Service et al. 2006, p. 34).

Within BLM-administered mineral resources, oil and gas leases that were issued prior to the BLM Resource Management Plan are managed under the stipulations that were in effect when the lease was issued (BLM 1991a, p. 11). Any leases issued after the Plan was signed must comply with the Resource Management Plan (BLM 1991a, p. 11, map 5). The Plan identifies specific management prescriptions by ACEC (BLM 1991a, pp. 14–15). The known *Erigeron maguirei* populations on BLM administered lands occur within the San Rafael Canyon (middle portion), Sid's Mountain, Highway I–70 Scenic Corridor, Muddy Creek, and Seger's Hole ACECs (Clark et al. 2005, pp. 16–17; Ivory 2006). The San Rafael Canyon ACEC (middle portion) is open to leasing, but surface restrictions apply (BLM 1991a, p. 14). According to the Conservation Strategy, BLM will adjust surface disturbance locations to avoid *E. maguirei* for discretionary and leasable

minerals including the San Rafael Canyon ACEC (middle portion) (Forest Service et al. 2006, pp. 34, 36–38, 42–44). The remaining ACECs that contain *E. maguirei* populations have no-surface-occupancy stipulations for oil and gas development attached to the lease (BLM 1991a, p. 14). Leasing with “no surface occupancy” means that there will be no development or disturbance whatsoever of the land surface, including establishment of wells or well pads, and construction of roads, pipelines, or powerlines. WSAs with *E. maguirei* populations, including the Sid's Mountain, Devils Canyon, and Muddy Creek WSAs, are open for leasing, but also have no-surface-occupancy stipulations (BLM 1991a, pp. 14, 64).

Seven wells have been sited within the mapped Secret Mesa and Coal Wash populations, but all of them have been plugged and abandoned (Clark et al. 2006, p. 9; Utah Division of Oil, Gas, and Mining (UDOGM) 2006a). While limited exploration has occurred, no known oil or gas fields exist within the known *Erigeron maguirei* populations and the potential for development is low (AGRC 2001c; Clark et al. 2006, p. 21; UDOGM 2006b, Forest Service et al. 2006, p. 34). The only gas field in the vicinity of the *E. maguirei* is the Last Chance Gas Field located approximately 11 km (7 mi) west of the Seger's Hole population and 10 km (6 mi) north of the Deep Creek population (AGRC 2001c; Chidsey et al. 2005; Clark et al. 2006, p. 16; UDOGM 2006b). Based on the lack of supporting evidence of viable oil and gas fields within the vicinity of the *E. maguirei* and the land management designations affording protections to the species, oil and gas exploration and development is no longer considered a threat, nor is it likely to become one within the foreseeable future.

**Recreational Use**—Recreational use, including off-road vehicles and human foot traffic, have previously been cited as threats to the species (50 FR 36090, September 5, 1985; Service 1995, p. 5; 61 FR 31056, June 19, 1996). *Erigeron maguirei* habitat does not occur within 0.8 km (0.5 mi) of classified or potentially designated motorized routes on Fishlake National Forest lands (Forest Service 2006c, pp. 123, 260–263). According to the Fishlake National Forest Off-Highway Vehicle Route Designation Project, it is unlikely that motorized traffic would infringe upon the *E. maguirei* population on Forest Service land, thereby, providing protections from this threat to this portion of the species' range (Forest Service 2006c, p. 263). Capitol Reef,

which comprises 91 percent of the species' total population, is closed to off-road vehicle use (Clark et al. 2006, p. 20).

Almost 6 percent of individual plants occur on lands administered by the BLM, of which approximately 80 percent occur within an ACEC and/or WSA (Kass 1990, p. 23; BLM 1991a, pp. 63–64; Clark et al. 2006, p. 18; Ivory 2006). Four of the six *Erigeron maguirei* populations that occur on BLM lands are within the Sid's Mountain, Muddy Creek, and Devils Canyon WSA (Kass 1990, p. 23; Clark et al. 2005, p. 19; Ivory 2006). These WSAs are either closed to motorized vehicles or use is limited to designated roads and trails (BLM 1991a, pp. 63–64, 68, 89; Clark et al. 2006, p. 20). San Rafael Canyon (middle portion), Sid's Mountain, Highway I–70 Scenic Corridor, Muddy Creek, and Seger's Hole ACECs contain five of the six known populations on BLM lands (Clark et al. 2005, pp. 16–17; Ivory 2006). These areas have either been closed to off-road vehicle use or use has been limited to designated roads and trails (BLM 1991a, p. 68).

*Erigeron maguirei* is not prone to human disturbance because it grows primarily in cliff crevices and on sandstone domes (Clark 2002, p. 16). From 2000 to 2002, 60 sites were included within a Capitol Reef study on signs of human impacts (Clark 2002, pp. 12–16). Only 2 of these sites showed any signs of human impacts (in both cases foot traffic through the site) (Clark 2002, pp. 15–16). At one site monitored with an electronic counter, visitor use remained fairly stable at 10 visitors per week (Clark et al. 2006, p. 21). After over a decade of monitoring, human trampling may have impacted some individuals, but has not led to a reduction in population survivability (Clark et al. 2006, p. 21). Therefore, impacts from recreation are not a threat to *E. maguirei* populations in the foreseeable future.

**Floods**—Two of four Capitol Reef sites monitored between 1992 and 2001 have experienced flash flood events (Van Buren and Harper 2002, p. 1). At one site, a flash flood event likely resulted in 48 plants being lost (Van Buren and Harper 2002, p. 2). However, the species is long lived and shows an ability to replace individuals lost to periodic flooding (Van Buren and Harper 2002, pp. 4–5). Therefore, flood events possessing the potential to meaningfully impact *Erigeron maguirei* populations are unlikely in the foreseeable future.

**Summary of Factor A**—Mineral exploration and development, and recreational use were listed as threats to *Erigeron maguirei* in the 1985 listing



rule, 1995 Recovery Plan, and 1996 downlisting rule (50 FR 36089, September 5, 1985; Service 1995, p. 5; 61 FR 31054, June 19, 1996). Since the last Federal action, recovery efforts have increased our understanding of the species, its habitat, and its distribution and abundance (61 FR 31054–31058, June 19, 1996; Harper and Van Buren 1998, p. 2; Clark and Clark 1999, p. 47; Clark 2001, p. 3; Clark 2002, pp. 13–14; Clark et al. 2005, p. 17; Clark et al. 2006, p. 17). The species occurs predominantly within the Navajo Sandstone formation, which has low potential for oil and gas development and uranium mining (Forest Service et al. 2006, p. 37). Most mineral resources (like gypsum, tar sands, and oil shale) occur on the periphery of mapped populations and, therefore, are not likely to meaningfully impact any of the populations. Impacts from fragmentation are also expected to be minor. Land management protections throughout most of the species' range and an increased understanding of the species' habitat have reduced the threat of recreational use. While potential impacts to individuals could occur when either accessing the mineral resources or during recreational use, these activities are considered unlikely to materialize in a meaningful way in the foreseeable future, would be limited to small periphery portions of populations, and would not reduce the long-term viability of any of the populations. In addition, land management designations, which have been discussed briefly in this section and will be discussed in more detail under Factor D, will continue to provide protections for *E. maguirei* and its habitat in the foreseeable future.

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

*Erigeron maguirei* is not a highly collected or sought-after species. One group was known to be propagating *E. maguirei* for private use (a European group was propagating *E. maguirei* for rock garden enthusiasts) (Forest Service et al. 2006, p. 35; Clark 2007b), but no longer appears to be offering plants for sale (Megown 2007). To date, unauthorized plant and seed collection has not been documented for this species (Forest Service et al. 2006, p. 35). Although the Interagency Rare Plant Team working under the Conservation Strategy will continue to monitor for illegal collection activity (Forest Service et al. 2006, p. 35), we do not believe overutilization to be a current threat to the species, nor likely to be in the foreseeable future.

#### *C. Disease or Predation*

At the time of listing, plants were observed only in rocky areas inaccessible to cattle grazing (50 FR 36090, September 5, 1985), and not in canyon bottoms where plants were originally located in 1940 and 1980. Because the plants could not be relocated in the canyon bottoms, scientists believed that predation due to cattle grazing had reduced the species' distribution (50 FR 36090, September 5, 1985; 61 FR 31056, June 19, 1996; Harper and Van Buren 1998, p. 2). By the time the Recovery Plan was drafted, it concluded that the majority of the *Erigeron maguirei* populations were relatively secure from direct impacts of livestock trampling, but it could be a localized threat in some areas (Service 1995, p. 5). We concluded in the final downlisting rule that concentrations of livestock in localized areas, specifically wash bottoms that have limited vegetation, may result in *E. maguirei* being grazed by livestock (61 FR 31056, June 19, 1996; Kass 1990, p. 28). The species is now known to prefer cliffs or rock crevices that are inaccessible to livestock (Kass 1990, p. 27; Service 1995, p. 2; Clark 2001, p. 15; Clark et al. 2005, pp. 12, 22, 24; Clark et al. 2006, pp. 21–22; Forest Service et al. 2006, p. 56). *Erigeron maguirei* plants within canyon bottoms are small, incidental occurrences, apparently established from seeds dispersed by wind or overland flow from source populations on the mesa tops (Heil 1989, p. 25; Kass 1990, p. 27; Service 1995, p. 2).

Although seven of the nine *Erigeron maguirei* populations occur within cattle allotments, all seven of these populations are inaccessible to cattle grazing due to terrain conditions (Forest Service et al. 2006, p. 56). Of the two remaining populations, the Waterpocket Fold population in Capitol Reef, estimated at approximately 20,000 individuals on 42 sites, has a history of cattle trailing (Forest Service et al. 2006, p. 56). Cattle trailing, or moving cattle through the area, has occurred at this site about once every 5 years for the past 100 years (Clark et al. 2006, pp. 21, 25). Cattle trailing has impacted, and is expected to continue to impact, only a few individual plants (Clark et al. 2006, pp. 21, 25). The Conservation Strategy states that Capitol Reef will monitor for potential impacts as well as identify and implement management actions and guidelines that will help maintain long-term sustainability and conservation of the population (Forest Service et al. 2006, pp. 35–37). Additionally, grazing range improvements outside of the range of *E. maguirei* serve to draw cattle

further away from *E. maguirei* populations (Clark et al. 2006, pp. 21, 25). Because we now know that *E. maguirei* primarily occurs in areas inaccessible to livestock, in combination with the increased population and distribution, grazing is no longer considered a threat, nor is it likely to become one within the foreseeable future.

#### *D. The Inadequacy of Existing Regulatory Mechanisms*

Prior to the species' 1985 listing, no Federal or State laws protected *Erigeron maguirei* (50 FR 36090, September 5, 1985). Since then, substantial protections have been secured. The BLM Management Plan has provided protection to *E. maguirei* and its habitat in the San Rafael Swell areas (BLM 1991a; 61 FR 31056, June 19, 1996). The completion and implementation of the National Park Service Capitol Reef Management Plan has provided protection to the largest populations of *E. maguirei* and its habitat (61 FR 31056, June 19, 1996). Habitat for *E. maguirei* does not occur within 0.8 km (0.5 mi) of classified or potentially designated motorized routes on Fishlake National Forest lands (Forest Service 2006c, pp. 123, 260–263). In addition, the proposed Fishlake National Forest Management Plan would afford protections to the remaining portions of the Capitol Reef Meta-Population through the designation of the Billings Pass Botanical Area (Forest Service 2006a, pp. 2c–17, 2c–18, 2c–43; Tait 2006).

Over 98 percent of known *Erigeron maguirei* plants occur on lands managed by Capitol Reef (91 percent), BLM Price Field Office (6 percent), and Fishlake National Forest (1 percent) (Clark et al. 2006, p. 16) (Table 1). Less than 2 percent of the known population occurs on lands administered by SITLA where no protections for *E. maguirei* exist (Clark et al. 2006, p. 16) (Table 1).

On BLM lands, WSAs are managed according to the Interim Management Policy for Lands under Wilderness Review, BLM Handbook 8550–1, until Congress either designates them into the National Wilderness Preservation System or releases them from wilderness study for other purposes (BLM 1976, p. 1). In 1991, BLM recommended to Congress that: 100 percent of the Muddy Creek WSA be made permanent wilderness; 99 percent of the Sid's Mountain WSA be made permanent wilderness; and none of the Devils Canyon WSA be made permanent wilderness (BLM 1991b, pp. 795, 807, 817). The Devils Canyon WSA includes approximately 10 percent of the BLM portion of the Secret Mesa population

(Ivory 2007). Given BLM's support for the permanent protection of the majority of the WSAs where *Erigeron maguirei* occurs, we believe Congressional release from the National Wilderness Preservation System is unlikely.

Four of the six known populations of *Erigeron maguirei* that occur on lands administered by the BLM are within the Muddy Creek, Sid's Mountain, and Devils Canyon WSA (Kass 1990, p. 23; BLM 1991a, pp. 63–64; Clark et al. 2005, p. 19; Ivory 2006). One-hundred percent of the John's Hole and 50 percent of the Seger's Hole populations occur within the Muddy Creek WSA (Clark et al. 2006, p. 16; Ivory 2006). Ninety percent of the Coal Wash population occurs within the Sid's Mountain WSA (Clark et al. 2006, p. 16; Ivory 2006). Ninety percent of the portion of the Secret Mesa population on BLM lands occurs within the Sid's Mountain and Devils Canyon WSAs (Clark et al. 2006, p. 16; Ivory 2006). The Links Flats population is the only occurrence on BLM lands without any portion of the population protected as a WSA. Table 1 further illustrates the various protections in place on each of these populations.

Except for grandfathered uses, the lands under wilderness review must be managed so as not to impair their suitability for preservation as wilderness (BLM 1976, p. 2). Grazing, a non-threat as discussed above, is the only grandfathered use exempt from no surface occupancy stipulations. No surface disturbance stipulations apply to grandfathered mining and mineral extraction. While lands under wilderness review may not be closed to future appropriation under the mining laws, no surface occupancy stipulations apply in order to preserve their wilderness character (BLM 1976, p. 2). Temporary uses are permitted within WSAs as long as they create no new surface disturbance and do not involve permanent placement of structures (BLM 1976, p. 2).

The BLM San Rafael Resource Management Plan was approved on May 24, 1991 (BLM 1991a). *Erigeron maguirei* is provided protection through land use planning decisions, including the designation of ACECs (BLM 1991a). Five of the six known populations of *E. maguirei* that occur on lands administered by the BLM are within the San Rafael Canyon (middle portion), Sid's Mountain, Highway I–70 Scenic Corridor, Muddy Creek, and Seger's Hole ACECs (Clark et al. 2005, p. 16; Ivory 2006). Twenty-five percent of Calf Canyon population's range occurs on BLM land, of which 95 percent occurs within the San Rafael Canyon ACEC (middle portion) (Clark et al. 2006, p.

16; Ivory 2006). One-hundred percent of the Coal Wash population occurs within the Sid's Mountain ACEC (Clark et al. 2006, p. 16; Ivory 2006). One-hundred percent of the portion of the Secret Mesa population on BLM land occurs within the Sid's Mountain ACEC or Highway I–70 Scenic Corridor ACEC (Clark et al. 2006, p. 16; Ivory 2006). Ten percent of the John's Hole population's range occurs within the Muddy Creek ACEC (Clark et al. 2006, p. 16; Ivory 2006). Twenty percent of the Seger's Hole population's range occurs within the Seger's Hole ACEC (Clark et al. 2006, p. 16; Ivory 2006). The Links Flats population is the only occurrence on BLM lands without any portion of the population protected as an ACEC. Table 1 further illustrates the various protections in place for each population and highlights where ACECs and WSAs overlap.

Special management conditions that apply to all WSAs and ACECs include: Open to mineral entry with plans of operations; avoided for right-of-way grants; excluded from private and commercial use of woodland products, except for limited onsite collection of downed dead wood for campfires; designated as closed to off-road vehicle use when ACEC is within a WSA or WSA has been designated as primitive, otherwise use is limited to designated roads and trails; and they are subject to fire suppression with special conditions (BLM 1991a, pp. 14, 64–69, 81–89).

The Highway I–70 Scenic Corridor, Muddy Creek, Seger's Hole, and Sid's Mountain ACECs are open to mineral leasing, but no-surface-occupancy stipulations must be attached to the lease. These areas are also closed for disposal of mineral materials; open to range improvements with special conditions; excluded from land treatments; and are designated as Visual Resource Management Class I (described above) (BLM 1991a, pp. 14, 64, 81–82). An exception to the no-surface-occupancy stipulation may be granted in the Highway I–70 Scenic Corridor ACEC if an environmental assessment concludes that the proposed action would not adversely affect scenic values (BLM 1991a, pp. 14, 81–82).

The San Rafael Canyon ACEC (middle portion) is open to mineral leasing with surface restrictions; open for disposal of mineral materials with special conditions; excluded from range improvements and land treatments unless used to protect or improve riparian values; and is designated as Visual Resource Management Class II (BLM 1991a, pp. 14, 64, 81–82). The objective of this class is to retain the existing character of the landscape. The

level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape.

The Highway I–70 Scenic Corridor, Muddy Creek, San Rafael Canyon (Middle Portion), Seger's Hole, and Sid's Mountain ACECs are managed to protect scenic values (BLM 1991a, pp. 82–85). The Muddy Creek ACEC also contains the Tomsich Butte special emphasis area, which is managed to protect historic values (BLM 1991a, p. 82).

The BLM Price Field Office is proceeding with a revision of the 1991 Resource Management Plan (BLM 2004). Final decisions on special designations will be made in the Final Resource Management Plan by the summer of 2008 (BLM 2008a, p. 1). The WSA designations will remain until Congress acts to remove them from this status, or they are determined to be Wilderness Areas. The protective management resulting from ACEC designations could be revised by this process. Not all of the Draft Resource Management Plan alternatives contain ACEC designations. Our final determination on this proposed delisting rule will not be completed before the conclusion of this process and will consider the final decisions regarding these ACECs.

National Parks are administered under the provisions of "An Act to establish a National Park Service and for other purposes approved August 25, 1916" (39 Stat. 535), as amended and supplemented (commonly referred to as the "Organic Act" because it created the National Park System) (16 U.S.C. 1, 2–4). The Organic Act specifies that the NPS is to "promote and regulate the use of the Federal areas known as national parks, monuments, and reservations \* \* \* which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Capitol Reef National Park, which contains approximately 91 percent of the *Erigeron maguirei* individuals, has land management policies in place that afford protection to the species. Capitol Reef's 1998 Final General Management Plan/Development Concept Plan defines Primitive and Threshold Management Zones within the Park (Capitol Reef 1998, pp. 27–31). All Capitol Reef *E. maguirei* sites are located within these

Management Zones (Clark 2006a). Travel through the Primitive Management Zones is limited to cross-country hiking or horseback riding on unimproved trails and routes and travel within the Threshold Management Zone is on paved or two-wheel drive, low clearance, all-weather roads (Capitol Reef 1998, pp. 28–31). Grazing is not allowed within either of these zones (Capitol Reef 1998, pp. 28–31). Within the Primitive Management Zone, developments are not permitted and physical modifications are not allowed except for natural or cultural resource protection (Capitol Reef 1998, p. 29). Limited development is provided in the Threshold Management Zone, but no new major structures or facilities are allowed (Capitol Reef 1998, p. 31). The remoteness of the species and its preference of the Navajo Sandstone formation, which is predominantly on top of mesas and other inaccessible areas, render the habitat for *E. maguirei* safe from development.

The 2006 NPS Management Policies Section 4.4.1.1, Plant and Animal Population Management Principles, states that the NPS will maintain all native plant and animal species and their habitats inside parks. In addition, these policies state that “the (National Park) Service will work with other land managers to encourage the conservation of the populations and habitats of these species outside parks whenever possible” (NPS 2006, p. 62).

The National Forest Management Act (1976) directs National Forests to manage habitat to maintain viable populations of existing native and desired nonnative vertebrate species in habitat distributed throughout their geographic range on National Forest System lands (Forest Service 1976). In 1983, U.S. Department of Agriculture Departmental Regulation 9500–4 provided further direction to the Forest Service, expanding the viability requirements to include plant species (U.S. Department of Agriculture 1983, p. 2). While the 2005 Forest Service planning regulations (70 FR 1023, January 5, 2005) would have eliminated species’ viability requirements, these regulations were remanded by the court on March 30, 2007 (*Citizens for Better Forestry v. U.S. Department of Agriculture* (Northern District of California 2007)).

Because *Erigeron maguirei* was not known to occur on Forest Service lands in 1986, the current Forest Service land management plan does not identify *E. maguirei* as occurring within the National Forest (Forest Service 1986). Less than 1 percent of all known plants occur on National Forest Service lands.

Of these, the current mapped range of *E. maguirei* on Forest Service lands is as follows: Approximately 33 percent is designated as a Semi-Primitive Non-Motorized area; approximately 65 percent is designation as an Intensive Livestock Management area; and the remaining 2 percent is designated a Wood Fiber Non-Sawtimber area.

In December 2006, the Fishlake National Forest finalized their Off-Highway Vehicle Route Designation Project providing further protections for this area (Forest Service 2006b). Under this plan, motorized routes on Fishlake National Forest lands can not occur within 0.8 km (0.5 mi) of the Deep Creek population (Forest Service 2006c, pp. 123, 260–263).

In June 2006, the Dixie and Fishlake National Forests released a draft revision to their land management plan (Forest Service 2006a). The proposed Billings Pass Botanical Area encompasses all the habitat administered by the Forest Service within the Capitol Reef Meta-Population (Forest Service 2006a, pp. 2c–17, 2c–18, 2c–43; Tait 2006). Additional suitable habitat exists outside of this Botanical Area, but it has not yet been surveyed (Tait 2006). The emphasis for this area is on maintaining the endemic plants that live in the area (Forest Service 2006a, pp. 2c–18). The Billings Pass Botanical Area is within the semi-primitive non-motorized use area where travel is restricted to hiking and horseback riding (Forest Service 2006a, pp. 1b–34, 1b–37). At the time of this proposed delisting rule, a schedule was not available for the completion of the final Dixie National Forest and Fishlake National Forest Land Management Plan.

The portion of the range owned by SITLA, which contains less than 2 percent of all known or estimated Maguire daisy plants, does not have any special management to benefit *Erigeron maguirei*. SITLA’s mission mandates that revenue is the only factor considered in management and sale decisions. About 75 percent of the range of the Calf Canyon population (last surveyed in 1980) is on land owned by SITLA. About 10 percent of the Secret Mesa population occurs on SITLA lands. And about 20 percent of the Link Flats population occurs on SITLA lands. In total, SITLA manages about 2 percent of all known or estimated Maguire daisy plants (see Table 1).

**Summary of Factor D:** In conclusion, Federal land management agencies have worked collaboratively since listing to ensure long-term protection of *Erigeron maguirei* and its habitat. Land management plans, policies, and regulations that provide protection to *E.*

*maguirei* are now in place and include: (1) Capitol Reef Primitive and Semi-Primitive Management Zones; (2) BLM WSAs and ACECs; and (3) Forest Service semi-primitive non-motorized designations. If the proposed Fishlake National Forest Botanical Area is finalized, this will provide additional protections for Forest Service’s portion of the Capitol Reef Meta-Population. The threat due to inadequacy of existing regulatory mechanisms is no longer applicable.

Furthermore, the Interagency Rare Plant Team’s collaborative efforts will continue to benefit *Erigeron maguirei*. Most recently, this team developed the Conservation Strategy (Forest Service et al. 2006, pp. 5–6). Through the Conservation Strategy the agencies have committed to survey and monitor *E. maguirei* (and other species) and implement management to ensure the population remains stable after delisting (Forest Service et al. 2006, p. 5). The Conservation Strategy outlines the procedural provisions that will guide Federal agencies’ future management of the *E. maguirei* and other species (Forest Service et al. 2006, pp. 24–25). In addition, this Conservation Strategy commits the Federal agencies, to the extent practicable, to implement the conservation actions needed to reduce or eliminate potential threats and to promote the conservation and perpetuation of *E. maguirei* and other species (Forest Service et al. 2006, pp. 38–47). The Conservation Strategy can be viewed in its entirety at: <http://mountain-prairie.fws.gov/species/plants/maguiredaisy/>. Copies can also be obtained from the Utah field office (see **FOR FURTHER INFORMATION CONTACT** section).

#### *E. Other Natural or Manmade Factors Affecting its Continued Existence*

The 1985 final listing rule mentioned that the genetic viability of *Erigeron maguirei* was thought to be greatly reduced due to the small known population size, geographic separation, and reproductive isolation (50 FR 36090, September 5, 1985). The June 19, 1996, final rule reclassifying *E. maguirei* to threatened also listed inbreeding and loss of genetic variability as potential threats since the species continued to be known only from small, reproductively isolated populations (61 FR 31056, June 19, 1996).

As discussed previously, recovery efforts have substantially increased the known number and distribution of *Erigeron maguirei* individuals rangewide. These newly discovered sites provide connectivity between the known sites identified since we

published the final listing and downlisting rules and Recovery Plan, thus reducing inbreeding threats posed by geographic separation and reproductive isolation (50 FR 36089–36092, September 5, 1985; Service 1995, p. 5; 61 FR 31054–31058, June 19, 1996; Clark et al. 2006, p. 24). In addition, populations in the Capitol Reef area are separated by short distances and are connected to contiguous habitat (Clark et al. 2006, p. 24). A similar situation exists within the San Rafael Swell area where most suitable habitat occurrences are separated by short distances (Clark et al. 2006, p. 24). Additional survey work here would also likely find additional sites connecting populations and Meta-Populations. Due to the number of populations and individuals of *E. maguirei* found and the inter-connectivity of the habitat, the species is no longer considered to be threatened by a loss of genetic variability.

Pesticide use is known to occur within Capitol Reef's Fruita Rural Historic District; a cultural area on the National Register of Historic Places (Alston and Tepedino 2005, p. 10). This area must be managed effectively for fruit production (Alston and Tepedino 2005, p. 10). Management includes spraying apple and pear trees with the pesticide Phosmet in order to control the codling moth (*Cydia pomonella*) (Alston and Tepedino 2005, p. 10). Capitol Reef's Integrated Pest Management program states that the use of Phosmet may affect nearby populations of threatened and endangered species, including *Erigeron maguirei* (Alston and Tepedino 2005, pp. 10–11). Alston and Tepedino (2005, p. 11) studied an *E. maguirei* site near the orchard (1.8 km/1.1 mi) and one further away (5.7 km/3.5 mi), finding no significant difference in productivity. No other routine pesticide use is known to occur within the range of *E. maguirei*. Thus, the best scientific data available does not suggest the current use of the Phosmet insecticide is a threat to *E. maguirei* (Alston and Tepedino 2005, p. 61).

When the Recovery Plan was written, the demographic stability of the various populations was not known (Service 1995, p. 5). Van Buren and Harper (2002, p. 2) conducted demographic monitoring studies for three *Erigeron maguirei* populations from 1992 to 2001. Their studies have found *E. maguirei* to be relatively long lived with low mortality. The species has the ability to replace individuals at a rate that compensates for mortality (Van Buren and Harper 2002, p. 5).

**Summary of Factor E:** In conclusion, reduced genetic variability, inbreeding

posed by geographic separation and reproductive isolation, and the use of Phosmet as an insecticide in the Capitol Reef's Fruita Rural Historic District do not threaten with extinction *Erigeron maguirei* in all or a significant portion of the range currently or within the foreseeable future.

### Conclusion of 5-Factor Analysis

As required by the Act, we considered the five potential threat factors to assess whether *Erigeron maguirei* is threatened or endangered throughout all or a significant portion of its range. When considering the listing status of the species, the first step in the analysis is to determine whether the species is in danger of extinction throughout all of its range. If this is the case, then the species is listed or remains listed in its entirety. For instance, if the threats on a species are acting only on a portion of its range, but they are at such a large scale that they place the entire species in danger of extinction, we would list or continue to list the entire species.

We have carefully assessed the best scientific and commercial data available and determined there is no information to suggest the species is either in danger of extinction throughout all of its range or likely to become endangered in the foreseeable future throughout all its range. Recovery efforts have identified approximately 164,250 *Erigeron maguirei* individuals over an estimated range of 1,010 square km (390 square mi) (Clark et al. 2006, p. 17). This represents a substantial increase from the time of listing in 1985, when the species was known from 7 individuals on BLM land limited to the upper ends of branches of Pine Canyon (49 FR 30211, July 27, 1984); and from 1996 when the species was downlisted to threatened, when taxonomic revision had increased the total population of *E. maguirei* to approximately 3,000 plants within 5 populations from the San Rafael Swell in Emery County to Capitol Reef in Wayne County (59 FR 46220, September 7, 1994). Current populations appear stable, threats to the species have been addressed, and adequate regulatory mechanisms ensure the species is not currently and is not likely to again become threatened or endangered in all of its range.

Having determined that *Erigeron maguirei* does not meet the definition of threatened or endangered throughout all of its range, we must next consider whether there are any significant portions of its range that are in danger of extinction or are likely to become endangered in the foreseeable future. On March 16, 2007, a formal opinion was issued by the Solicitor of the

Department of the Interior, "The Meaning of 'In Danger of Extinction Throughout All or a Significant Portion of Its Range'" (U.S. DOI 2007). We have summarized our interpretation of that opinion and the underlying statutory language below. A portion of a species' range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species.

The first step in determining whether a species is threatened or endangered in a significant portion of its range is to identify any portions of the range of the species that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and threatened or endangered. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that (i) the portions may be significant and (ii) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the range that are unimportant to the conservation of the species, such portions will not warrant further consideration.

If we identify any portions that warrant further consideration, we then determine whether in fact the species is threatened or endangered in any significant portion of its range. Depending on the biology of the species, its range, and the threats it faces, it may be more efficient in some cases for the Service to address the significance question first, and in others the status question first. Thus, if the Service determines that a portion of the range is not significant, the Service need not determine whether the species is threatened or endangered there; conversely, if the Service determines that the species is not threatened or endangered in a portion of its range, the Service need not determine if that portion is significant.

The terms "resiliency," "redundancy," and "representation" are

intended to be indicators of the conservation value of portions of the range. Resiliency of a species allows the species to recover from periodic disturbance. A species will likely be more resilient if large populations exist in high-quality habitat that is distributed throughout the range of the species in such a way as to capture the environmental variability within the range of the species. It is likely that the larger size of a population will help contribute to the viability of the species. Thus, a portion of the range of a species may make a meaningful contribution to the resiliency of the species if the area is relatively large and contains particularly high-quality habitat or if its location or characteristics make it less susceptible to certain threats than other portions of the range. When evaluating whether or how a portion of the range contributes to resiliency of the species, it may help to evaluate the historical value of the portion and how frequently the portion is used by the species. In addition, the portion may contribute to resiliency for other reasons—for instance, it may contain an important concentration of certain types of habitat that are necessary for the species to carry out its life-history functions, such as breeding, feeding, migration, dispersal, or wintering.

Redundancy of populations may be needed to provide a margin of safety for the species to withstand catastrophic events. This does not mean that any portion that provides redundancy is a significant portion of the range of a species. The idea is to conserve enough areas of the range such that random perturbations in the system act on only a few populations. Therefore, each area must be examined based on whether that area provides an increment of redundancy that is important to the conservation of the species.

Adequate representation ensures that the species' adaptive capabilities are conserved. Specifically, the portion should be evaluated to see how it contributes to the genetic diversity of the species. The loss of genetically based diversity may substantially reduce the ability of the species to respond and adapt to future environmental changes. A peripheral population may contribute meaningfully to representation if there is evidence that it provides genetic diversity due to its location on the margin of the species' habitat requirements.

Applying the process described above for determining whether a species is threatened in a significant portion of its range, we next addressed whether any portions of the range of *Erigeron maguirei* warranted further

consideration. We noted that, as discussed in Factor A, there are several small geographic areas where localized mineral extraction activities remain as a potential threat in the foreseeable future. However, we concluded that these did not warrant further consideration because we believe such activities are unlikely to materialize in a meaningful way and if they do materialize, would be limited to small areas on the periphery of populations and there was no substantial information suggesting that these peripheral areas were significant portions of the range. Therefore, there is no substantial information that *E. maguirei* in these areas were likely to become in danger of extinction in the foreseeable future.

In summary, we have determined that none of the existing or potential threats, either alone or in combination with others, are likely to cause *Erigeron maguirei* to become in danger of extinction within the foreseeable future throughout all or any significant portion of its range. On the basis of this evaluation, we propose to remove *E. maguirei* from the List of Endangered and Threatened Plants (50 CFR 17.12).

Continued activity by the Interagency Rare Plant Team as well as continued implementation of protective measures provided by land management designations and protections and the Conservation Strategy should ensure *Erigeron maguirei* and its habitat continue to be protected from loss of individuals and environmental degradation. The Post-Delisting Monitoring Plan, discussed below, will allow us and our partners to monitor the species to ensure the status does not deteriorate, and if a decline is detected, to take measures to halt the decline so relisting is not necessary.

#### Effects of the Proposed Rule

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. The prohibitions under section 9(a)(2) of the Act make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, remove and reduce *Erigeron maguirei* to possession from areas under Federal jurisdiction, or remove, cut, dig up, or damage or destroy *E. maguirei* on any other area in knowing violation of any State law or regulation such as a trespass law. Section 7 of the Act requires that Federal agencies consult with us to ensure that any action

authorized, funded, or carried out by them is not likely to jeopardize the species' continued existence. If *E. maguirei* is removed from the List of Endangered and Threatened Plants, these prohibitions would no longer apply. Delisting *E. maguirei* is expected to have positive effects in terms of management flexibility to the States and Federal governments. Federal agencies will continue to implement management plans to conserve *E. maguirei* and its habitat.

#### Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us to monitor for at least 5 years species that are delisted due to recovery. Post-delisting monitoring refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of post-delisting monitoring is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as threatened or endangered is not again needed. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

Section 4(g) explicitly requires cooperation with the States in development and implementation of post-delisting monitoring programs. In early 2007, we asked the State of Utah to be a cooperator in Post-Delisting monitoring. In a letter dated March 6, 2007, the State suggested their participation in post-delisting monitoring was unnecessary (Harja 2007).

We have prepared a draft Post-Delisting Monitoring Plan for *Erigeron maguirei* (Service 2007). The draft Plan (1) summarizes the species' status at the time of delisting; (2) defines thresholds or triggers for potential monitoring outcomes and conclusions; (3) lays out frequency and duration of monitoring; (4) articulates monitoring methods including sampling considerations; (5) outlines data compilation and reporting procedures and responsibilities; and (6) proposes a post-delisting monitoring implementation schedule including timing and responsible parties. The draft Post-Delisting Monitoring Plan was modeled after the Conservation Strategy and incorporated the Maguire Daisy Survey Protocol developed and tested by the Interagency Rare Plant Team (Clark 2006b).

Through this combined proposed delisting rule and notice, we announce the Plan's availability for public review. The draft Post-Delisting Monitoring Plan can be viewed in its entirety at: <http://mountain-prairie.fws.gov/species/plants/maguiredaisy/>. Copies can also be obtained from the Utah field office (see **FOR FURTHER INFORMATION CONTACT** section). We seek information, data, and comments from the public regarding *Erigeron maguirei* and the post-delisting monitoring strategy. We are also seeking peer review of this Plan concurrently with this comment period. We anticipate finalizing this Plan, considering all public and peer review comments, prior to making a final determination on the proposed delisting rule.

#### Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), and the Office of Management and Budget's Final Information Quality Bulletin for Peer Review, dated December 16, 2004, we will seek the expert opinions of at least five appropriate and independent specialists regarding the science in this proposed rule and our Post-Delisting Monitoring Plan. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed delisting and the approach laid out in our Post-Delisting Monitoring Plan. We will consider all comments and information received during the comment period on this proposed rule and our Post-Delisting Monitoring Plan during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

#### Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the document clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be

easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the document? (6) What else could we do to make the proposed rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail the comments to this address [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

#### National Environmental Policy Act

We have determined that an Environmental Assessment or an Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

Office of Management and Budget (OMB) regulations at 5 CFR 1320 implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal government are not included. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This rule does not contain any collections of information that require approval by OMB under the Paperwork Reduction Act. As proposed under the Post-Delisting Monitoring section above, *Erigeron maguirei* populations will be

monitored by Capitol Reef, Fishlake National Forest, and the BLM Price Field Office in accordance with the Conservation Strategy. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

#### References Cited

A complete list of all references cited in this document is available upon request from the Field Supervisor, U.S. Fish and Wildlife Service, West Valley City, Utah (see **FOR FURTHER INFORMATION CONTACT**).

#### Author

The primary authors of this document are staff located at the Ecological Services Utah Field Office, U.S. Fish and Wildlife Service, West Valley City, Utah (see **FOR FURTHER INFORMATION CONTACT**).

#### List of Subjects in 50 CFR Part 17

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

#### Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

#### § 17.12 [Amended]

2. Amend § 17.12(h) by removing the entry "*Erigeron maguirei*" under "FLOWERING PLANTS" from the List of Endangered and Threatened Plants.

Dated: April 16, 2008.

**Kenneth Stansell,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. E8–9282 Filed 5–15–08; 8:45 am]

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