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SETTLEMENT REACHED TO PROTECT RARE VIRGIN ISLAND PLANTS

The Center for Biological Diversity (“Center”) reached a legal settlement with the U.S. Fish and Wildlife Service (“FWS”) that will move FWS toward protecting two rare Virgin Island plants under the Endangered Species Act (“ESA”). The settlement results from a lawsuit filed by the Center in federal district court in Atlanta in September 2004 and requires FWS to determine whether *Solanum conocarpum* and *Agave eggersiana* should be protected as endangered species by February 2006.

Agave eggersiana and *Solanum conocarpum* are two extremely rare plants native only to the U.S. Virgin Islands. *A. eggersiana* lives only on St. Croix. It can grow from 16 to 23 feet tall. *Solanum* is limited to the island of St. John, where there are approximately 190 plants living in the wild—a handful in the Virgin Islands National Park and around 185 on private land. The largest known population is located on a small section of private land on Nanny Point/Estate Concordia. A project funded by the National Park Service and directed by Dr. Gary Ray was initiated in 2003 to propagate and reintroduce *S. conocarpum* into areas within the National Park. Both plants can be viewed at the St. George Village Botanical Garden on St. Croix.



Agave eggersiana



Solanum conocarpum

Recognizing *Agave* and *Solanum* were facing extinction due to residential and tourist development and feral animals, the Department of Planning and Natural Resources, Division of Fish and Wildlife, of the U.S. Virgin Islands submitted a petition to FWS requesting protection for the species under the ESA. In November 1998, FWS took the first step required under the law and found that the petition presented substantial information indicating that listing may be warranted. However, for more than six years, FWS failed to take the second step to determine whether the species do or do not warrant listing under the Act. The ESA gives FWS only one year to make this determination. FWS missed this deadline by more than five years.

To force a decision, the Center sued FWS in September 2004. The parties have reached a settlement whereby FWS will complete the required finding by the end of February 2006.

Peter Galvin, Conservation Director for the Center for Biological Diversity, stated “We are pleased that this legal settlement will speed up the protection process for these two rare plant species. We are especially grateful to the U.S. Virgin Islands Department of Planning and Natural Resources for recognizing the grave threats these species face and submitting the original petition to protect these rare plants under the Endangered Species Act.”

Galvin added, “Sadly, due to the inaction of the Federal Government, numerous species have gone extinct while awaiting protection under the Endangered Species Act. We hope this settlement will help ensure these plants do not suffer the same fate.”

The Center is represented in the case by attorneys Robin Cooley of the Environmental Law Clinical Partnership at the University of Denver Sturm College of Law and Lawrence D. Sanders of the Turner Environmental Law Clinic at Emory University School of Law.