

Lawsuit Seeks Endangered Status For Two V.I. Plants

by John Baur

Sept. 11, 2008 -- Two plants native to the Virgin Islands are at the heart of a lawsuit filed Wednesday against the U.S. Fish & Wildlife Service.

The Center for Biological Diversity, headquartered in Tucson, Ariz., filed the suit in federal court in Atlanta challenging the service's 2006 decision not to place the two plants on the Endangered Species List. The center is a nonprofit conservation organization with 180,000 members and online activists, dedicated to the protection of endangered species and wild places.

The plants are the *Agave eggersiana* and *Solanum conocarpum*. Both are almost extinct in the wild, but the Fish & Wildlife Service chose two years ago not to list them as endangered. *Agave eggersiana* is a robust, perennial herb native only to hillsides and plains in the eastern dry districts of St. Croix. It has large funnel- or tubular-shaped flowers and can grow from 16 to 23 feet tall. *Solanum conocarpum* is a thornless, flowering shrub with delicate purple flowers. The plant may reach more than nine feet in height in dry, deciduous forest on the island of St. John. Wednesday's lawsuit is the latest step in a proceeding that stretches back to 1996. In that year, the Virgin Islands Division of the Fish and Wildlife Service petitioned to protect *A. eggersiana* and *S. conocarpum* under the Endangered Species Act.

In 1998, Fish and Wildlife agreed that credible scientific information supported the listing, and agency officials committed to issuing a final finding within nine months. Six years later, the Service still had not done anything on the issue. In 2004 the Tucson-based center filed a lawsuit. The suit resulted in a settlement agreement requiring the wildlife service to submit a final finding by February 2006. At the time of the agreement, government officials indicated that, based on the scientific evidence, the service would likely choose to list the two plants, said Jeff Miller, a conservation advocate with the center.

"Then they did an about-face," he said Thursday. The service changed its position, disregarded the opinions of its own experts, and published a finding that stated neither species should be listed.

"We are going to court seeking a ruling that their decision was arbitrary, illegal, and not based on the best available science," Miller said.

Samples of both plants grow in the St. George Village Botanical Garden. David Hamada, horticultural director of the garden, said the government's 2006 finding on *A. eggersiana* was based on the inaccurate description of the plant as a "cultivar," a plant that only exists because it is grown by man.

"It's not, it's a naturally occurring species," Hamada said.

If it isn't naturally occurring, then the government doesn't have to do anything to preserve it in the wild.

Habitat for both plant species has disappeared due to intense deforestation. Now, residential and tourism-related development and grazing by feral animals also threaten the plants' habitats. Much of the suitable habitat for *A. eggersiana* is found on privately



David Hamada of the St. George Village Botanical Garden with Agave eggersiana.

owned land slated for residential development. The suitable habitat includes dry scrub thicket, most of which has been severely degraded by feral goats grazing and the practice of burning off vegetation. There may no longer be any remaining A. eggersiana plants in the wild, Miller said. Survival of the species may now depend on propagating the plants in nurseries, then reintroducing them.

There are only about 220 *S. conocarpum* plants left in the wild in two areas on St. John: 156 plants at Nanny Point on land recently donated to the Virgin Islands National Park and 60 plants on private land. A project funded by the National Park Service was initiated in 2003 to propagate and reintroduce *S. conocarpum* into areas within the park.

But the plants are threatened by management practices such as trail and facility maintenance, as well as feral pigs, feral goats, Key deer, and donkeys. The plants on private land are at risk from residential and tourism development.

According to Hamada, the purpose of listing a species as endangered is not to protect it forever. It's to help the plant recover so it no longer has to be protected. If *A. eggersiana* and *S. conocarpum* are listed as endangered, then the Fish and Wildlife Service will be required to develop a recovery plan so that eventually the plants will thrive without help.

Lilabeth Serrano of the Fish & Wildlife Service office on Puerto Rico, which also covers the U.S. Virgin Islands, said Thursday she was unaware of the lawsuit and wouldn't be able to comment.

Both Miller and Hamada pointed out that, during the years that the Bush Administration has been in office, no plant has been added to the Endangered Species List except by a lawsuit.

"The Bush administration is completely hostile to listing any endangered species, and the only way species have been listed under this administration is through lawsuits -- either by court order or a settlement agreement," Miller said.

The lawsuit and background information on the plants species can be found on the [Center for Biological Diversity website](#).