

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 73**

[DA 03-1474; MM Docket No. 01-169; RM-10145]

**Radio Broadcasting Services; Danville
& Nonesuch, KY**

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: Action in this document denies a petition for rule making filed by Clear Channel Broadcasting Licenses, Inc., requesting the reallocation of Channel 296A from Danville, Kentucky to Nonesuch, Kentucky, and modification of the license for Station WHIR-FM to specify operation on Channel 296A at Nonesuch. See 66 FR 41489, August 8, 2001. Based on the information provided by Clear Channel Broadcasting Licenses, Inc., we believe it has failed to establish that Nonesuch qualifies as a community for allotment purposes and therefore it would not serve the public interest to reallocate Channel 296A from Danville to Nonesuch, Kentucky. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-169, adopted April 30, 2003, and released May 5, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 44512th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone: 202 863-2893, facsimile: 202 863-2898, or via e-mail qualexint@aol.com.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AH53

**Endangered and Threatened Wildlife
and Plants; Delisting the Plant
Frankenia johnstonii (Johnston's
frankenian) and Notice of Petition
Finding**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a proposal to remove the plant *Frankenia johnstonii* (Johnston's frankenia) from the List of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). This species is endemic to three counties in south Texas and an adjacent area in northeastern Mexico. Due to an expansion of our knowledge of the species' known range, the number of newly discovered populations, some with large numbers of individual plants, increased knowledge of the life history requirements of this species, and clarification of the degree of threats to its continued existence, we have determined that Johnston's frankenia is not in danger of extinction throughout all or a significant portion of its range now or within the foreseeable future. This proposed rule also constitutes our 90-day and 12-month finding for the petition to delist *Frankenia johnstonii*.

DATES: We will consider comments on this proposal if they are received by August 20, 2003. Public hearing requests must be received by July 7, 2003.

ADDRESSES: Written comments and materials concerning this proposal should be sent to: Field Supervisor, Ecological Services Field Office, U.S. Fish and Wildlife Service, c/o TAMU-CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412. The proposal, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robyn Cobb, U.S. Fish and Wildlife Service, at the above address, or telephone 361-994-9005 or e-mail to robyn_cobb@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Frankenia johnstonii (Correll) was first collected in 1966 in Zapata County, Texas, by Dr. D. S. Correll who later named the species in honor of Dr. M. C. Johnston (Correll 1966). *Frankenia johnstonii* is a low, somewhat sprawling, perennial shrub, in the Frankeniaceae Family. Mature plants are approximately 30 centimeters (cm) (12 inches (in)) in height, 30 to 60 cm (12 to 24 in) wide, and rounded or sphere-shaped in appearance. This spineless subshrub has a woody, trunk-like stem which gives rise to several-to-many ascending or recurved (bent or curved downward or backward) herbaceous stems. The entire plant may be grayish-green or bluish-green in color most of the year, turning crimson red in late fall when it is easily detected among its surrounding deciduous neighbors. This color change can also be brought on by severe drought conditions (Janssen and Williamson 1994). The gray-green leaf surfaces are haired, with salt crystals frequently visible on the underside of the leaves. Leaf margins are somewhat rolled or turned under. Flowers are small, with five slightly fringed or toothed white petals and a distinct yellow center. Flowering occurs from April to November, especially when stimulated by rainfall events (Janssen and Williamson 1994).

Frankenia johnstonii generally grows on open or sparsely vegetated, rocky, gypseous hillsides or saline flats. In Texas, this species is endemic to Webb, Zapata and Starr Counties, where it occurs within the mesquite-blackbrush community encompassed in the South Texas Plains vegetation zone as described by McMahan (*et al.* 1984). *Frankenia johnstonii* populations have a clumped distribution, occurring in openings of the Tamaulipan thornscrub where the plant thrives in a high light intensity setting. Populations of this species appear to be restricted to pockets of hyper-saline soil, analysis of which shows salinity and sodium content that is approximately 10 times greater than that found in soils occurring outside the populations (Janssen and Williamson 1994). The population in Mexico occurs in the transition zone between the Tamaulipan Scrub and the Chihuahuan Desert (Whalen 1980).

Frankenia johnstonii was listed August 7, 1984 (49 FR 31418), as an endangered species under the Act. Critical habitat was never designated for this species. The Johnston's Frankenia (*Frankenia johnstonii*) Recovery Plan, completed in 1988, did not quantify criteria for down-listing or delisting due

to a lack of basic knowledge about the species (USFWS 1988). Instead the recovery plan concentrated on the major actions believed necessary to recover *Frankenia johnstonii*. These actions included maintenance of known populations through landowner cooperation and habitat management, provision of permanent Service or conservation group protection of at least one site, establishment of populations in botanical gardens, obtaining biological information needed to effectively manage the species, and developing public support for the preservation of the species. Among the potential threats to *Frankenia johnstonii* identified in the recovery plan were habitat modification by land management practices that included overgrazing, blading, and bulldozing. The recovery plan also recognized the risk of population losses from intensive land uses and non-specific habitat alterations, including a variety of construction activities. The low reproductive potential of this species was considered another threat to its continued existence since the restricted number of individual plants was thought to imply a small gene pool with limited variability, thereby potentially diminishing the species' ability to tolerate stress and threats (USFWS 1988). Since 1993, intensive surveys in Webb, Zapata, and Starr Counties in South Texas, as well as additional information from Mexico have shown this species to be more widespread and abundant than was previously known (Janssen 1999).

At the time it was listed, *Frankenia johnstonii* was known from only four sites in Texas, two each in Zapata and Starr Counties, and from one locality in Mexico. When the recovery plan for this species was finalized in 1988, seven populations (including the original five) had been identified, all occurring on private land. At that time, the six Texas populations were encompassed within a 56-kilometer (km) (35-mile (mi)) radius, with the population in Mexico located approximately 201 km (125 mi) to the west. Since 1988, the discovery of new populations has extended the species' range to north and west of Laredo in Webb County, farther east in Zapata County, and farther south in Starr County. Currently a total of four

populations are known from Mexico. Three of the four populations in Mexico are in relatively close proximity to one another along Highway 53 in the State of Nuevo Leon, while the fourth population location extends the species' range north-northeast to the vicinity of Nuevo Laredo in western Tamaulipas (Janssen 1999).

Frankenia johnstonii was first collected by Dr. D. S. Correll in 1966 in Zapata County, Texas, about 40 km (25 mi) northeast of San Ygnacio, and soon thereafter at a second site in Starr County, just east of El Sauz (Correll and Johnston 1970). The continued existence of *Frankenia johnstonii* at Correll's first site was confirmed by Poole in 1986, and the population at the second site was revisited by Poole, Turner, and Whalen at various times (USFWS 1988). The species was also found in 1966 by A. D. Wood in the hills northeast of Roma, Starr County (USFWS 1988). In 1967, Correll found a second Zapata County population about 8 km (5 mi) south of Zapata. Although Whalen was unable to relocate the Roma population during her doctoral research, she did relocate Correll's second Zapata County population (USFWS 1988). Collectors James Everitt and R. J. Fleetwood found *Frankenia johnstonii* at a site approximately 21 km (13 mi) north of Roma, Starr County, in 1974. Four different investigators had revisited this population by 1986 (USFWS 1988). In 1971, Turner identified what he considered to be a new species of *Frankenia* from a location 100 km (62 mi) northwest of Monterrey, Mexico, and named it *Frankenia leverichii* (Turner 1973). Whalen later studied specimens from this population as part of her doctoral research on the genus *Frankenia* and concluded that it was not distinct from *Frankenia johnstonii* (Whalen 1980), thus this was the single Mexican population referenced in the listing rule and the recovery plan.

An intensive status survey and study of ecological and biological characteristics of *Frankenia johnstonii* was conducted by Texas Parks and Wildlife Department (TPWD) botanist Gena Janssen between 1993 and 1999. The final report for this 6-year study contained documentation for 58 populations of *Frankenia johnstonii* in

the U.S. and 4 in Mexico (Janssen 1999). Four of the 62 total populations reported by Janssen (1999) were part of the 7 populations referenced in the recovery plan. The results of this recent status survey have dramatically increased the known numbers of individual plants, from approximately 1,500 at the time of listing to greater than 9 million by 1999. The TPWD status survey resulted in an expansion of the species' known range to the northwest, east and south in Texas, and to the north of the previously known location in Mexico (Janssen 1999).

All 58 U.S. populations of *Frankenia johnstonii* identified in Janssen's 1999 report occur primarily on private land, but a portion of one population in Starr County is located on a Lower Rio Grande Valley National Wildlife Refuge (LRGVNWR) tract. A second population occurs, partially, in the Texas Department of Transportation's (TDOT) Highway 83 right-of-way in Zapata County. A third population, found growing on three private ranches in western Zapata County, also extends onto land below the 307-foot elevation mark adjacent to Falcon Reservoir. All property below this elevation mark is controlled by the International Boundary and Water Commission (IBWC). A fourth population, also in close proximity to Falcon Reservoir, may also be on IBWC-controlled land but Janssen was unable to determine exact land ownership for this population (Janssen 1999).

Using Pavlik's suggested method of deriving an estimated minimum viable population size (MVP) (Pavlik 1996), we calculated that approximately 2,000 individual plants may constitute a conservative estimate for a *Frankenia johnstonii* MVP. We used this estimated MVP to evaluate the distribution of known *Frankenia johnstonii* populations in relation to threats to those sites. Table 1 displays the numbers of small, intermediate-sized, and large populations in each Texas county and in Mexico, grouped with the smallest populations numbering below the calculated MVP, the intermediate-sized populations containing between 2,000 to 5,000 plants, and the largest populations consisting of greater than 5,000 individuals.

TABLE 1.—NUMBER AND LOCATION OF SMALL, INTERMEDIATE-SIZED AND LARGE FRANKENIA JOHNSTONII POPULATIONS

Number of individual plants	Starr County, TX	Zapata County, TX	Webb County, TX	Mexico
Less than 2,000	5	16	1	1
Between 2,000 and 5,000	1	6	2	1
Greater than 5,000	1	13	4	0

TABLE 1.—NUMBER AND LOCATION OF SMALL, INTERMEDIATE-SIZED AND LARGE *FRANKENIA JOHNSTONII* POPULATIONS—Continued

Number of individual plants	Starr County, TX	Zapata County, TX	Webb County, TX	Mexico
Unknown # of plants	9	0	0	2
Total number of Populations	16	35	7	4

Of the 7 *Frankenia johnstonii* populations confirmed in Webb County, 4 have greater than 5,000 individual plants, and 1 of the 4 is described as containing “hundreds of thousands of plants” (Janssen 1999). Two of the 7 populations consist of between 2,000 and 5,000 plants, and 1 has less than 2,000 plants.

Thirty-five *Frankenia johnstonii* populations are documented in Zapata County, 13 of which have greater than 5,000 plants, with several of the 13 composed of more than a million individuals (Janssen 1999). Six of the 35 populations have between 2,000 and 5,000 plants, and 16 have less than 2,000 plants.

For the 16 *Frankenia johnstonii* populations reported from Starr County, only 7 were confirmed by Janssen’s site visits (Janssen 1999). One of the 16 had approximately 10,000 plants, 1 had approximately 2,000 plants, and 5 had less than 2,000 plants. For the 9 Starr County populations not visited by the TPWD principal investigator, locality information was provided by another biologist who furnished no data on numbers of individuals or condition of the plants (Janssen 1999).

A total of 5,600 individual plants were estimated from two of the four Mexican *Frankenia johnstonii* populations. Although the individual plant numbers are not available for the remaining two populations, one was described by a Mexican botanist as being “Abundante!” (Janssen 1999).

In Texas, approximately 80% of potential habitat has been surveyed for *Frankenia johnstonii* (Gena Janssen, Janssen Biological, pers. comm. 2001). Landowner permission for access was one of the primary factors affecting the extent of potential habitat covered by surveys, since parts of all populations located to date occur on privately owned land. Within Texas, a greater extent of suitable habitat, defined by the presence of the correct types of soils, exists in Zapata County rather than in the neighboring Starr or Webb Counties (Janssen, pers. comm. 2000). Zapata was the county most intensively surveyed by Janssen between 1993 and 1996, and the relatively higher numbers of landowners willing to grant access in this county

may be correlated with an extensive landowner outreach campaign conducted by TPWD (Janssen 1996, 1999). In some cases in Zapata County, there was high potential for the presence of additional populations on land that adjoined ranches with known populations, however permission to access these areas was not attainable, therefore presence/absence could not be confirmed. Landowner contacts were not as readily available for Starr and Webb Counties, and additional population locations are possible in those counties. In Mexico, the level of effort to survey for *Frankenia johnstonii* has been limited. It is probable that populations remain undiscovered throughout suitable habitat in all three Texas counties, with the highest potential in Zapata County, and in Mexico (Janssen, pers. comm. 2001). Although only locality data has been documented thus far for plants in the nine Starr County populations, further assessment of these plants (such as their numbers and condition) is a possibility in the future.

At the time of listing, we considered *Frankenia johnstonii* to be vulnerable to extinction due to the following: (1) The low number and restricted distribution of populations; (2) low numbers of individual plants; (3) threats to the integrity of the species’ habitat such as clearing and planting to improve pasture species, including introduced grasses; and (4) direct loss from construction associated with highways, residential development, and oil- and natural gas-related activities; and (5) the species’ low reproductive potential.

The intensive survey effort by TPWD in South Texas has shown *Frankenia johnstonii* to be much more widespread and abundant than was known at the time of listing or when the recovery plan was prepared. Initial fears regarding the species’ vulnerability to competition from exotic plant species such as buffelgrass (*Pennisetum ciliare*) have been alleviated by the results of biological and ecological research on this species. Analysis of data collected for soils, structural characteristics, and composition of the surrounding plant community show *Frankenia johnstonii* to be well adapted to the harsh

environment in which it is a dominant vegetative component. This plant is a halophytic (salt-loving) perennial, suited to life in hyper-saline soils in which the elevated salinity and sodium levels are likely to exclude buffelgrass, the grass species that is most frequently planted for pasture improvement purposes in Webb, Zapata, and Starr Counties (John Lloyd-Reilly, U.S. Department of Agriculture, Natural Resource Conservation Service, pers. comm. 2001). In fact, *Frankenia johnstonii* is the dominant woody species within the plant community where it is found (Janssen 1999).

Mechanical and chemical brush-clearing practices that are commonly used prior to planting pasture grasses can, however, adversely impact *Frankenia johnstonii* populations or portions thereof by uprooting or damaging plants. In order to address conservation concerns associated with land management practices, TPWD conducted an extensive endangered and rare species education and outreach campaign in Webb, Zapata, and Starr Counties that encompassed activities such as landowner meetings, coordination with the U.S. Department of Agriculture’s (USDA) Natural Resource Conservation Service (NRCS), county fair exhibits, development of printed information, and school presentations. This campaign promoted conservation of *Frankenia johnstonii*, in part by sharing the results of Janssen’s field studies on the ecology and biology of this species. In October 2000, a presentation was made to NRCS District Conservationists from Webb, Zapata, and Starr Counties to emphasize their agency’s role in helping landowners identify and avoid impacts to *Frankenia johnstonii* population sites, especially in light of the futility of converting the land on these hyper-saline sites to pastures of buffelgrass. The inability of buffelgrass to tolerate the high soil salinities typically found at *Frankenia johnstonii* sites results in the failure of grass plantings to thrive, the associated loss of time, energy, and money in trying to establish the grass, and an increased potential for soil erosion since the site is left without vegetative cover (Janssen 1999).

In a further effort to promote conservation of populations occurring on private land, TPWD initiated a voluntary conservation agreement in 1995 that was designed to protect *Frankenia johnstonii* from mechanical and chemical habitat alteration and overstocking of cattle. These agreements have been signed by 10 landowners controlling 19 of the largest populations and will endure for 10 years from the date of signature (Janssen 1999).

Protection for *Frankenia johnstonii* on public land is assured for the portion of the one population that extends onto a Lower Rio Grande Valley National Wildlife Refuge tract. The refuge monitors the status of these plants and considers protection of that part of the population whenever activities are being planned for that tract. At the TDOT's Highway 83 right-of-way population site, installation of reflector stakes is used to protect the plants from mowing and from Border Patrol maintenance activities (Janssen, pers. comm. 2001).

We used a Geographic Information System (GIS)-based analysis of the distribution of *Frankenia johnstonii* populations in relation to locations of existing and proposed highways, and residential developments (Shelley and Pulich 2000), to pinpoint the U.S. populations most likely to be threatened by these types of activities, as well as those populations furthest removed from them. The results of this analysis showed that 18 of the intermediate-sized and largest populations remain in remote locations on rangeland, where threats from road and residential construction activities are diminished (Janssen 1999, Shelley and Pulich 2000). Portions of 10 of the intermediate-sized and largest populations occur within 1 mile of State Highway 83, State Highway 16, or State Highway 359, 3 of the main transportation arteries in this region.

Thirteen of the smallest (less than 2,000 individuals) *Frankenia johnstonii* populations occur on remote rangeland, removed from road and residential construction threats. Of the remaining 10 smaller populations, 3 occur within 1 mile of State Highway 83 while 4 others are found in close proximity to Falcon Reservoir where residential construction is likely to remain a threat.

Oil and gas exploration and production activities, which can pose threats to portions of populations via road or well-pad construction or clearing of seismic lines, were nearly impossible to quantify or to project in terms of future geographic sitings. The TPWD did offer to search for populations and delineate perimeters,

thereby helping companies to avoid *Frankenia johnstonii*, but no companies have signed any type of agreements to date. However, the landowner conservation agreements include provisions for landowners to contact TPWD whenever damage, including that caused by oil and gas activities, accidentally occurs or is anticipated so that TPWD can inspect populations and make recommendations for avoidance or recovery.

Rare species can be vulnerable to reproductive failure, and low reproductive potential was considered a potential threat to *Frankenia johnstonii* (Turner 1980, USFWS 1988). Among the factors that can contribute to the risk of reproductive failure in plants are high dependence on specialized pollinators, absence of back-up reproductive mechanisms such as self-fertilization and vegetative reproduction, and poor ability to compete for pollinators (Janssen 1999). The results of reproductive biology studies for *Frankenia johnstonii*, as reported in Janssen and Williamson (1996) and Janssen (1999), show that this species is a generalist rather than a specialist with regard to insect pollinators, hosting a variety of bees and flies. This reduces the danger associated with declines in any specific pollinator species. The high rates of floral visitation at *Frankenia johnstonii* by these insects shows the plant to be competing successfully for pollinators, and it is readily cross pollinated (Janssen 1999).

Previous Federal Action

Federal government actions on this species began with section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report (House Document No. 94-51), which included *Frankenia johnstonii* in the endangered category, was presented to Congress on January 9, 1975. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of section 4(c)(20), now section 4(b)(3)(A), of the Act, and of our intention thereby to review the status of those plants. *Frankenia johnstonii* was included as endangered in this notice. On June 16, 1976, we published a notice in the **Federal Register** (41 FR 24524) soliciting comments on the Smithsonian report in order for the finally adopted rule to be as accurate and effective as possible. *Frankenia johnstonii* was proposed for listing as an endangered species on July 8, 1983 (48 FR 31414). The final rule listing *Frankenia*

johnstonii as an endangered species was published August 7, 1984 (49 FR 31418). The Johnston's *Frankenia* Recovery Plan was completed in 1988 (USFWS 1988).

Federal involvement with *Frankenia johnstonii* subsequent to listing has included funding for activities such as surveys for new locations, monitoring of known and new populations, and collection and analysis of ecological and biological data. A GIS-based approach for analyzing threats to the continued existence of the species was contracted by us to Southwest Texas State University (Shelley and Pulich 2000). The species has been included in all informal section 7 consultations over Federal projects occurring in suitable habitat in Starr and Zapata Counties, and more recently in Webb County, Texas, as new populations were delimited. This species has not been included in any formal consultations.

On February 8, 1997, we received a petition dated February 3, 1997, from the National Wilderness Institute. The petitioner requested that the Service remove *Frankenia johnstonii* from the List of Endangered and Threatened Wildlife and Plants on the basis of original data error. We were not able to act on this petition upon receipt due to the low priority assigned to delisting activities in our Fiscal Year 1997 Listing Priority Guidance which was published in the **Federal Register** on December 5, 1996 (61 FR 64475). That guidance clarified the order in which the Service would process rulemakings following two related events—(1) the lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104-6), and (2) the restoration of significant funding for listing through the passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996.

The Fiscal Year 1997 Listing Priority Guidance identified delisting activities as the lowest priority (Tier 4). Due to the large backlog of higher priority listing actions, we did not conduct any delisting activities during Fiscal Year 1997. In Fiscal Year 1998, with a reduced backlog of higher priority listing actions, we were able to return to a more balanced listing program. We also placed delisting activities within Tier 2 in our Fiscal Years 1998 and 1999 Listing Priority Guidance, published in the **Federal Register** on May 8, 1998 (63 FR 25502).

We began to process the *Frankenia johnstonii* petition under the 1998 guidance. At that time we believed that

the petitioners did not adequately present information about the status, distribution, and abundance of the species and that they did not address any of the potential threats to the species. The petition requested that we remove this plant from the List of Endangered and Threatened Wildlife and Plants on the basis of original data error and cited the Report to Congress on the Endangered and Threatened Species Recovery Program, USFWS, 1990, Washington DC, as stating that "New populations have been found in the lower Rio Grande Valley and this species now appears to be more abundant and widespread than previously thought." The petitioner also indicated that information already in our possession showed that this plant was significantly more abundant than known at the time of listing.

Although the petitioner referred to sufficient information being in our possession to validate their request for delisting, we did not have this level of data within our files at that time. We also did not have locality maps, size or viability information for all the known populations, or the data to analyze threats to these populations at the time of the draft administrative finding. We also anticipated extensive new information being made available in the near future from an ongoing study of the species by TPWD. Thus we did not go forward with a finding at that time.

We received the TPWD report, dated December 15, 1999, in the spring of 2000. Based upon information contained in the report, as discussed throughout this proposed rule, we made a determination to proceed with a proposed rule to delist *Frankenia johnstonii*. Thus, this proposed rule constitutes our 90-day and 12-month finding for the petition to delist *Frankenia johnstonii*.

Summary of Factors Affecting the Species

After a thorough review and consideration of all the available information, including the TPWD's 1999 status report, we have determined that *Frankenia johnstonii* (Correll) should be removed from the List of Endangered and Threatened Wildlife and Plants. Section 4(a)(1) of the Act and regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists of threatened and endangered species. The same procedures apply to reclassifying species or removing them from these lists. A species may be determined to be an endangered or threatened species based on the best scientific and

commercial information available regarding one or more of the five factors described in section 4(a)(1). These factors and their application to *Frankenia johnstonii* (Correll) (Johnston's frankenia) are as follows:

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

The extent of past land conversion activities across the range of *Frankenia johnstonii*, including brush control, planting of buffelgrass or other non-native grasses, or construction activities that may have resulted in the loss of this plant, has not been quantified (Janssen, pers. comm. 1998). In the 1990s, road construction proliferated across the South Texas landscape, concentrating in corridors along the Rio Grande with the growth of small towns and multiplication of international bridges. Oil and gas exploration and production activities have proceeded throughout the region, accompanied by associated pipeline construction, including extensions of pipelines into Mexico. Fiber optic lines and cellular communication towers are frequent additions to the landscape as we have seen from the increasingly visible presence of the towers and section 7 consultations for these structures. These types of construction activities have accelerated since the passage of the North American Free Trade Agreement and have the potential to fragment habitat and destroy portions of *Frankenia johnstonii* populations (Shelley and Pulich 2000).

Frankenia johnstonii is restricted to highly specialized habitats with high salt, and sometimes gypsum content, in the soils. Although the historical land use at these locations has primarily been livestock grazing, the recovery plan alludes to additional intensive land uses (e.g., road construction, oil and gas activities, and gypsum mining, as well as other widespread, non-specific habitat alterations such as residential development and reservoir construction) which can destroy these specialized habitats (USFWS 1988).

Across the South Texas Plain, the practice of woody brush eradication, frequently undertaken to improve pasture for grazing, has the potential to adversely affect *Frankenia johnstonii* populations or parts of populations. These brush removal efforts have generally been accomplished with mechanical means such as bulldozing, blading, root plowing and/or chaining, or by use of herbicides. After clearing, the land is often reseeded with highly competitive, non-native grasses, primarily buffelgrass in this region of

Texas. The practice of root plowing (pulling a plow equipped with 3 to 6-foot-long tines) has historically been the favored technique for brush clearing in this region of south Texas, although this practice has diminished in recent years as cost-share funding for brush clearing has declined. Fluctuating cattle markets and continuing drought in the area have provided impetus to south Texas ranchers to diversify their sources of income. As a result many ranchers have shown increased interest in retaining native brush habitat to enhance wildlife habitat and hunting opportunities, and this has also decreased brush clearing and pasture improvement activities (Arturo Ibarra, USDA NRCS, pers. comm. 2001).

Although the actual mechanical and chemical means of brush clearing can directly destroy individual plants (USFWS 1988), ecological research shows that long-term replacement of *Frankenia johnstonii* by buffelgrass or other improved range grass species is unlikely due to the extraordinarily harsh conditions of the soils underlying *Frankenia johnstonii* populations. Janssen (1999) reported soil analyses from within and outside of *Frankenia johnstonii* populations that showed soil salinity, sodium and sodium absorption ratios differed drastically between the two areas. Soil salinity within populations averaged 4,444 parts per million (ppm), ranging from 949 to 10,400 ppm. Outside populations, this parameter averaged 423 ppm, ranging from 123 to 1,430 ppm. Soil sodium averaged 4,429 ppm within populations (1,011 to 112,404 ppm), while outside of the populations, the average was 383 ppm (21 to 2,983 ppm). Sodium absorption ratios averaged 19.02 (5.84–55.52) within the populations, while 3.38 (0.34–10.05) was the average outside. Janssen (1999) found *Frankenia johnstonii* growing in and/or recolonizing areas that were root plowed 6, 10, or 15 years in the past. She observed regrowth of this plant in eight populations or subpopulations and described one subpopulation, still replowed annually, as having "pockets of *Frankenia johnstonii* hanging on."

Frankenia johnstonii has leaves with a number of structural features characteristic of both halophytes and xerophytes, enabling the plant to tolerate extremely saline soils. As a halophyte, the plant can absorb and accumulate salt. This salt accumulation within the plant changes the osmotic gradient, allowing the root cells to absorb water from the soil solution. Salt glands within the leaves then extrude the salt onto the leaf surface. These structural adaptations equip the species

to live in extremely salty soils. Although *Frankenia johnstonii* is found in arid, saline, gypseous (relatively high gypsum content) habitat in open areas with high light intensities, it is not found in adjacent, less saline soils. The patchy occurrence of these high-salinity soil pockets or inclusions (units too small to be mapped within a soil series) within larger areas of less saline soils results in the characteristic clumped pattern of *Frankenia johnstonii*'s distribution. Relatively few other plant species occur within the *Frankenia johnstonii* populations, but this species assemblage is consistently found at all *Frankenia johnstonii* sites. Janssen (1999) suggests that this species successfully competes within, but not outside, these saline pockets of soil.

Since nearly all of the known populations of *Frankenia johnstonii* occur on private land, the TPWD's voluntary landowner conservation agreements were designed to help conserve the species using recommendations concerning certain land management practices. These recommendations included avoiding root plowing, bulldozing, disking, roller chopping and herbicide applications in *Frankenia johnstonii* sites, as well as relieving areas containing populations from grazing pressure associated with overstocking of animal units. The agreements also provided TPWD personnel access for purposes of monitoring populations at least once annually. For the 13 populations that contain greater than 10,000 individual plants, 12 are covered under signed voluntary conservation agreements. For the 14 populations that contain between 2,000 and 10,000 plants, 7 populations are covered by signed voluntary conservation agreements. The earliest signatures were obtained in June 1996, and the most recent was signed in July 1998.

The impacts of construction projects on *Frankenia johnstonii* populations, especially highway improvements and/or commercial or residential building that is stimulated by highway construction or improvements, may be limited to the footprint of the project. Twelve of the known U.S. populations of *Frankenia johnstonii* occur within 1 mile of Highways 83, 16, or 359, three of the largest roads crossing the Texas range of this species. These highways are also among the roads most likely to undergo expansions as trade from Mexico, and commercial and residential development, increases.

Human population growth in Webb, Zapata, and Starr Counties has more than doubled since 1970 and is projected to double or triple again by

2030; however, this growth is not uniformly distributed across the three counties. Instead, people are concentrating residential development in a few geographic areas, with the highest level of growth in and around the City of Laredo in Webb County. Major areas of growth follow the primary transportation corridors including Interstate 35 and Highway 83, and along the Rio Grande downstream of the Falcon Lake Reservoir (Shelley and Pulich 2000). According to Shelley and Pulich (2000), relatively few people are living far from the cities and highways. If the current trend in population growth holds, this growth is unlikely to impact those individual populations or subpopulations of *Frankenia johnstonii* that are distant from centers of residential development or transportation corridors. The fact that much of the land within these three counties is away from the well-established transportation corridors should have the effect of discouraging explosive growth. Additionally, the high salinity of the soils supporting *Frankenia johnstonii*, in conjunction with the arid climate of the area, results in highly erodible soils that will not support plant communities desired by most real estate developers (Shelley and Pulich 2000). Existing *Frankenia johnstonii* populations that are distant from current development are likely to thrive in their unique environment (Shelley and Pulich 2000).

The development of colonias, or low-income, unincorporated settlements that lack running water, wastewater treatment, or other services, has generally occurred outside of incorporated communities. The largest concentrations of colonias are found near the transportation corridors and near the cities at the international boundary along the Rio Grande (Shelley and Pulich 2000). The majority of colonias in Starr County are found along Highway 83 and the Rio Grande. One population of *Frankenia johnstonii* that faces potential impacts from developing colonias also extends onto a national wildlife refuge tract and would therefore be partially protected.

In Zapata County, there are fewer recorded colonias, with the majority located near the northern end of Falcon Reservoir along Highway 83. Two *Frankenia johnstonii* populations appear to be most at risk from colonias in this geographic area. One of these is found within a subdivision, and its future is unclear because it consists of three "neighborhood" subpopulations that extend onto property with multiple ownerships and existing homes, suggesting that further development

may be forthcoming. The plants were described as being in excellent-to-good condition when the population was surveyed (Janssen 1999). The second population, although close to Highway 83, has remained in good shape over the 30 years since it was first reported (Janssen 1999). This population extends partially on TDOT's roadway right-of-way. The TDOT and TPWD have enacted a verbal agreement providing for reflector posts around the population to protect it from mowing and Border Patrol maintenance activities (Janssen, pers. comm. 2001).

In Webb County, the majority of colonias are south, east, and north of Laredo, concentrated along Highway 83 and the Rio Grande, Farm to Market Road 1472 and the Rio Grande, and to the east along Highway 359 (Shelley and Pulich 2000). In these areas, the *Frankenia johnstonii* population appearing to be most vulnerable occurs within a colonia, and future prospects for its long-term survival are described as "grim" (Janssen 1999).

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

There is no evidence to indicate that this species is collected for commercial, recreational, scientific, or educational purposes.

C. Disease or Predation

Turner's 1980 status report and the species' recovery plan allude to *Frankenia johnstonii* plants under heavy grazing pressure having a "hedged or clipped appearance common in plants grazed by cattle." The detrimental effects referred to in the recovery plan (USFWS 1988) were browsing of tender, new growth that might contribute to lowered reproductive success and direct trampling of young plants or seedlings, as well as soil compaction, which may negatively affect germination. Janssen (Janssen and Williamson 1993) observed that the population showing the most harmful effects of grazing was one where the fenced area was inadequate to support the number of cattle being stocked and the animals were not receiving any type of supplemental feed. R. Cobb observed cottontail rabbits and jackrabbits nibbling on *Frankenia johnstonii*, and she surmises that other mammals may also browse on it. Janssen (1999) summarized anecdotally that she had seen little difference in the appearance of *Frankenia johnstonii* populations between ranches with and without cattle in 6 years of field observations and concluded that grazing is not a direct threat, except possibly to

those sites under poor range management.

D. The Inadequacy of Existing Regulatory Mechanisms

Endangered plants do not receive a high degree of protection on private property under the Act. If the landowner is not using Federal funding or does not require any type of Federal permit or authorization, listed plants may be removed at any time unless prohibited by State law. Under chapter 88 of the Texas Parks and Wildlife Code, any Texas plant that is placed on the Federal list as endangered is also required to be listed by the State as endangered. In addition to the State of Texas regulations pertaining to listing, other State laws may apply. The State prohibits taking and/or possession of listed plants for commercial sale, or sale of all or any part of an endangered, threatened, or protected plant from public land. Scientific permits are required for purposes of collection of endangered plants or plant parts from public lands for scientific or educational purposes. Commercial permits must be obtained from the Texas Parks and Wildlife Department to collect endangered plants from private land—only if the collector intends to sell the plants or plant material. The destruction or removal of any plant from a State park without a permit from the TPWD Director is unlawful. If this proposed delisting rule is finalized, we anticipate that Texas will also remove *Frankenia johnstonii* from its State list of endangered species.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits removal and possession of endangered plants from areas under Federal jurisdiction. A portion of one population of *Frankenia johnstonii* is located in one of our National Wildlife Refuges. A small portion of another population is growing in a highway right-of-way where it is afforded some protection from TDOT mowing and Border Patrol maintenance activities. Portions of one, and possibly two, other Zapata County populations extend onto IBWC-controlled property. The remainder of the 4 aforementioned populations, as well as the other 54 populations found in the United States, are on privately owned land. The regulations described above, and the conservation activities agreed upon for 19 populations between the landowners and the TPWD, help to provide protection for a number of the U.S. populations.

We are not aware of any measures being taken by Mexico to protect *Frankenia johnstonii*. It appears that the populations known to us are all on

ranchland. We will be contacting the Mexican Government during the comment period for this proposed rule for any additional information that they may have on the status of the species in Mexico.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Certain inherent biological characteristics, including small numbers of individuals, restricted distribution, and low reproductive potential, were also thought to affect the continued existence of *Frankenia johnstonii* (USFWS 1988). Turner (1980) observed seed set at less than 50 percent in the natural habitat, and Poole noted that seedlings are rarely seen (USFWS 1988). The recovery plan for *Frankenia johnstonii* referred to the approximately 1,500 plants known at the time of listing, and their occurrence in small populations with none greater than a few hundred plants, as implying a small gene pool with limited variability and therefore a diminished capacity for tolerating stresses and threats. The recovery plan indicated that scattered populations and disjunct distributions are commonly seen in the genus *Frankenia*. Whalen's (1980) reproductive data in the systematic analysis of the genus *Frankenia* showed *Frankenia johnstonii* had little propensity to reproduce. Turner (1980) found low seed viability (<50%) and had problems germinating seeds.

Janssen collected data on reproductive characteristics from six large populations in Webb (2), Zapata (3), and Starr (1) Counties. All attempts at germination in a greenhouse ended in failure, which was attributed to insufficient light conditions within the greenhouse (Janssen and Williamson 1996, Janssen 1999). Results of field observations showed that this species flowers throughout the year, but less abundantly in winter, with the highest numbers of flowers and fruit in spring/early summer. The flowers show no apparent morphological barriers to self-pollination. For plants having a reproductive system where gametophytic (the sexual generation of a plant which produces gametes) incompatibility is the case, the incompatibility can show up as an inhibition of pollen tube growth, but differential pollen tube growth was not observed in *Frankenia johnstonii*. Analysis of pollen grain viability resulted in a variance from 94–100% with an average of 96%. A large variety of diurnal pollinators visited *Frankenia johnstonii* flowers including flies, bees, and butterflies, with bee flies and bees being the most common. Within the

fruit, only one of three ovules typically developed into a seed; the other two aborted (Janssen 1999). The percentage of seed set among populations that Janssen studied ranged from 15–30 percent. Using seed viability tests, 31 percent of the seeds were found to be viable. Results of soil seed bank analysis from three populations, over 1 year's time, yielded the germination of only four total seedlings. Seedling recruitment, as monitored within two populations, showed 82 and 85 percent recruitment.

The results of Janssen and Williamson's reproductive analysis of *Frankenia johnstonii* showed this species to be a generalist with respect to pollinators. Floral visitation rates were high, and the species appeared to successfully compete for pollinators. Although *Frankenia johnstonii* is readily cross-pollinated, this species also has a floral morphology that allows self-pollination, and self-compatibility is indicated (Janssen and Williamson 1996, Janssen 1999). Janssen (1999) concluded that "although self-pollination can result in less genetic variability, it may not be so detrimental for plants that occupy narrow ecological habitats."

Plant population growth and stability can be limited by the production of viable seeds, especially if there is not asexual reproduction. *Frankenia johnstonii* does not reproduce vegetatively, so seed production is critical. Seed production depends on plant size, fruit-to-flower ratio, and number of seed-producing ovules. With respect to the three aforementioned factors, *Frankenia johnstonii* has low fruit-to-flower ratio, low seed set, and low seed viability. Janssen (1999) acknowledged that her results regarding these factors may reflect decreased vigor in the limited number of populations on which she was able to conduct reproductive studies.

With respect to long-term survival of the seeds, the seed bank does not appear to be a persistent reservoir of buried viable seeds. The seeds are small in size, may remain for the most part in the above-ground litter, and probably could not emerge if buried deep. The seed's thin coat does not favor long-term survival in the soil, but is suited for taking in water fast and then subsequently germinating. This may be the reason that, despite low seed set and viability, those seeds that do germinate have a high rate of recruitment (82 percent and 85 percent in the two populations studied). The fruit does not appear to be specialized for dispersal, and the seedlings are always found in close proximity to the parent. Timing of

germination and seedling size are critical in determining the fate of seedlings. The variation in timing of germination and seedling survival seen in *Frankenia johnstonii* may be tied to rainfall amounts. Seedling loss seems to be primarily a result of browsing, trampling, and drought stress (Janssen 1999).

Frankenia johnstonii occurs in well-defined clumps within well-delineated salt flats or saline openings in the brush (Janssen and Williamson 1994). This species lives in open areas (amount of bare ground equaling 50 percent within populations) where it is subjected to high light intensities. The plant assemblages within *Frankenia johnstonii* populations differ from those in the brush community outside of those populations. Line intercept sampling data from 29 populations showed a distinct, recurring assemblage of plants at each *Frankenia johnstonii* population site (Janssen 1999). This species is the woody dominant where it occurs, having the highest relative dominance, frequency, density, and coverage compared to other woody species within this hypersaline environment. *Frankenia johnstonii* also has the highest importance value in this species assemblage, followed by *Varilla texana*, *Prosopis reptans*, *Thymophylla pentachaeta*, and *Opuntia leptocaulis*, respectively. The importance value provides an indication of the importance of the species in the habitat since its value is equal to the sum of the relative density, relative dominance, and relative frequency of the species. These five plant species are consistently found at each *Frankenia johnstonii* population site (Janssen 1999).

In summary, the threats to *Frankenia johnstonii*'s future, as discussed in Factor E, focused on the species' small number of individuals, restricted distribution, and low reproductive potential. With regard to the small number of individuals, it is now known that *Frankenia johnstonii* is much more prevalent than originally thought, with greater than 9 million plants found between 1993 and 1999. The discovery of 51 new populations since the time the recovery plan was approved has brought the total to 58 known locations. These new population discoveries have expanded the geographic range of the species to include a third county in Texas and a third state in Mexico. Although the reproductive characteristics of *Frankenia johnstonii* may contribute to a reproductive potential that is relatively lower than many flowering plant species, this plant appears to be adapted to the arid climate and the saline soils which it inhabits.

This species can take advantage of sporadic rainfall events, using the available moisture to germinate quickly. It readily cross pollinates, but also has the capability to self-fertilize. This plant hosts a variety of pollinators, reducing its dependence on the survival of any one pollinator species. It is unlikely that human activities have altered the effectiveness of *Frankenia johnstonii*'s reproduction, except in cases where seedling survival has been adversely impacted by livestock trampling, a situation exacerbated by overstocking.

The regulations at 50 CFR 424.11(d) state that a species may be delisted if (1) it becomes extinct, (2) it recovers, or (3) the original classification data were in error. We conclude that the data supporting the original classification were incomplete, and new data show that removing *Frankenia johnstonii* from the List of Endangered and Threatened Wildlife and Plants is warranted. After conducting a review of the species' status, we determine that the species is not in danger of extinction throughout all or a significant portion of its range, nor is it likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range. Given the expanded range, number of newly discovered population locations and individuals, the lack of competition from introduced grasses, the remoteness of some of the larger populations, and the protection offered by a number of landowners who control those populations, we conclude, based on the best scientific and commercial information, that *Frankenia johnstonii* does not warrant the protection of the Act.

The Act requires us to make biological decisions based upon the best scientific and commercial data available. In accordance with our peer review policy (59 FR 34270), we will solicit the expert opinions of three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information on this proposed rule.

Effect of Delisting

Removal of *Frankenia johnstonii* from the List of Endangered and Threatened Wildlife and Plants would relieve Federal agencies from the need to consult with us to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species.

The 1988 amendments to the Act require that all species which have been delisted due to recovery efforts be

monitored for at least 5 years following delisting. *Frankenia johnstonii* is being proposed for delisting primarily due to new information about this species, rather than due to recovery. This new information has expanded the species' known range, has greatly increased number of known populations and individual plants, and has clarified life history requirements that apparently give *Frankenia johnstonii* a competitive advantage in the unique habitat it occupies. The Act does not require a post-delisting monitoring plan for *Frankenia johnstonii*. However, some voluntary monitoring will occur, covering 19 populations on private land and a portion of 1 population on refuge land. Ten landowners have signed conservation agreements, covering 19 separate populations, with the TPWD agreeing to protect this species on their property and allowing annual monitoring of its status.

The objectives listed in the Johnston's *Frankenia* Recovery Plan include protecting the existing habitat in the United States, identifying essential habitat required for the species' continued existence, contacting landowners and working together to create management plans to protect the plants, and obtaining permanent protection of at least one site. The TPWD has (beginning in 1999) initiated photo-monitoring at those populations located on properties for which voluntary conservation agreements were signed. Monitoring will continue at those sites for 10 years. The Service's Lower Rio Grande Valley National Wildlife Refuge will continue to monitor *Frankenia johnstonii* on the one refuge tract where it occurs, as well as surveying for this species on any new tracts which are being considered for purchase. Samples of *Frankenia johnstonii* seeds will be collected for cryogenic storage as part of a seed collection project targeting listed and priority plant species of the Lower Rio Grande area, a cooperative effort between the Service and the San Antonio Botanical Garden.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, 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. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have determined that this rule will have no effect on Federally recognized Indian tribes.

Clarity of Regulations

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 rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the 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 rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the interim rule? What else could we do to make the rule easier to understand?

Send a copy of any 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 comments to: Exsec@ios.doi.gov.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. You may call 361/994-9005 to make an appointment to view the files. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. Under limited circumstances, as allowable by law, we can withhold from the rulemaking record a respondent's identity. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representing an organization or business, available for public inspection in their entirety.

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Author

The primary author of this document is Robyn Cobb, U.S. Fish and Wildlife Service (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble, we 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.

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

Dated: August 9, 2003.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 03–12748 Filed 5–21–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 051503A]

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) Advisory Panels (APs) will meet on June 6 and 7, 2003, and the Council will hold its 118th meeting June 10 through 13, 2003, in Honolulu, HI. (see SUPPLEMENTARY INFORMATION for specific times, dates, and agenda items).

ADDRESSES: The AP meetings will be held at the Council Office Conference Room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: 808 522–8220. The Council meeting will be held at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI; telephone: 808–955–4811.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION:

Dates and Times

APs

The Commercial, Recreational, Subsistence/Indigenous and Ecosystem and Habitat sub-panels will meet jointly on Friday, June 6, 2003, from 8:30 a.m. to noon. Sub-panels will meet individually on Friday, June 6, 2003, from 1:30 p.m. to 5 p.m. and continue on Saturday, June 7, 2003, from 8:30