information available, the petition presented substantial information that listing *A. gentilis* in the contiguous United States west of the 100th meridian as a threatened or endangered species may be warranted. The Service determines that, although significant disagreement may exist as to the status of this species, the petition presents substantial information that indicates northern goshawks in the petitioned region may be declining in response to habitat loss and modification, and lack of existing regulatory mechanisms. Upon completion of a thorough status review, a 12-month finding will be made to determine whether listing is warranted for the northern goshawk in the western contiguous United States.

The Service seeks any additional data, information, or comments from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning the status of *A.g. atricapillus* and *A.g. apache*. The Service is interested in information from throughout the subspecies' ranges in the United States, Canada, and Mexico. The following issues are of particular interest to the Service—

1. The genetic, morphological, and ecological differences, including variations or intergradation of *A.g. atricapillus* and *A.g. apache* within their range;

2. Data on historic and current population trends and dynamics, and documented or suspected influencing factors which may assist in determining population trends;

3. Reproduction trends and documented or suspected influencing factors;

4. Trends in loss, modification, and recovery of forested habitat of the two subspecies, and the extent and affect of habitat conversion and fragmentation on goshawks and their prey;

5. Taxonomic clarification of North American goshawk subspecies;

6. Migration and dispersal; and

7. Information on the status of the goshawk in Canada and Mexico, as well as information on its management and relevant regulatory mechanisms.

References Cited

A complete list of all references cited herein is available on request from the Field Supervisor, Arizona Ecological Services Field Office, (see **ADDRESSES** section).

Authors

The primary authors of this document are Michele James and Bruce K. Palmer, of the Arizona Ecological Services Field Office, (see **ADDRESSEES** section).

Authority

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

Dated: September 22, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 97–25695 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE37

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Virginia sneezeweed (Helenium virginicum), a Plant From the Shenandoah Valley of Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list *Helenium virginicum* (Virginia sneezeweed) as a threatened species, under the authority of the Endangered Species Act of 1973, as amended (Act). This rare plant is restricted to seasonally inundated sinkhole ponds and meadows in Augusta and Rockingham counties, Virginia. Five of the 25 known extant populations are on U.S. Forest Service land; the others are on private land. This perennial plant is threatened by residential development, incompatible agricultural practices, filling and ditching of its wetland habitat and other disruptions of its habitat and the hydrology that maintains it. At several sites, ditches have been constructed to reduce the length of time that standing water is present. This has caused the *H. virginicum* population at one of the sites to be reduced to near extinction. *Helenium virginicum* is presently listed as endangered by the State of Virginia. This proposal, if made final, would implement Federal protection and recovery provisions afforded by the Act for this species.

DATES: Comments from all interested parties must be received by November 28, 1997. Public hearing requests must be received by November 13, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Chesapeake Bay Field Office, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, MD 21401. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Andy Moser, Chesapeake Bay Field Office (see ADDRESSES section) (telephone 410/573–4537; facsimile 410/269–0832).

SUPPLEMENTARY INFORMATION:

Background

Helenium virginicum (Virginia sneezeweed) is a perennial member of the aster family (Asteraceae) known only from Augusta and Rockingham counties, Virginia. The common name, sneezeweed, is based on the use of the dried leaves of these plants in making snuff, inhaled to cause sneezing that would supposedly rid the body of evil spirits (Niering 1979). *Helenium virginicum* stems grow to a height of 4 to 11 decimeters (1.5 to 3.5 feet) above a rosette of basal leaves. Coarse hairs are visible on the basal and lower stem leaves. The basal leaves may be broad in the middle tapering toward the ends, but otherwise may appear oblong. Stem leaves are lance-shaped, and become progressively smaller from the base to the tip of the stem. The stems are winged, the wings being continuous with the bases of the stem leaves. The flower ray petals are yellow, and wedge-shaped with three lobes at the ends. The central disk of the flower is nearly ball-shaped. Flowering occurs from July to October (Virginia Department of Conservation and Recreation 1995).

Helenium virginicum is similar to common sneezeweed (*Helenium autumnale*), but differs in having a sparsely-leaved stem, larger basal leaves, and longer pappus scales (appendages which crown the ovary or fruit). It is also differentiated by leaf shape, stem and leaf hairs, and habitat requirements.

Helenium virginicum was first described by S.F. Blake in 1936 from specimens collected near Stuart's Draft, Virginia. It is a perennial wetland species found only on the shores of shallow, seasonally flooded ponds in Virginia's Shenandoah Valley. From 1985 through 1995, extensive status survey work was conducted for *H. virginicum* in over 100 limestone sinkhole ponds along the western edge of the Blue Ridge Mountains in the Shenandoah Valley of Virginia. A total of 28 separate populations were located during these surveys. The ponds at these locations range in size from less than 0.04 hectare(ha) (0.1 acre (ac)) to 3 ha (8 ac) and are seasonally flooded, semipermanent, or permanent bodies of water. The ponds supporting *H.*

virginicum have poorly drained, acidic, silty loam soils, and are typically flooded from January through July.

Helenium virginicum is adapted to survive the water level fluctuations of the seasonal ponds, giving it a competitive advantage in this habitat. From year to year, the number of *H. virginicum* plants at any given site may vary greatly. A high water level one year may leave the ponds flooded, resulting in less shoreline for plants to become established or to survive. However, a high water level also eliminates the invading shrubs and trees that may compete with *H. virginicum* on the pond shores. When the water level is lower, more pond shore is exposed and the surviving plants and the seeds stored in the soil enable the *H. virginicum* populations to rebound (Virginia Department of Conservation and Recreation 1995).

Seeds of *Helenium virginicum* are dispersed in late fall and winter; germinating in late summer or early fall of the following year if conditions are suitable. Seeds will not germinate in the dark or under a standing column of water. In the first year of growth, the plant exists as a basal rosette with a diffuse root system. Plants seem to grow year-round, even while submerged. Flowering usually does not occur until the plant is more than one year old. One aerial stem bearing several flower heads is formed during the first flowering season; in subsequent years several flowering stems may be formed in a season. Plants may live for five years, flowering in consecutive years (J.S. Knox, Washington and Lee University, pers. comm. 1997).

Of the 28 populations of *Helenium virginicum* identified during the 10-year survey period, 25 currently are considered to be extant. The remaining three populations, where no *H. virginicum* have been seen in recent years, may be extirpated. Of the 25 extant populations, 5 are on U.S. Forest Service land and the remaining 20 are on private lands. The most recent status report (Van Alstine 1996) provides an excellent review of the status and trends for the species. The report indicates that the majority of sites on private land are in wetlands and have a range of disturbances and threats including ditching, filling, mowing, and grazing.

Previous Federal Action

Federal government actions on this species began on November 28, 1983, when the Service published a notice of review in the **Federal Register** (48 FR 53640) covering all native plants being considered for listing as endangered or threatened. *Helenium virginicum* was included in that notice as a category 2 species. Category 2 species were defined as those taxa for which the Service lacked information to determine if category 1 status was warranted. It was subsequently retained as a category 2 species when the Notice of Review for Native Plants was revised in 1985 (50 FR 39526), and again in 1990 (55 FR 61184).

In 1985, the Service contracted with The Nature Conservancy to conduct status survey work on *Helenium virginicum* and numerous other rare plant species. Their final report, dated October 20, 1986, recommended threatened status for this plant but indicated that additional ponds should be checked for the presence of this species.

In 1990 and 1991, the Virginia Department of Conservation and Recreation's Division of Natural Heritage conducted further fieldwork, funded in part by the Service, to locate additional *Helenium virginicum* populations. An exhaustive search resulted in the discovery of seven additional locations of the species, but three of these locations contained very few individuals. Based largely on this new information, *H. virginicum* was moved to category 1 when the Notice of Review for Plant Taxa was revised in 1993 (58 FR 51144). Category 1 species were defined as those taxa for which the Service had on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. Upon publication of the February 28, 1996, Notice of Review (61 FR 7596), the Service ceased using category designations and included *H. virginicum* as a candidate species. As currently defined, candidate species are those taxa for which the Service has on file sufficient information on biological vulnerability and threats to support proposals to list the species as threatened or endangered.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1513) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Helenium virginicum* Blake (Virginia sneezeweed) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat modification is the principal threat to *Helenium virginicum*. It is threatened by residential development, incompatible agricultural practices, filling and ditching of wetland habitats, groundwater withdrawal, and other disruptions of hydrology. Because the survival and maintenance of *H. virginicum* populations depend on seasonal water level fluctuations, either wetland drainage or increases in the time of inundation may result in high levels of mortality. Of the 18 populations visited in 1995, eight were located in relatively undisturbed wetlands, while the remaining 10 were in wetlands altered by ditching, mowing, grazing or filling (Van Alstine 1996). At least four of the sites where recently the species has dramatically declined have modified hydrology (Van Alstine and Ludwig 1991). Three of these sites have been either ditched or filled, thereby shortening or eliminating the wet phase.

Among the most threatened populations of *Helenium virginicum* are those in the area south and southwest of Lyndhurst, Virginia, where land use is increasingly being converted from agricultural to residential. Increased drainage control which accompanies such development will adversely affect many of the sites located on or near agricultural lands over the next 10 years (Van Alstine and Ludwig 1991).

One proposed project, the widening of Route 340 from two to four lanes in Augusta County, could have severe impacts on one of the largest populations of *Helenium virginicum*. However, it may be possible to avoid or reduce impacts by careful routing of the highway, controlling runoff, and maintaining current hydrology.

Cattle grazing and mowing affect many of the sites supporting the species. In general, the effects of moderate levels of grazing and mowing appear to be beneficial, since several of the regularly grazed or mowed sites are among the largest and best established populations. Nonetheless, there is a potential that overly frequent, or poorly timed mowing (and perhaps overgrazing) could have a long-term adverse effect on the species by interfering with flowering and seed production (Van Alstine and Ludwig 1991).

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Other species in the genus *Helenium* have been shown to contain compounds with antitumor properties. However, there is no information to show that *Helenium virginicum* is in commercial trade for these compounds. Overcollection has not been documented as a problem for the

species. Most collections, to date, have been for scientific purposes and have been taken from locally large populations which can tolerate these low levels of collection. Overcollection could become a problem at some of the sites supporting smaller populations of *H. virginicum*.

C. *Disease or predation.* Disease and predation are currently not believed to be factors affecting the continued existence of the species. Although grazing may affect *Helenium virginicum*, its effects are thought to be mostly positive, because most grazers appear to feed preferentially on competing vegetation while avoiding *H. virginicum*. The effects of long-term heavy grazing are not known.

D. *The inadequacy of existing regulatory mechanisms. Helenium virginicum* is currently listed as an endangered species by the State of Virginia. State law prohibits the taking of this species from State or private lands without consent of the landowner but does not protect the species' habitat. The Corps of Engineers' regulatory program provides limited regulation of the species' wetland habitats. This has not prevented draining and filling of sites supporting the species.

E. *Other natural or manmade factors affecting its continued existence.* Invasion of an exotic species, the purple loosestrife (*Lythrum salicaria*), is a potential threat. Purple loosestrife is slowly extending its range throughout freshwater wetland areas in Virginia and may invade *Helenium virginicum* habitats, outcompeting the species at affected sites. Climate changes (either natural or human-caused) are also a potential threat to the species. Several consecutive years of unusually wet or unusually dry weather can dramatically lower population numbers; at these times the populations may be especially vulnerable to the modifications to hydrology discussed under factor A.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Helenium virginicum* as a threatened species. This species is faced with increasing threats from loss and degradation of habitat due to development and related changes in hydrology as well as other activities incompatible with the species long-term survival. These threats are compounded by the species' restricted range and small number of populations. While not in immediate danger of extinction, *H. virginicum* is likely to become an endangered species in the foreseeable future if the present threats and declines in the number and sizes of populations continue. In accordance with the definitions for endangered and threatened species found in section 3 of the Act, threatened is the most appropriate classification for *H. virginicum*.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for conservation of the species. *Conservation* means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Helenium virginicum*, at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Twenty of the 25 known extant populations of *Helenium virginicum* are on private land. Most of these populations are located near or adjacent to residential areas or public roads. The publication of precise maps and descriptions of critical habitat in the **Federal Register**, as required in a proposal for critical habitat, would make this plant vulnerable to incidents of collection and vandalism and, therefore, could contribute to the decline of the species. Although this species is not known to be sought by collectors, related members of the genus are commercially cultivated and at least one member of the genus, *H. amarum*, has been shown to contain compounds of possible medicinal value. The listing of this species as threatened also publicizes its rarity and, thus, may make this plant more attractive to researchers, collectors, and those wishing to see rare plants. The desirability and accessibility of the species, therefore, could make the plants subject to collection if their precise locations were publicized.

In addition, critical habitat designation for *Helenium virginicum* is not prudent due to lack of benefit. Five of the species' 25 known extant populations occur on Federal land in the George Washington and Jefferson National Forest. The U.S. Forest Service is aware of the locations of these populations and has protected four of them through designation as Special Interest Areas (Biological). The fifth population, discovered more recently, is likely to receive a similar designation. The Forest Service has indicated a commitment to assisting in the recovery of this species by protecting these sites. Because it is highly likely that a Forest Service activity which would cause adverse modification of critical habitat would also cause jeopardy to the species, the designation of critical habitat on Federal lands would not provide greater protection for this species or its habitat than that provided by listing.

The remaining 20 of the 25 known extant populations of *Helenium virginicum* are located on private lands. The owners and managers of these private lands were informed of the population locations and of the importance of protecting the species and its habitat. It is highly likely that an activity on private land involving Federal permitting or funding which causes adverse modification of critical habitat would also cause jeopardy to the species. For this reason, the designation of critical habitat on private lands would not provide greater protection for this species or its habitat than that provided by listing. As outlined above, the designation of critical habitat could cause additional threats but likely would provide no additional benefits for the species. Therefore, the Service concludes that designation of critical habitat for *H. virginicum* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land

acquisition and cooperation with the states and requires that recovery plans be developed for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed or proposed for listing as endangered or threatened and with respect to those species' designated or proposed critical habitat, if any. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the Federal agency must enter into formal consultation with the Service. Federal agency actions that may require conference and/or consultation include U.S. Forest Service land management activities and U.S. Army Corps of Engineers permitting of projects such as road construction and filling of wetlands subject to section 404 of the Clean Water Act (U.S.C. 1344 *et seq.*).

The Act and its implementing regulations set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, 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, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. The protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, education purposes, or special purposes consistent with the purposes of the Act. In the case of *Helenium virginicum*, it is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation nor in the wild.

It is the policy of the Service published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. Collection, damage, or destruction of listed species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Such activities on non-Federal lands would constitute a violation of section 9, if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that would affect *Helenium virginicum* and result in a violation of section 9. Questions regarding whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Chesapeake Bay Field Office (see **ADDRESSES** section).

Requests for copies of the regulations concerning listed plants and general inquiries regarding prohibitions and permits may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, the Service hereby solicits comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Helenium virginicum;*

(2) The locations of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range and distribution of the species; and

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

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, Chesapeake Bay Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, 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 Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

Blake, S.F. 1936. A New Helenium from Virginia. Claytonia 3(2):13–15.

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Van Alstine, N.E. 1996. A Reassessment of the Status of the *Helenium virginicum* Populations in the Shenandoah Valley of Virginia. Natural Heritage Technical Report 96–6. VA Dept. of Conservation and Recreation, Richmond, VA. Unpublished report to the U.S. Fish and Wildlife Service. 36pp.

Van Alstine, N.E., and J.C. Ludwig. 1991. Natural Heritage Inventory: *Helenium virginicum*. 1990 Final Report. VA Dept. of Conservation and Recreation, Div. of Natural Heritage, Richmond, VA. Unpublished report. 50pp.

Virginia Department of Conservation and Recreation. 1995. Natural Resources Fact Sheet—Virginia Sneezeweed (*Helenium virginicum*). VA Dept. of Conservation and Recreation, Richmond, VA. 2pp.

Author

The primary author of this proposed rule is Andy Moser, Chesapeake Bay Field office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes 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. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Helenium virginicum	Virginia sneezeweed	U.S.A. (VA)	Asteraceae	T		NA	NA
*	*	*	*	*	*	*	

Dated: September 15, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 97–25694 Filed 9–26–97; 8:45 am]

BILLING CODE 4310–55–P