

Marketing Wetland Natives and Endangered Plants Under Federal and State Permitting Regulations

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INTRODUCTION

The topic I have been asked to cover is really two rather different subjects. Each could be the subject of a much more lengthy presentation. They relate in that they both involve native plants, natural ecosystems, environmental regulations, and the *Green Industry*.

I will try to briefly discuss wetland native plants and spend a little more time on the subject of endangered plants and the attendant ethical and legal considerations.

Legislation to Protect the Environment and Endangered Species. In the 1970s during the Nixon administration, sweeping federal environmental legislation including the Clean Air Act, the Clean Water Act, and the Endangered Species Act became law. These federal laws from the 1970's plus other state and federal environmental laws since that time have affected the green industry in various ways well known to most of you. *Legal requirements to protect wetlands have severely restricted development in many areas. Restoration of damaged wetlands or creation of new wetlands to mitigate losses have created a new demand for appropriate plant material and its installation.*

Plant Species for New and Disturbed Wetland Sites. While new or disturbed wetland sites are naturally invaded and occupied by aquatic plant species, the desired species mix may require planting and management. Much of this know-how was developed years ago by state, federal, and private interests who have for most of this century managed thousands of wetland acres throughout the country for waterfowl hunting or as wildlife refuges.

In the Southeast, Florida has perhaps been the state most involved in wetland projects and has been a major source for much of the wetland plant material used on big projects elsewhere in the Southeast. Several Florida nurseries specialize in wetland plants for large projects. Charleston Aquatic Nursery, visited during this conference, is an example of a nursery which supplies water plants primarily for ornamental use. Woody plants for wetland use are usually produced by ordinary commercial nurseries using standard tree and shrub propagation and production techniques.

While herbaceous aquatic plants propagated by seed and division are routinely grown in some nurseries, much of what is sold is collected from natural wetlands. Although this activity is sometimes conducted irresponsibly, wetlands are remarkably resilient and it may be rare that significant or long-term damage is done by occasional removal of moderate percentages of a given species. In any case, care should be taken to avoid endangered species or special areas which are ecologically unique. Collecting on public property or trespassing on private property without clear authorization is of course illegal.

Federal Endangered Species Act. The Federal Endangered Species Act of 1973 is intended to identify, locate, and develop protection and recovery strategies for populations of native species of animals and plants which are in imminent danger of extinction. The U.S. Fish and Wildlife Service, Department of the Interior, is the agency responsible for administering and enforcing the Endangered Species Act.

Common law as applied to animals and plants differs in that land ownership includes ownership of flora but not fauna. Efforts to save rare animals are widely publicized and have generally received more public attention and support than have efforts to save endangered plants. As plant propagators, we will be looking at the situation as it applies to threatened and endangered plants. As plant propagators, we should have been much more involved than we have been.

How Plants Become Endangered Species. Plants become endangered for various reasons. Relatively few have been intentionally exploited—but human activity, directly or indirectly, is largely responsible. Loss or scarcity of suitable habitat is by far the major factor. Some species which were once widespread have been made rare by loss of habitat to development, agriculture, forestry, mining, drainage, impoundments, fire suppression, invasive exotic species, insects, diseases, etc. Other species require very specific habitats which have always been very scarce. These plants were never known to have been common and their fate as naturally occurring populations is tied to preservation of very specific rare and highly localized ecosystems.

Certain native plants have historically been exploited for various purposes. A number are heavily collected for the medicinal trade. A few plants, notably certain cacti and orchids have been severely impacted by unscrupulous and unethical collecting for horticultural purposes. Unfortunately this has given the entire horticultural community a “bum rap”. It has made us the convenient “bogeyman” for zealous regulators and environmental activists. Restrictions on interstate and international commerce and elaborate permitting procedures regulating sale of any plant species listed as threatened or endangered are part of the present law. Some view this as an important means of protecting endangered plants from commercial exploitation.

While the US Fish and Wildlife Service has spent a lot of money aggressively pursuing the capture and captive breeding of rare animal species it has shown little interest in applying proven, less-costly, and less-risky horticultural techniques to endangered plants. Those involved in enacting and administering endangered plant programs should be educated to the following points:

- Only a relatively small percentage of threatened and endangered plant species are of any horticultural interest, but horticultural techniques could help save many.
- There is a big difference between the destructive and unethical collecting and selling of rare plants, and the potential benefits offered by artificial propagation.
- Horticultural use is a legitimate value, and should not be ignored or denied when conservationists seek to justify the preservation of endangered plants.
- A number of rare plants with horticultural value have been propagated and maintained in cultivation for years without

impacting wild populations. While preserving wild populations is paramount, a few species exist today only because they have been preserved in cultivation.

- Many rare plants are easily propagated and could be artificially increased ad infinitum, thus making removal of wild plants from native populations unjustifiable on any grounds. Also such propagation could provide quantities of plants for conservation purposes such as introduction or reintroduction into suitable habitats.

Re-authorization of the Endangered Species Act. The Endangered Species Act is up for re-authorization and several House bills have been introduced. One, H.R. 2275, awaits floor action. Conservationists strongly oppose H.R. 2275 and are lobbying for a more acceptable bill. Any re-authorization will probably not happen before early in 1996. Hopefully a final bill will provide for the protection of critical habitats and will include realistic provisions to encourage, rather than discourage, the propagation of threatened and endangered plants. Trade restrictions on plants which have been artificially propagated from legitimately obtained stock should be relaxed to allow sale by nurseries which have been inspected and certified. Please contact your senators and representatives with your views.

Meanwhile the US Fish and Wildlife Service can provide information on current regulations and the plant species which now have legal status as threatened or endangered. In addition it is important to understand the laws of each state where you do business if you wish to buy, sell, or possess rare native plants which might be protected under state law. Your state department of natural resources will be able to advise you concerning state laws.