the Service possessed information indicating proposing to list the taxa was possibly appropriate, but for which conclusive data on biological vulnerability and threats sufficient to support a proposed listing rule was lacking. Panicum hirstii remained a Category 2 candidate species in the subsequent plant notices of review in 1983, 1985, 1990, and 1993 (48 FR 53640, November 28, 1983; 50 FR 39526, September 27, 1985; 55 FR 6184, February 21, 1990; 58 FR 51144, September 30, 1993). The Service did not publish any other notices of review for plants during this time period.

The Service revised candidate categories in 1996, and *Panicum hirstii* was not included as a candidate species under the updated categorization (61 FR 7596; February 28, 1996). The revised categories further defined a candidate species as a species for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing regulation is precluded by other higher-priority listing activities.

In 1999, the Service included *Panicum hirstii* as a new candidate species, using the updated definition, through its own internal assessment process (*i.e.*, not via a petition), and assigned it an LPN of 5, meaning it was a species with a high magnitude of nonimminent threats (64 FR 57534, October 25, 1999). *Panicum hirstii* was included in the subsequent annual CNORs with an LPN of 5 in 2001, 2002, and 2004 (66 FR 54808, October 30, 2001; 67 FR 40657, June 13, 2002; 69 FR 24876, May 4, 2004). The Service did not publish a CNOR in 2003.

On May 11, 2004, we received a petition dated May 4, 2004, from the Center for Biological Diversity and other groups and individuals requesting that the Service list *Panicum hirstii* and 225 other candidate species as endangered species or threatened species under the Act. In 2005, the Service again made a warranted-but-precluded finding for the plant, with an LPN of 5, but noted a change in its scientific name to Dichanthelium hirstii (70 FR 24870, May 11, 2005). In 2006 through 2014, D. hirstii remained a candidate with an LPN of 5 (see September 12, 2006 (71 FR 53756), December 6, 2007 (72 FR 69034), December 10, 2008 (73 FR 75176), November 9, 2009 (74 FR 57804), November 10, 2010 (75 FR 69222), October 26, 2011 (76 FR 66370), November 21, 2012 (77 FR 69994), November 22, 2013 (78 FR 70104), and December 5, 2014 (79 FR 72450)). In 2015, D. hirstii was included as a candidate in the CNOR, but the LPN

was elevated from 5 to 2, indicating a species with a high magnitude of imminent threats (80 FR 80584, December 24, 2015).

Background

Dichanthelium hirstii, as referenced in some literature, is a perennial, wetland-obligate grass that is currently estimated to occur in eight locations distributed across four States: New Jersey (Barkwoods Pond, Labounsky Pond, and Berlin Avenue Bogs North in Atlantic County, and Hampton Furnace Pond in Burlington County); Delaware (Assawoman Pond in Sussex County); North Carolina (Starretts Meadow and Lyman Road in Onslow County); and Georgia (Leslie Pond in Sumter County). A ninth location, in Calhoun County, Georgia, is considered historical.

Summary of Status Review

The plant that the Service has been referring to as either P. hirstii or D. hirstii has always had a complex taxonomic history, and has undergone several changes to its scientific name as understanding about its distribution and morphology has evolved. The Flora of North America (FNA) is one source of information available to the Service and is considered the taxonomic authority for plants in North America because it is a comprehensive, systematic taxonomic account of the plants of North America. While several authors have published regional flora and descriptions that recognize Panicum hirstii/Dichanthelium hirstii as a separate entity, few have published taxonomic treatments. The last taxonomic treatment was the 2003 FNA, which is a complete taxonomic treatment of the Dichanthelium genus and the species therein, that explicitly relegates P. hirstii/D. hirstii to a synonym of *D. dichotomum* ssp. roanokense (Ashe). This indicates that the plant the Service had considered a candidate species is not a valid taxon and is a component of a larger, more widespread species that appears to grow on the coastal plain from Delaware to southeastern Texas and in the West Indies. Although the Integrated Taxonomic Information System (ITIS; http://www.itis.gov/) reports that Dichanthelium hirstii is an accepted species and the Service often relies on ITIS as a reliable database source of taxonomic information, in this instance ITIS is incorrect. Given this closer review of the taxonomic history of P. hirstii/D. hirstii, the Service recognizes that we overlooked the significance of the synonymy information, and in retrospect should not have included P. hirstii or D. hirstii as a candidate

species. While the 2015 published and draft documents of McAvoy et al. and Weakley, respectively, and the ITIS database information are more recent than the 2003 FNA's published treatment, those documents and database do not individually or collectively represent a more comprehensive systematic analysis of the plant's taxonomic status because they are not full taxonomic treatments of Panicum and Dichanthelium. Therefore, the Service considers the FNA's 2003 treatment of Panicum and Dichanthelium as representing the best available scientific and commercial information regarding the plant's taxonomic status. The FNA's treatment indicates that neither P. hirstii nor D. hirstii is considered a species, subspecies, or variety. Therefore, the best available scientific and commercial information indicates that P. hirstii/D. hirstii does not meet the Act's definition of a species.

Finding

Based on the best available scientific and commercial information, we find that Dichanthelium hirstii does not meet the Act's definition of "species" and is, therefore, not a listable entity under the Act. Dichanthelium hirstii was subsumed into D. dichotomum ssp. roanokense (Ashe), which "grows on the coastal plain from Delaware to southeastern Texas and in the West Indies." As a result, we are removing Dichanthelium hirstii from the candidate list.

As a result of the Service's 2011 multidistrict litigation settlement with the Center for Biological Diversity and WildEarth Guardians, the Service is required to submit a proposed listing rule or a not-warranted 12-month finding to the **Federal Register** by September 30, 2016 (In re: Endangered Species Act Section 4 Deadline Litigation, No. 10-377 (EGS), MDL Docket No. 2165 (D.D.C. May 10, 2011)), for all 251 species that were included as candidate species in the Service's November 10, 2010, CNOR. This document satisfies the requirements of that settlement agreement for the Hirst Brothers' panic grass, and constitutes the Service's 12-month finding on the May 4, 2004, petition to list the Hirst Brothers' panic grass as an endangered or threatened species. A detailed discussion of the basis for this finding, including a complete review of the taxonomic history, can be found in the Hirst Brothers' panic grass's speciesspecific assessment form and other supporting documents (see ADDRESSES, above).