

Dated: April 28, 1997.

**John G. Rogers,**

Acting Director, U.S. Fish and Wildlife Service.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN: 1018-AC98

#### Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List *Arctostaphylos Imbricata* (San Bruno Mountain Manzanita) as Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The U. S. Fish and Wildlife Service (Service) withdraws the proposal to list *Arctostaphylos imbricata* (San Bruno Mountain manzanita) as a threatened species under the Endangered Species Act of 1973, as amended (Act). This determination is based on evaluation of comments and additional information received subsequent to publication of the proposed rule. Provisions of the San Bruno Mountain Habitat Conservation Plan (HCP) pertaining to management for the conservation of *A. imbricata* have been clarified. Other threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are no longer considered to pose a significant risk to the survival of the species. Thus, protection under the Act is unnecessary at this time.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Ave., Sacramento, California 95821-6340.

**FOR FURTHER INFORMATION CONTACT:** Diane Windham, at the above address or by telephone at (916) 979-2725.

#### SUPPLEMENTARY INFORMATION:

##### Background

Alice Eastwood (1931) originally described *Arctostaphylos imbricata* in 1931, based on material collected from the San Bruno Hills in 1915. Until 1967, various authors either synonymized *A. imbricata* with *A. andersonii* (Jepson 1939), or considered it to be a variety of *A. andersonii* (Adams in McMinn 1935).

Roof (1967) followed Eastwood's treatment and acknowledged *A. imbricata* as a distinct species. Wells (1988) recognized *A. montariensis* as a subspecies of *A. imbricata* which, under the rules of botanical nomenclature, automatically created the name (autonym) *A. imbricata* ssp. *imbricata*. He has since revised his treatment of California *Arctostaphylos* to recognize *A. imbricata* as a distinct species (Wells 1993).

*Arctostaphylos imbricata* is a low, spreading, evergreen shrub of the heath family (Ericaceae) that lacks a basal burl. Attaining a height of 20 centimeters (8 inches), this highly branched shrub forms mats up to about 6 meters (m) (6 yards) in diameter. The bright green, oblong to ovate leaves are hairless, except on the midrib, and densely overlapping. Small, white, urn-shaped flowers appearing from February to May are densely clustered at the end of branchlets. After fire, *A. imbricata* regenerates from seed instead of resprouting from a basal burl. *Arctostaphylos imbricata* can be distinguished from other members of the genus by its prostrate form, its shorter, densely arranged leaves, and its compact flower clusters (Roof 1967).

*Arctostaphylos imbricata* is restricted to San Bruno Mountain in northern San Mateo County. On San Bruno Mountain, six small colonies comprise one population which covers approximately 2.3 hectares (5.6 acres) (V. Harris, Thomas Reid Associates, *in litt.* 1993; R. Gankin, San Mateo County Planning Department, *in litt.* 1994). The most abundant colony has 400 to 500 plants; other colonies have as few as 3 plants (R. Gankin, pers. comm. 1993; R. Gankin, *in litt.* 1994). The plant grows on rocky, exposed areas such as open ridges within coastal scrub or manzanita scrub vegetation at an elevation range of 275 to 365 m (900 to 1,200 feet). Where it occurs, it is the dominant plant species, and may be associated with *Baccharis pilularis* (coyote brush), *Vaccinium ovatum* (huckleberry), *Rhamnus californica* (coffeeberry), and *Arctostaphylos uva-ursi* var. *suborbiculata* (bearberry) (California Department of Fish and Game 1988). *Arctostaphylos imbricata* has never been known from more than the single population of six colonies that occurs today. Five of the six colonies occur on land owned by the San Mateo County Department of Parks and Recreation; the sixth colony is privately owned (Thomas Reid Associates 1991). All colonies are located within the San Bruno Mountain HCP boundaries.

#### Finding and Withdrawal

The proposed rule to list *Arctostaphylos imbricata* as threatened (October 4, 1994; 59 FR 50550), stated that the San Bruno Mountain HCP, a planning effort under management and implementation by San Mateo County and their consultant, Thomas Reid and Associates, identifies *A. imbricata* as a "species of concern" but that the HCP does not identify any species-specific management actions for this species. Since publication of the proposed rule, provisions of the HCP pertaining to management for the conservation of *A. imbricata* have been clarified. The HCP preserves most of the mountain and provides monitoring and management for a number of rare plant and animal species, including *A. imbricata*. In addition, threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are no longer considered to pose a significant risk to the survival of the species. For these reasons, the Service now believes the plant is adequately conserved.

#### Previous Federal Action

On December 15, 1980, the Service published in the **Federal Register** an updated Notice of Review for plants (45 FR 82480) which included *Arctostaphylos imbricata* as a category 1 candidate for Federal listing. Category 1 taxa were formerly defined as taxa for which the Service had on file sufficient information on status and threats to support issuance of a listing proposal. *Arctostaphylos imbricata* retained category 1 status in revised plant notices published on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144).

A proposal to list *Arctostaphylos imbricata* as threatened and *Lessingia germanorum* as endangered was published in the **Federal Register** on October 4, 1994 (59 FR 50550). This notice of withdrawal of the proposal to list *A. imbricata* is published concurrently in the **Federal Register** with the final rule listing *L. germanorum* as endangered in order to resolve the listing status of both species. Processing the final listing decisions on these two species follows the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475).

#### Summary of Comments and Recommendations

In the October 4, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information

that would contribute to the development of a final decision document. Appropriate Federal and State agencies, county and city governments, scientific organizations, and other interested parties were contacted and requested to comment. In accordance with Service policy published on July 1, 1994 (59 FR 34270), the Service solicited comments from three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the proposed rule. A newspaper notice of the proposed rule was published in the *San Francisco Chronicle* on October 19, 1994, which invited general public comment. A 60-day comment period closed on December 4, 1994.

The Service received eight letters of comment. No requests for public hearings were received. Because the proposed rule included both *Arctostaphylos imbricata* and *Lessingia germanorum*, only comments pertaining to *A. imbricata* are discussed here. Comments and issues pertaining to *L. germanorum* are discussed in a separate **Federal Register** notice published concurrently with this notice.

Of the eight people who submitted comments, three were neutral and four supported the listing of *Arctostaphylos imbricata*. The eighth respondent opposed the listing of *A. imbricata* on the grounds that listing was premature at the time and recommended that it be retained as a candidate species. As previously indicated, the listing proposal for *A. imbricata* is being withdrawn in this notice. A candidate is a species for which the Service has on file sufficient information on the status and threats to the species to support issuance of a listing proposal. Therefore, upon the withdrawal of the proposal to list, *A. imbricata* cannot be maintained as a candidate.

One commenter indicated that designation of critical habitat would aid in protection of rare plants. Because the proposed rule for *Arctostaphylos imbricata* is being withdrawn, this issue is moot with respect to this species. Another commenter suggested that the effects of microwave facilities on San Bruno Mountain might pose a threat to the species. The Service is not aware of any data to support this contention and no evidence was provided by the commenter.

The combined threats of senescence (growing old, dying) of plants and lack of reproduction due to the prolonged absence of fire described in the proposed rule were considered by another commenter to be unsubstantial. After reviewing the available

information, the Service concurs. More detail on this issue is provided in the discussion of Factor E in the "Summary of Factors Affecting the Species" section below.

Only one of the three independent and appropriate specialists provided comments on the proposal to list *Arctostaphylos imbricata*. This reviewer concurred with all of the comments made in the proposed rule concerning the status, threats, and potential threats to the species and supported listing as proposed. The reasons for the Service's decision to withdraw its proposal to list *A. imbricata*, in opposition to this specialist's recommendation, are explained in the following section.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act requires the Service to consider five factors when determining whether to list a species as threatened or endangered. These factors, and their application to the Service's decision to withdraw the proposal to list *Arctostaphylos imbricata* Eastw. (San Bruno Mountain manzanita), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* No threats to *Arctostaphylos imbricata* were identified under this factor in the proposed rule, nor were any such threats identified by commenters on the rule. None of the colonies are threatened by development permitted under the San Bruno Mountain HCP. The Service believes that no threats exist to the species' habitat or range.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The proposed rule cited overutilization for horticultural purposes as a potential threat to *Arctostaphylos imbricata*. In 1991, cuttings were taken from plants located at Kamchatka Point on San Bruno Mountain. The remnant surviving portions of the plants showed evidence that the clippings were performed with horticultural expertise (Doug Heisinger, Park Ranger, San Mateo County Park, pers. comm. 1993). Some *A. imbricata* individuals being sold at local plant sales may have originated from clippings from the natural population (Paul Reeberg, pers. comm. 1993). The Service now concludes that, although such actions are inappropriate and illegal (under both the California Endangered Species Act and the California Native Plant Protection Act), infrequent pruning does not currently constitute a significant threat to the survival of the species.

C. *Disease or predation.* No known threats from disease or predation were identified in the proposed rule. The Service has no new information on threats from these factors.

D. *The inadequacy of existing regulatory mechanisms.* The proposed rule stated that *Arctostaphylos imbricata* derived limited protection from the San Bruno Mountain HCP, but that no species-specific management actions for *A. imbricata* are identified in the HCP and none have been implemented. After publication of the proposed rule, the HCP Trustees informed the Service that the San Bruno Mountain HCP provides for monitoring and management of populations of all rare plants occurring on the mountain including *A. imbricata*. Moreover, the HCP Trustees have agreed and committed to an annual budget for rare plant monitoring and management. Any specific management activities recommended, such as controlled burning (see Factor E below), will be carried out under the HCP. Present management for *A. imbricata* includes alien plant control. The Trustees have also expressed a willingness to meet and work with Service biologists to identify and implement any specific management actions necessary for the conservation of the species (V. Harris, *in litt.* 1996).

*Arctostaphylos imbricata* is listed as endangered under the California Endangered Species Act (Chapter 1.5 section 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations 670.2). The proposed rule stated that, although both the California Endangered Species Act and the California Native Plant Protection Act prohibit the "take" of State-listed plants (California Endangered Species Act, Chapter 1.5 section 2080 and California Native Plant Protection Act, Chapter 10 section 1908), State law exempts the taking of such plants via habitat modification or land use changes by the owner provided notification requirements are satisfied. The Service concluded that this exemption renders State law inadequate to protect *A. imbricata* from extinction. The Service believes that the inadequacy of State law in protecting *A. imbricata* is no longer an issue because protection of the species is provided by the San Bruno Mountain HCP.

E. *Other natural or manmade factors affecting its continued existence.* The Service indicated in the proposed rule that *Arctostaphylos imbricata* is a fire-adapted plant that, following a fire, regenerates entirely from seed and does not resprout from a basal burl. Keeley (1977) labeled plants employing this

type of post-fire reproductive strategy "obligate-seeders." The Service also implied in the proposed rule that fire, which can remove competing vegetation and counter mechanisms that prevent seed germination (e.g., hormones, impervious seed coat), is necessary for the maintenance of *A. imbricata* because sexual reproduction by seed is important to the maintenance of genetic diversity. Although germination of its seed bank (seeds accumulated in the soil and canopy of mature shrubs) is triggered mainly by fire, occasional germination and establishment of *A. imbricata* does occur without the aid of fire (R. Gankin, *in litt.*, 1994). Moreover, *A. imbricata* can spread vegetatively and reportedly is spreading on San Bruno Mountain (R. Gankin, *in litt.*, 1994). Thus, fire is not necessary for maintenance of the species.

The Service asserted in the proposed rule that if the amount of time between fires were too long, *Arctostaphylos imbricata* would have little opportunity to reproduce sexually and individuals could become senescent. However, Keeley (1977) argued that the reproductive strategy of obligate-seeders such as the non-sprouting manzanita species is an adaptation to a long-interval fire cycle. Obligate-seeders tend to occur in less fire-prone areas, like San Bruno Mountain which is often shrouded in fog during the summer (D. Schooley, Bay Area Land Watch, *in litt.*, 1994), that generally burn more intensely when fires do occur (Keeley 1977). Consequently, *A. imbricata* and other obligate-seeders "are resilient to very long intervals [between fires] and successful seedling recruitment is observed after fires in stands which may exceed 100 years of age" (Keeley *et al.* 1988). In addition, fires burned colonies of *A. imbricata* on San Bruno Mountain in 1964 and in the late 1980's. Even though all of the individuals in the colony which burned in the 1980's were killed, significant regeneration did take place (R. Gankin, *in litt.*, 1994). Also, both regeneration from seed and spreading by layering has occurred in the colony which burned in 1964 (D. Schooley, *in litt.*, 1994). For these reasons, the Service concludes that the prolonged absence of fire does not threaten *A. imbricata* now and will not in the foreseeable future.

The Service also stated in the proposed rule that a reduction in fire frequency could pose a threat to the species because periodic fires reduce competition and shading by other plant species. On San Bruno Mountain, *Arctostaphylos imbricata* grows on rocky exposed areas such as open ridges. On such sites, the lack of soil

development precludes significant establishment of other plant species; the species most likely to pose a threat through overtopping and consequent shading, *Ceanothus thyrsiflorus*, is a short-lived species that does not do well on such undeveloped soils (R. Gankin, *in litt.*, 1994). The Service now concludes, on the basis of the foregoing evidence, that the prolonged absence of fire is not likely to result in significant establishment of other plant species and that therefore competition from (including shading by) other plant species does not pose a significant threat to the survival of *A. imbricata*.

Frequent fire, that is fire recurring within a short period of time (fewer than 15 years), can result in local extinctions (Zedler *et al.* 1983 in Keeley and Keeley 1988). As discussed above and in the proposed rule, on San Bruno Mountain *Arctostaphylos imbricata* grows on rocky exposed areas such as open ridges. Because such open sites lack sufficient fine fuels (i.e., dried grass and herbs) to sustain fire or carry fire from adjoining, more densely vegetated habitat, the Service concludes that fire is unlikely to occur frequently in *A. imbricata* habitat and that, therefore, frequent fire is not a significant threat to the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Arctostaphylos imbricata* in determining to withdraw the proposed rule to list the species as threatened. The Service has determined that implementation of the San Bruno Mountain HCP, which includes monitoring and management of *A. imbricata*, sufficiently removes the threats to the species and provides for its conservation. Furthermore, the Service has determined that the threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are not likely to pose a significant risk to the survival of *A. imbricata*.

**Author:** The primary author of this document is Diane Windham, Sacramento Field Office (see ADDRESSES section).

**Authority:** The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 8, 1997.

**John G. Rogers,**  
Acting Director, U.S. Fish and Wildlife Service.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants: Notice of Availability of a Draft Recovery Plan for the Lee County Cave Isopod for Review and Comment

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of document availability.

**SUMMARY:** The U.S. Fish and Wildlife Service announces the availability for public review of a draft Recovery Plan for the Lee County Cave Isopod (*Lirceus usdagalun*). The Lee County cave isopod, a subterranean freshwater crustacean, is endemic to southwestern Virginia, where it has been documented from two cave systems and two resurgence springs in Lee County. The Lee County cave isopod was listed as endangered in 1992. The draft recovery plan sets recovery objectives and recommends recovery activities that, if implemented on schedule, may lead to delisting of this species by the year 2005. The Service solicits review and comment from the public on this draft plan.

**DATES:** Comments on the draft recovery plan must be received August 4, 1997.

**ADDRESSES:** Persons wishing to review the draft recovery plan can obtain a copy from the U.S. Fish and Wildlife Service, Southwestern Virginia Field Office, P.O. Box 2345, Abingdon, Virginia (telephone 540/623-1233; fax 540/623-1185) or U.S. Fish and Wildlife Service, Region Five, 300 Westgate Center Drive, Hadley, Massachusetts 01035, (telephone 413/253-8628; fax 413-253-8482). Comments should be sent to the U.S. Fish and Wildlife Service, Southwestern Field Office at the above mailing address, to the attention of Leroy Koch.

**FOR FURTHER INFORMATION CONTACT:** Leroy Koch at 540/623-1233 (see ADDRESSES).

#### SUPPLEMENTARY INFORMATION:

##### Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of