

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Abutilon menziesii* (Ko'oloa'ula)**

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

**ACTION:** Final rule.

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**SUMMARY:** The Service determines *Abutilon menziesii* (Ko'oloa'ula) to be an endangered species. This plant is known from only three small populations located on the islands of Lanai, Maui, and Oahu, in the State of

Hawaii. These populations are vulnerable to any substantial habitat alteration and face threats of fire, flood, overgrazing by feral animals, and predation by the Chinese rose beetle. This determination that *Abutilon menziesii* is an endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

**EFFECTIVE DATE:** October 27, 1986.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE., Multnomah Street, Portland, Oregon 97232.

**FOR FURTHER INFORMATION CONTACT:** Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Abutilon menziesii* was first collected by Dr. Archibald Menzies while in Hawaii with Captain George Vancouver aboard the "Discovery" in 1790-1795. In 1865, B. C. Seemann found Menzies' collection in the British Museum of Natural History, London. Seemann described the plant and named it for Dr. Menzies. The exact locality of Menzies' collection is unknown as the collection site was listed simply as "The Sandwich Islands." The plant is a shrub, 6-8 feet (2-2.5 meters) tall, with coarsely-toothed, silvery, heart-shaped leaves 1-3 inches (2-8 centimeters) long. The flowers are medium red to dark red and about 0.8 inch (2 cm) across. The capsules are hairy and five to eight-parted, with about three seeds per cell.

The species formerly grew on the islands of Hawaii, Maui, and Lanai; today there are about 65 plants growing naturally in the wild. The principal population is on Maui, where additional survey since the species was proposed for listing has located a total of about 32 plants existing at 2 sites. There is also a remnant population on Lanai, consisting of about 34 individuals, and a single plant known from Oahu, which is probably descended from cultivated stock. The extant populations are threatened by exotic animals (e.g. axis deer, Chinese rose beetle), soil erosion, fire, flood, and commercial development. The most recent information provides no reason for the Service to change its evaluation of the endangered status of *Abutilon menziesii*.

Federal actions involving *Abutilon menziesii* began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a

report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition within the context of Section 4(c)(2), of the Endangered Species Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving intention to review the status of the plant taxa named therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to Section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication. *Abutilon menziesii* was included in the Smithsonian report, the July 1, 1975, notice and the June 16, 1976, proposal. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was allowed for proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the pending portion of the June 16, 1976, proposal, along with four other proposals that had expired. *Abutilon menziesii* was included as a category 1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service has sufficient biological information on hand to support their being proposed for listing as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. Findings were made on October 13, 1983, and again on October 12, 1984, that listing *Abutilon menziesii* was warranted, but precluded by pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. An additional petition finding required in accordance with section 4(b)(3)(B)(ii) of the Act was incorporated in the proposed rule for this species. Based on information summarized in a detailed status report prepared under contract by University of Hawaii botanists (Funk and Smith 1982), the Service proposed to

list *Abutilon menziesii* as an endangered species on July 16, 1985 (50 FR 28876).

**Summary of Comments and Recommendations**

In July 16, 1985, proposed rule (50 FR 28876) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Maui News* on August 18, 1985, in the *Honolulu State Bulletin* on August 20, 1985, and in the *Honolulu Advertiser* on August 21, 1985. Six letters of comment were received and are discussed below. A public hearing was requested and held in Kahului, Maui, Hawaii, November 5, 1985. The comment period was reopened following the public hearing, closing again December 9, 1985 (50 FR 42196). Three people testified; their testimony is included in the following summary.

Seven of the eight comments and testimonies received stated support for listing *Abutilon menziesii* as an endangered species; these included two State agencies and five individuals or groups.

The eighth comment, from one of the land-owning companies, stated that *Abutilon menziesii* has been identified as a pest to sugar cane, and that this company, as well as other sugar plantations, has been attempting to eradicate the plant from its fields for many years. The commenter cited evidence that cattle will not eat the ko'oloau'la, and reasoned that there is little danger to the plants from the present pasture use of the gulch where the plant grows. However, the company advocated removal of the remaining wild plants from its lands to cultivation in botanical gardens. The commenter further noted the recent discovery that there are more plants on the island of Maui than the two plants mentioned in the proposed rule.

In response, the Service has confirmed that the landowner mistook the common introduced weed, *Abutilon grandifolium* (*A. molle*), which has been identified as a pest in sugar cane fields, for *A. menziesii*. Although it is correct that *A. menziesii* itself is not a preferred food of cattle, they are known to eat it during time of drought when food is scarce. The population on the island of Hawaii reportedly was completely destroyed by cattle during an unusually dry year.

Most of the plants on Maui grow in drier areas, where overgrazing often occurs. Although the service will consider moving individuals to cultivation in order to save them from being destroyed, such a salvage operation is a last resort against extinction, and does not conserve the species in the ecosystem on which it depends for normal survival and reproduction. The additional plants on Maui were discovered after the proposed rule was completed and sent out for publication; 32 of the about 65 known plants are from that island.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Abutilon menziesii* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. 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 *Abutilon menziesii* Seemann (ko'oloa'ula) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Abutilon menziesii* has been described by collectors from several localities. A recorded population of this species on the island of Hawaii has disappeared completely. The species is now reduced to about 65 individuals on the islands of Lanai, Maui, and Oahu. The Lanai population is now found only at one very small peripheral site, whereas it previously had been recorded from at least six different localities. Only 32 plants are found on Maui, and the Oahu population consists of a single individual, thought to have come from introduced stock.

Much of the land where *Abutilon menziesii* had occurred has been cleared for cultivation (pineapple and sugar cane) or pasture, with the land often abandoned in later years. Erosion has been and continues to be a major threat to *Abutilon menziesii*. The Lanai population is in an area that is quite heavily eroded and the Maui population maintains a tenuous existence in gulches subject to erosion and grazing. All known populations are frequently exposed to severe drought and periodic flooding. Flooding increases the erosion and threatens the existing populations. Also, the drought conditions often lead

to wildfires that could destroy any of the existing populations. Overgrazing by axis deer, cattle, and goats also aggravates the erosion problems. Development for housing and commercial use is a continuing threat. The site where the Oahu plant grows will almost certainly be developed in the future.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although *Abutilon menziesii* is not greatly sought after by collectors, the species is occasionally used in ornamental plantings. Since the population has been reduced to about 65 individuals, any collecting for commercial or scientific use could be significant.

C. *Disease or predation.* Browsing by cattle, goats, and axis deer is primarily responsible for decline of *Abutilon menziesii* and may prevent the reestablishment of the species. Cattle browsing has been a major problem and is evidently responsible for the disappearance of the plant from the island of Hawaii. Axis deer apparently pose the major threat to the plants currently existing on Lanai.

The Chinese rose beetle (*Adoretus sinicus*) has also been documented to defoliate the plants. Since the plants produce new leaves only during a flush growth period in the wet season, such defoliation has a significant negative impact on the survival of the species.

D. *The inadequacy of existing regulatory mechanisms.* There are no State laws or existing regulatory mechanisms at the present time to protect *Abutilon menziesii* or prevent its further decline. Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking and encourages conservation by State government agencies.

E. *Other natural or manmade factors affecting its continuing existence.* The small number of surviving plants growing in small areas makes this species very susceptible to extinction because small fluctuations in any of several environmental factors could have a devastating effect. A single fire or flood on Lanai could wipe out the population of *Abutilon menziesii* there. Loss of genetic variability is likely in a population of such low numbers. The decline of many native insect pollinators, especially *Nesoprosope* bees, may pose an additional threat, although the flowers now are frequently visited by introduced insects.

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 make this rule final. Based on this evaluation, the preferred action is to list *Abutilon menziesii* as endangered. Its decline in numbers to approximately 65 individuals and reduction in range to 4 sites indicate the appropriateness of listing this species as endangered. It is not prudent to propose critical habitat because doing so would increase risk for the species, as detailed in the next section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to be the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. *Abutilon menziesii* has been reduced to four populations and about 65 individuals in a limited geographical range. Any publication of critical habitat descriptions giving the localities of these populations could result in collecting or vandalizing at the sites.

All but six of the individuals are on private land and minimal benefit to the species would accrue from designating critical habitat. Therefore, it would not be prudent to determine critical habitat for *Abutilon menziesii* at this time.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Revised regulations implementing this interagency cooperation provision of the Act were published on June 3, 1986 (51 FR 19926), and will be codified at 50 CFR Part 402.

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 a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There is no known Federal involvement affecting *Abutilon menziesii*, since all plants, with the exception of six individuals on State property, occur on private land. Protection of this species and its habitat will require cooperation among private landowners, the State of Hawaii, the County of Maui, and the U.S. Fish and Wildlife Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63, set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of

permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits will ever be sought or issued for *A. menziesii*, since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

**National Environmental Policy Act**

The Fish and Wildlife 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 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).

**References Cited**

Char, W., and N. Balakrishnan. 1979. Ewa Plains botanical survey. Dept. of Botany, Univ. of Hawaii at Manoa. 119 pp. + appendices and maps.  
 Funk, E., and C.W. Smith. 1982. Status report on *Abutilon menziesii*. U.S. Fish and Wildlife Service contract 14-16-0001-79096. 30 pp.  
 Hillebrand, W. 1965. Flora of the Hawaiian Islands (Facsimile of the Edition of 1888). Hafner Publishing, New York. xcvi + 673 pp., frontispiece + 4 maps.

Seeman, B.C. 1865-1873. Flora Vitiensis: A description of the plants of the Viti or Fiji Islands, with an account of their history, uses, and properties. London: L. Reeve and Co. xxxiii + 453 pp., 100 color plates.

**Author**

The primary author of this final rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

**Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Malvaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

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 (h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Malvaceae—Mallow family:						
<i>Abutilon menziesii</i>	Ko'oloa'uta	U.S.A. (HI)	E	243	NA	NA

Dated: September 12, 1986.

**Susan Recce,**

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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