the entire soil cover is now completely vegetated, and there are no barren areas remaining onsite. The Site is now completely fenced and has a locked entrance gate. A Consent Decree with the property owner to record the deed restrictions has been signed, and the deed restrictions are attached to the property deed in the Butler County Courthouse in Butler, Pennsylvania.

Chester Engineers (Chester) was hired by PPG in 1994 to perform the site maintenance and the long-term ground water monitoring at the Site. This semi-annual sampling has been an important part of the operation and maintenance at the Site. Chester samples a number of locations, both on-and offsite, in the Spring and Fall of each year. PPG submits quarterly progress reports to the EPA and PADEP describing the Site's condition and detailing any upcoming sampling at the Site. A separate report is submitted by Chester describing the actual sampling results.

A statutory Five-Year Review of the selected remedy was completed on April 16, 1997 to ensure that the remedy is still protective of the public health and the environment. The next five-year review must be completed by April 30, 2002. Subsequent five-year reviews will be conducted pursuant to OSWER Directive 9355.7–02. ''Structure and Components of Five-Year Reviews,'' or other applicable guidance where it exists.

The remedy selected for this Site has been implemented in accordance with the Record of Decision, as modified and expanded in the EPA-approved Remedial Design for Operable Unit #1. This remedy has resulted in the significant reduction of the long-term potential for release of contaminated soils to the surrounding surface soils, the ambient air and the aquatic environment. Human health threats and potential environmental impacts have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with the concurrence of the State of Pennsylvania, believes that the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: June 5, 1997.

Stanley Laskowski,

Acting Regional Administrator, USEPA Region III.

[FR Doc. 97–15854 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE23

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs From Coastal Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act (Act) of 1973, as amended for two plants—*Delphinium bakeri* (Baker's larkspur) *and Delphinium luteum* (yellow larkspur). These species grow in a variety of habitats including coastal prairie, coastal scrub, or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation, sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for these plants.

DATES: Comments from all interested parties must be received by August 18, 1997. Public hearing requests must be received by August 4, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Field Office (see **ADDRESSES** section) (telephone 916/979–2120; facsimile 916/979–2128).

SUPPLEMENTARY INFORMATION:

Background

Delphinium bakeri (Baker's larkspur) and *D. luteum* (yellow larkspur) were found historically in coastal prairie, coastal scrub, or chaparral habitats. Urban development, agricultural land conversion, or livestock grazing have destroyed much of the habitat and extirpated numerous populations of these two plants in coastal Marin and Sonoma Counties in northern California. The historical range of *Delphinium bakeri* and *D. luteum* did not extend beyond coastal Marin and Sonoma counties.

Ewan (1942) described *Delphinium bakeri* based on type material collected by Milo Baker in 1939 from ''Coleman Valley, Sonoma Co., California.'' In the most recent treatment, Warnock (1993) retained the taxon as a full species. Historically, *D. bakeri* was known from Coleman Valley in Sonoma County and from a site near Tomales in Marin County. *Delphinium bakeri* occurs on decomposed shale within the coastal scrub plant community from 400 to 500 feet (ft) (120 to 150 meters (m) in elevation (California Natural Diversity Database (CNDDB) 1994).

Delphinium bakeri is a perennial herb in the buttercup family (Ranunculaceae) that grows from a thickened, tuber-like, fleshy cluster of roots. The stems are hollow, erect, and grow to 65 centimeters(cm) (26 inches (in.)) tall. The shallowly 5-parted leaves occur primarily along the upper third of the stem and are green at the time the plant flowers. The flowers are irregularly shaped. The five sepals are conspicuous, bright dark blue or purplish, with the rear sepal elongated into a spur. The inconspicuous petals occur in two pairs. The lower pair is oblong and blue-purple; the upper pair is oblique and white. Seeds are produced in several dry, many-seeded fruits which split open at maturity on only one side (i.e., several follicles). *Delphinium bakeri* flowers from April through May (Warnock 1993).

Habitat conversion to agricultural land, grazing, and/or roadside maintenance activities have extirpated occurrences in Marin and Sonoma counties (California Department of Fish and Game (CDFG) 1994). The only known remaining population, with a total of about 35 individuals, is found on a steep road bank in Marin County that is subject to road work, overcollection, and sheep grazing. Because of its extreme range restriction and small population size, the plant also is vulnerable to extinction from random events, such as fire or insect outbreaks (CNDDB 1994). California Department of Fish and Game (CDFG) (1994) reported the trend of the species is one of decline.

Heller (1903) described *Delphinium luteum* based on type material collected from ''grassy slopes about rocks, near Bodega Bay, along the road leading to the village of Bodega'' in Sonoma County. Although Jepson (1970) reduced *D. luteum* to a variety of *D. nudicaule,* it is currently recognized as

a full species (Warnock 1993). *Delphinium luteum* occurs on rocky areas within coastal scrub plant community, including areas with active rock slides, from sea level to 300 feet (100 m) in elevation (Guerrant 1976).

Delphinium luteum is a perennial herb in the buttercup family (Ranunculaceae) that grows from fibrous roots to 55 cm (22 in.) tall. The leaves are mostly basal, fleshy, and green at the time of flowering. The flowers are cornucopia-shaped. The five conspicuous sepals are bright yellow, with the posterior sepal elongated into a spur. The inconspicuous petals occur in two pairs. The upper petals are narrow and unlobed; the lower petals are oblong to ovate. The fruit is a follicle. *Delphinium luteum* flowers from March to May.

Never widely distributed, historical populations of *Delphinium luteum* have been partially or entirely extirpated by rock quarrying activities, over-collecting, residential development, and sheep grazing, resulting in the species now being even more narrowly distributed (Guerrant 1976; CNDDB 1994; Betty Guggolz, Milo Baker Chapter, California Native Plant Society (CNPS) pers. comm. 1995). The two remaining populations near Bodega, both on private land, total fewer than 50 plants. Development, overcollection, and sheep grazing in addition to their small isolated nature makes them susceptible to random events (CNDDB 1994; Betty Guggolz, pers. comm. 1995). CDFG (1994) reported the species is declining.

Previous Federal Action

Federal government actions on the two plants began as a result of section 12 of the original Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Delphinium bakeri* and *D. luteum* as endangered species. The Service published a notice on July 1, 1975 (40 FR 27823), of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention thereby to review the status of the plant taxa named therein. The above two taxa were included in the July 1, 1975, notice. On June 16, 1976, the Service published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa 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. *Delphinium bakeri* and *D. luteum* were included in the June 16, 1976, **Federal Register** document.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, notice (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 given to those proposals already more than 2 years old. In the December 10, 1979, notice (44 FR 70796), the Service published a notice of withdrawal of the June 6, 1976, proposal, along with four other proposals that had expired.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Delphinium bakeri* and *D. luteum* as category 1 candidates for Federal listing. Category 1 taxa were those species for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. On November 28, 1983, the Service published a supplement to the Notice of Review (48 FR 53640). This supplement changed *Delphinium bakeri* and *D. luteum*. from category 1 to category 2 candidates. Category 2 taxa were those species for which data in the Service's possession indicate listing is possibly appropriate, but for which substantial data on biological vulnerability and threats were not currently known or on file to support proposed rules.

The plant notice was revised again on September 27, 1985 (50 FR 39526). *Delphinium bakeri* and *D. luteum*. were again included as category 2 candidates. Another revision of the plant notice was published on February 21, 1990 (55 FR 6184). In this revision *Delphinium bakeri* and *D. luteum* were included as category 1 candidates. The Service made no changes to the status of the two species in the plant notice published on September 30, 1993 (58 FR 51144). On February 28, 1996, the Service published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates. Both species were listed as candidates in the February 28, 1996, Notice of Review.

Section 4(b)(3)(B) of the Act requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Delphinium bakeri* and *D. luteum*., because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1982, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(I) of the Act. The finding was reviewed annually in October of 1983 through 1994. Publication of this proposal constitutes the final finding for the petitioned action. Processing of this rule is a Tier 3 activity under the current listing priority guidance (61 FR 64480).

Summary of Factors Affecting the Species

Section 4 of the Act (U.S.C. 1533) 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 endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Delphinium bakeri* Ewan (Baker's larkspur) and *Delphinium luteum* Heller (yellow larkspur) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, the habitat of *Delphinium bakeri* was eliminated by agricultural conversion to grainfields (Ewan 1942). Threats to the lone remaining site of *D. bakeri* are discussed under Factors B through E. Of the two remaining populations of *Delphinium luteum*, the one located at an old rock quarry site near Bodega has been partially destroyed and fragmented by historical quarry activities. The number of plants remaining at this site continues to decline. Population numbers were between 100 to 200 plants in 1978 (Ed Guerrant, Berry Botanic Garden, pers. comm. 1995), but recent counts indicate that only 30 to 40 individuals remain (B. Guggolz, pers. comm. 1995). The other extant site has fewer than 10 remaining individuals. A historical site near the town of Graton had been converted to residential uses by 1987 (CNDDB 1994). Urban development, and its associated recreational activities, continue to threaten both remaining populations (B. Guggolz, pers. comm. 1995).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is a threat for both species. In 1992, all the follicles were collected from the plants at the only known site of *Delphinium bakeri* (CDFG 1993). Due to its distinctive yellow flowers, which is uncommon for larkspurs, *D. luteum* is of horticultural interest. Collecting is thought to have extirpated at least one occurrence of *Delphinium luteum* located southwest of Tomales (CNDDB 1994). Additionally, some of the historical decline to *D. luteum* can be attributed to collecting. *Delphinium luteum* was offered in horticultural trade journals (as a plant to order) during the 1940's and 1950's (Michael Warnock, Sam Houston University, pers. comm. 1994). Plants can still be procured from a local nursery (their seed source is not from the wild). Both populations of *D. luteum* are close to residential areas and are subject to collecting. Unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity as a result of this proposal.

C. *Disease or predation.* The single population of *Delphinium bakeri* which, unlike most other species in the genus does not appear to be poisonous to livestock (Ewan 1942), may be threatened by sheep grazing (CNDDB 1994). The few remaining individuals (approximately 35) are extremely vulnerable to impacts that otherwise might not be significant. Although *D. luteum* has persisted at two sties with sheep grazing for many decades, because of the very low number of individuals in the population, any loss of flowers and/or seeds could significantly reduce chances for the long term survival of this species (see Factor E).

D. *The inadequacy of existing regulatory mechanisms.* The State of California Fish and Game Commission has listed *Delphinium bakeri* and *Delphinium luteum* as rare species under the California Endangered Species Act (Chapter 1.5 sec. 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations section 670.2). Listing by the State of California requires individuals to obtain a management agreement with the CDFG to possess or ''take'' a listed species. Although the ''take'' of State-listed plants is prohibited (California Native Plant Protection Act, Chapter 10 section 1908 and California Endangered Species Act, Chapter 1.5 section 2080), State law exempts the taking of such plants via habitat modification or land use changes by the owner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law requires that the land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (Native Plant Protection Act, Chapter 10 section 1913).

The California Environmental Quality Act (CEQA) (chapter 2 section 21050 *et seq.* of the California Public Resources Code) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species that are eligible for listing as rare, threatened, or endangered are not given the same protection as those species that are officially listed with the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA is therefore dependent upon the discretion of the agency involved. In addition, revisions to CEQA guidelines have been proposed which, if implemented, may weaken protections for threatened, endangered, and other sensitive species.

E. *Other natural or manmade factors affecting its continued existence.* The remaining population of *Delphinium luteum* at the rock quarry may be threatened by users of a trail associated with the extension of an existing golf course into the current scenic easement that exists on this site (B. Guggolz, pers. comm. 1995). At this site, the Bodega Harbor landowners association is proposing to build an equipment storage shed and a public trail that would be close to the remaining plants. Although the proposed storage equipment shed would be located on degraded habitat and would have no direct impact on the population, the public trail would run near the population. The proximity of the trail to the plants would increase the threat from collection (see Factor B).

The remaining population of *Delphinium bakeri* occurs on a steep road bank that is along side of a county road in Marin County. Some potential exists for spraying and road maintenance activities that could be detrimental to this species due to the extremely low number of individuals left. The degree to which these activities place the population at risk is uncertain.

Because few populations and/or individuals remain, both plant species proposed herein likely are threatened by genetic drift. *Delphinium bakeri* has one population consisting of 35 plants. *Delphinium luteum* has two populations, totaling fewer than 50 plants. Small populations often are subject to increased genetic drift and inbreeding as consequences of their small populations (Ellstrand and Elam 1993). A loss of genetic variability, and consequent reduction in genetic fitness affords less chance of any species to successfully adapt to environmental change (Ellstrand and Elam 1993).

The combination of few, small populations, narrow range and restricted habitat, make these two plant species susceptible to destruction of all or a significant part of any population from random events, such as fire, drought, disease, or other occurrences (Shaffer 1981, Primack 1993). Random events causing population fluctuations or even population extirpations are not usually a concern until the number of individuals or geographic distribution becomes very limited, which is the case for both these species (Primack 1993). Once a plant population becomes so reduced due to habitat destruction and fragmentation, the remnant population has a higher probability of extinction from random events.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these two species in determining to propose this rule. Habitat loss and degradation, sheep grazing, inadequate regulatory mechanisms, naturally occurring events, small plant populations, road maintenance activities, and overcollection imperil the continued existence of these plants. *Delphinium bakeri* has one population with a total of 35 plants. *Delphinium luteum* has two small populations with a total of fewer than 50 plants. Both plant species are in danger of extinction throughout all of their range, and the preferred action is therefore to list *Delphinium bakeri* and *Delphinium luteum* as endangered. Other alternatives to this action were considered but not preferred because not listing them or listing them as threatened would not provide adequate

protection and would not be consistent with the Act.

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 determination that such areas are essential for the 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 *Delphinium bakeri* and *Delphinium luteum* 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.

As discussed under Factors B in ''Summary of Factors Affecting the Species'' overutilization has been documented and threatens both plant species. The publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plants more vulnerable to incidents of collection and, therefore, could contribute to the decline of these species and increase enforcement problems. The listing of these species as endangered also publicizes the rarity of these plants and, thus, can make these plants attractive to researchers or collectors of rare plants.

Furthermore, critical habitat designation for *Delphinium bakeri* and *Delphinium luteum* is not prudent due to lack of benefit. Because the two plant species are limited to a few locations entirely on private land, any action that would adversely modify critical habitat also would jeopardize the species. The designation of critical habitat therefore would not provide additional benefit for these species beyond the protection afforded by listing.

Protection of the habitat of these species will be addressed through the recovery process and through section 7. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. For the reasons discussed above, the Service finds that the designation of critical habitat for these plants is not prudent 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 activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out 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 proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. 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 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 responsible Federal agency must enter into formal consultation with the Service.

Listing these two plants would provide for development of a recovery plan (or plans) for them. Such plan(s) would bring together both State and Federal efforts for conservation of the plants. The plan(s) would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s) would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of the two plants. Additionally, pursuant to section 6 of the Act, the Service would be able to grant funds to affected states for management actions promoting the protection and recovery of these species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, 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 to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the act prohibits 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. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

It is the policy of the Service (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 the listing on proposed and ongoing activities within a species' range. None of the occurrences of the two species occur on public (Federal) lands. Collection, damage or destruction of these species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of California State law or regulations or in violation of State criminal trespass law.

Activities that are unlikely to violate section 9 include livestock grazing, clearing a defensible space for fire protection around one's personal residence, and landscaping (including irrigation), around one's personal

residence. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

The Act and 50 CFR 17.62 and 17.63 for endangered plants, and also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival or the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated few trade permits would ever be sought or issued for the three species because the species are not common in cultivation or in the wild. Requests for copies of the regulations regarding listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (phone 503/231–2063, facsimile 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. The Service will follow its current peer review policy (59 FR 34270) in the processing of this rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Delphinium bakeri* and *D. luteum;*

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species; and

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

Any final decision on this proposal 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 Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, U. S. Fish and Wildlife Service, Sacramento Office, 2800 Cottage Way, Room E–1803, Sacramento, CA 95825–1846.

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 Act. 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

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

Author: The primary author of this proposed rule is Kirsten Tarp, U.S. Fish and Wildlife Service, Sacramento 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 to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Delphinium bakeri	Baker's larkspur	U.S.A. (CA)	Ranunculaceae	E	.....	NA	NA
Delphinium luteum ...	yellow larkspur	U.S.A. (CA)	Ranunculaceae	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: April 28, 1997.

John G. Rogers,

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

[FR Doc. 97–15927 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–U

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