

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Cowania subintegra* (Arizona cliffrose)

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

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to list a plant, *Cowania subintegra* Kearney (Arizona cliffrose), as an Endangered species under the authority contained in the Endangered Species Act of 1973, as amended. Critical Habitat would not be determined at this time. The plant is endemic to Arizona and only two widely separated populations are known to exist. Both areas are subject to cattle grazing; one population could be additionally impacted by mining and highway maintenance. This action, if made final, will provide protection under the Endangered Species Act of 1973, as amended. The Service is requesting comments on this action.

**DATES:** Comments from all interested parties must be received by September 13, 1983. Public hearing requests must be received by August 29, 1983.

**ADDRESSES:** Comments and materials concerning this proposal, preferably in triplicate, and request for a public hearing, should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours at the above address, by appointment.

**FOR FURTHER INFORMATION CONTACT:** Dr. Russell L. Kologiski, Botanist, Region 2, Endangered Species Staff (see Address above) (505/766-3972). Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

**SUPPLEMENTARY INFORMATION:****Background**

*Cowania subintegra* was first collected by Danon and Crooks on April 20, 1928, and described by Kearney in 1943. The first population discovered was in southeastern Mohave County, Arizona. The second known population is in Graham County, Arizona. *Cowania subintegra* is a evergreen shrub reaching 75 centimeters in height. The bark is pale gray and shreddy. The leaves, twigs, and flowers are covered with dense, short white hairs. The leaves are

entire to lobed with one prominent vein. The rose like flowers are yellow. This species grows in shallow gravelly loams over limestone bedrock.

The most closely related species may be *Cowania ericaefolia* which grows in the Chihuahuan Desert of Trans-Pecos, Texas, and Coahuila, Mexico. The two widely disjunct Arizona populations of *Cowania subintegra* may be relicts of a once widespread distribution for an ancestral Pleistocene (Ice Age) species. *Cowania subintegra* and other limestone endemics are valuable in the study of the biogeography and evolution of Southwestern floras.

*Cowania subintegra* grows in limestone or gypsum soils on low rolling hills in the Arizona upland subdivision of the Desert Fromation. The vegetation of the area is dominated by *Larrea tridentata* (creosote bush), *Chrysothamnus nauseosus* (rubber rabbit brush), *Canotia holocantha* (false palo verde), and *Acacia greggii* (cat claw acacia).

Previous governmental action involving this species 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) of its acceptance of the report of the Smithsonian Institution as a petition within the meaning of Section 4(c)(2) of the Act, and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (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. *Cowania subintegra* was included in the 1975 Smithsonian Report, the 1975 notice, and the 1976 proposal.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn, although a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal, along with four other proposals which had expired. A revised notice for plants

was published in the December 15, 1980, *Federal Register* (45 FR 82480-82569) and included *Cowania subintegra*. The Service is now reproping *Cowania subintegra*.

**Summary of Factors Affecting the Species**

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et. seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. A species may be determined to be an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. Factors A and C are most critical for *Cowania subintegra*. All of the factors and their application to *Cowania subintegra* are as follows:

**A. The present or threatened destruction, modification, or curtailment of its habitat or range.** Habitat destruction through mining is a threat to this taxon. At present, there are nine Bureau of Land Management mining claims in the area of the Burro Creek population in Mohave County, but it is not known to what extent the mineral resources of the area will be developed. Areas within the population have been bladed, destroying habitat, apparently to expose subsurface formations for mineral exploration.

A graded road and a portion of the Mohave-El Paso Natural Gas pipeline pass through the Burro Creek population. Maintenance work for both involves occasional blading which prevents any plant establishment in these areas. A high voltage power line also passes through the Burro Creek population and some habitat destruction occurred during construction. A highline pole storage area is also in the vicinity of the Burro Creek population and effectively removes that area from habitation by the plant.

The second population occurs in Graham County, Arizona. A portion of this population occurs on U.S. Highway 70 right-of-way on top of a hill, through which the highway cuts. Protection of this species would involve not destroying the plants on the hill or the hill itself. Widening of the highway would be the greatest threat to *Cowania subintegra*. Herbicides, if sprayed on top of the hill (8-20 feet above the road) could also harm the plants. Fortunately, current maintenance procedures do not threaten the *Cowania* or its habitat and there are no plans to widen the highway. The State of Arizona Department of

Transportation has been contacted concerning protection of this species and has agreed to notify the Service if future construction or maintenance activities could adversely impact the *Cowania subintegra* population. To ensure continuation of these conditions, management and protection plans for this site are needed.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** *Cowania subintegra* is not currently sought after widely for horticultural or scientific purposes. The low numbers of plants however, makes this species very vulnerable and any future taking for these two purposes would be detrimental. The populations of this species are easily accessible to collectors and vandals.

**C. Disease or predation** (including grazing). The Burro Creek population of *Cowania subintegra* is heavily grazed by cattle, mule deer, and feral burros. The site has been given a range rating of fair condition with a static trend, indicating overutilization of the range. Individual plants are in fair to poor condition, and are usually hedged. There is no evidence of reproduction except in Graham County, on the U.S. 70 right-of-way, where there are immature plants (Butterwick, 1979; Phillips *et al.*, 1980). Further studies to determine if this situation is due to grazing pressure are needed. Grazing by domestic livestock is a threat to both populations, together with additional grazing from feral burros and mule deer at the Burro Creek site. Possible results of grazing are poor plant vigor, poor reproduction, and a lack of seedling establishment.

**D. Inadequacy of existing regulatory mechanisms.** Presently, there is no Federal or Arizona State law protecting *Cowania subintegra*, nor is there a management plan in effect for either population. Restrictions concerning the removal of plants from Federal lands are also extremely hard to enforce, especially when the habitat is as easily accessible as with *Cowania*.

**E. Other natural or manmade factors affecting its continued existence.** Seeds collected from the Burro Creek population appeared to be nonviable. The low rate of fertile seeds and low number of seedlings at either locality suggests that reproduction in this species is inadequate to maintain population size. Further studies are needed to determine the cause of the poor reproduction.

#### Critical Habitat

The Endangered Species Act requires that Critical Habitat be determined at the time a species is listed to the maximum extent prudent and

determinable. The Service considers it not prudent to determine Critical Habitat for *Cowania subintegra* at this time. The Endangered Species Act does not protect Endangered plants from taking or vandalism on non-Federal lands and the restrictions that do apply on lands under Federal jurisdiction are hard to enforce. This would be especially true for *Cowania subintegra*, whose habitat is located along a highway and is easily accessible. Determining Critical Habitat for this species may make it more vulnerable to taking by collectors and to vandalism and would not prove beneficial at this time.

#### Available Conservation Measures

The effects of this proposal, if published as a final rule, would include those mentioned below.

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations with respect to this species, that is, as a proposed species, agencies are required under Section 7(a)(4) to informally confer with the Service on any action that is likely to jeopardize *Cowania subintegra*. When species are listed, Section 7 requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of listed species.

The Act and implementing regulations published at 50 CFR 17.61 set forth a series of general trade prohibitions, which apply to all Endangered plant species. With respect to *Cowania subintegra* all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would 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, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered and Threatened species, under certain circumstances. International and interstate commercial trade in *Cowania subintegra* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. This new prohibition applies to *Cowania subintegra*. Most of its habitat is on Federal lands administered by the Bureau of Land Management and by the San Carlos Indian Reservation, Bureau of Indian Affairs.

Permits for exceptions to this prohibition are available through Section 10(a) of the Act, following the general approach of 50 CFR 17.62 and 17.63 until revised regulations are promulgated. 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, D.C. 20240 (703/235-1903). It is anticipated that few taking permits for the species will ever be requested.

The Service will now review this species to determine whether it should be considered for the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere for placement upon its Annex, and whether it should be considered for other appropriate international agreements.

#### National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Regional Office (see Addresses section), and may be examined, by appointment, during regular business hours. This assessment will form the basis for a decision at final rule stage as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500-1508).

#### Public Comments Solicited

The Service intends that the rules finally adopted, if any, will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspects of these proposed rules are hereby solicited.

Comments are particularly sought concerning:

1. Biological or other relevant data concerning any threat (or the lack thereof) to *Cowania subintegra*:

2. The location of any additional populations of *Cowania subintegra*; and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species; and

4. Current or planned activities in the plant's habitat.

Final promulgation of the regulations on *Cowania subintegra*: 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 or to a decision not to promulgate a final regulation.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be in writing and received within 45 days of the date of the proposal. Such requests should be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

**Authors**

The primary author of this proposed rule is Ms. Sandra Limerick, Endangered Species Staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972). Status information and a preliminary listing package were provided under contract to the Service by Dr. Arthur M. Phillips III, Dr. Barbara C. Phillips, L.T. Green, Ms. Jill Mazzoni, and Ms. Elaine M. Peterson, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001 (603/774-5211, Extension 68). Ms. E. LaVerne Smith of the Service's Washington Office of Endangered Species served as editor.

**References**

Butterwick, M. 1979. Report on the status of *Cowania subintegra*: Phoenix District Office, Bureau of Land Management, Phoenix, Arizona.

Kearney, T.H. 1943. A new cliffrose from Arizona. *Madrono* 7:15-18.

Phillips, A.M. III, B.G. Phillips, L.T. Green, J. Mazzoni, and E.M. Peterson. 1980. Status Report: *Cowania subintegra*: Contracted for by the Office of Endangered Species, U.S. Fish and

Wildlife Service, Albuquerque, New Mexico.

Phillips, A.M. III. Personal communication by letter, August 26, 1981.

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

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

**Proposed Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulation, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; 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.*).

**§ 17.12 [Amended]**

2. It is proposed to amend § 17.12(h) by adding, in alphabetical order, the following to the list of Endangered and Threatened plants;

\* \* \* \* \*

Species		Historical range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Rosaceae-Rose Family <i>Cowania subintegra</i>	Arizona cliffrose	U.S.A. (AZ)	E		N/A	N/A

Dated: June 13, 1983.

**J. Craig Potter,**

Acting Assistant Secretary for Fish and Wildlife and Parks.

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