

Mineral Hill, L.P.
John Green, General Partner
P.O. Box 33010
Austin, TX 78764
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FILED

JUN 23 2008

Terri A. Lorenzon, Director
Environmental Quality Council

June 23, 2008

Mailed & faxed to 307-777-6134

Honorable Terri Lorenson
Director/Attorney
Wyoming Environmental Quality Council
122 W. 25th, Herschler Bldg., Rm 1714
Cheyenne, WY 82002

Re: Petition for Designation of an Area Known as Sand Creek as Rare and Uncommon
Docket No. 07-1102

Dear Ms. Lorenson,

Enclosed please find original and one copy of my **MOTION TO DISMISS THE PETITION AND FOR SANCTIONS AGAINST THE PARTY(S) RESPONSIBLE FOR THE FILING OF THE PETITION.** Please file the same.

Sincerely,


John Green

THE STATE OF WYOMING
ENVIRONMENTAL QUALITY CONTROL COUNCIL

RE: Petition for Designation of an Area Known as Sand Creek as Rare and Uncommon.

Docket No. 07-1102

**MOTION TO DISMISS THE PETITION AND
FOR SANCTIONS AGAINST THE PARTY(S) RESPONSIBLE
FOR THE FILING OF THE PETITION.**

Comes now, John Green, General Partner of Mineral Hill, L.P. and files this motion requesting that the petition filed by the Friends of Sand Creek, c/o Marcia F. Dunsmore, be dismissed on the grounds that it is a frivolous and patently false petition and further that the party(s) responsible for the filing of the petition be sanctioned, upon the following grounds and reasons:

1. The petitioner alleges that the property sought to be declared a 'Rare and Uncommon' area contains an "extremely high number (71 species) of rare plants" and "seven rare vegetation types". In support of this allegation, the petitioner attaches ATTACHEMENT 1 – RARE VEGETATION TYPES PRESENT IN SAND CREEK PETITION AREA and ATTACHEMENT 3 – RARE PLANT SPECIES PRESENT IN SAND CREEK PETITION AREA, INCLUDING DISJUNCT SPECIES. However, reference to the U.S. Department of Agriculture's plant database shows that neither the vegetation types nor the plant species are rare. See: <http://plants.usda.gov>. Exhibit A is a printout showing the distribution areas of the plants alleged by petitioner as rare. Clearly, none of the vegetation or plants are rare and are instead quite common over several states and Canada. This allegation is patently false.

2. The petitioner alleges that an “extremely rare native fish” the finescale dace exists within the area sought to be declared a rare and uncommon area. However, according to Cornell University, the finescale dace (*Phoxinus neogaeus*) is found from Maine and New Brunswick west through the northern United States and southern Canada to Hudson Bay and the Mackenzie River drainage, with disjunct populations occurring in South Dakota and Nebraska. See: http://pond.dnr.cornell.edu/nyfish/Cyprinidae/finescale_dace.html. Clearly, the finescale dace are not rare, native, unique to the area, nor in danger of extinction. This allegation is patently false.
3. Lastly, the petitioner seeks to have the area declared rare and uncommon on the grounds that the mule deer winter within the area. This is not a justifiable basis for declaring an area a rare and uncommon area and the allegation is unsupported by sufficient evidence.
4. The petitioner has failed to give proper notice, apparently in an attempt to subvert the rules of the Wyoming Environmental Quality Council, and deny rightful parties the right to notice and due process.
5. On several occasions, the petitioner mentions their concerns of plants and fish, being subject to harm by mining. See particularly, page 9. It thus appears that the petitioner’s true intent in seeking to have the area declared a rare and uncommon area is not to protect rare plants or fish, as neither are rare or peculiar to the area, but to prevent mining on federal lands, which is regulated by the Bureau of Land Management. Any objections to the regulations concerning mining on federal lands, or violations thereof, should properly be brought before the U.S. Bureau of Land Management.
6. It thus appears that the grounds for the petition are without merit and frivolous and such meritless filing warrants the responsible party(s) being sanctioned.

WHEREFORE, it is respectfully requested, that the Council dismiss the petition as frivolous and without merit and sanction the party(s) responsible for the filing of the petition.

Respectfully submitted,



John Green, General Partner
Mineral Hill, L.P.

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing was mailed this 23rd day of June, 2007 to the following addressed persons:

Honorable Terri Lorensen
Director/Attorney
Wyoming Environmental Quality Council
122 W. 25th, Herschler Bldg., Rm 1714
Cheyenne, WY 82002
[Also transmitted by fax: 307-777-6134]

Friends of Sand Creek
c/o Marcia F. Dunsmore
PMB 175 24695 US Highway 85
Four Corners, WY 82715



John Green, General Manager
Mineral Hill, L.P.
P.O. Box 33010
Austin, TX 78764
Tel: (512) 892-6430
Fax: (512) 692-2936

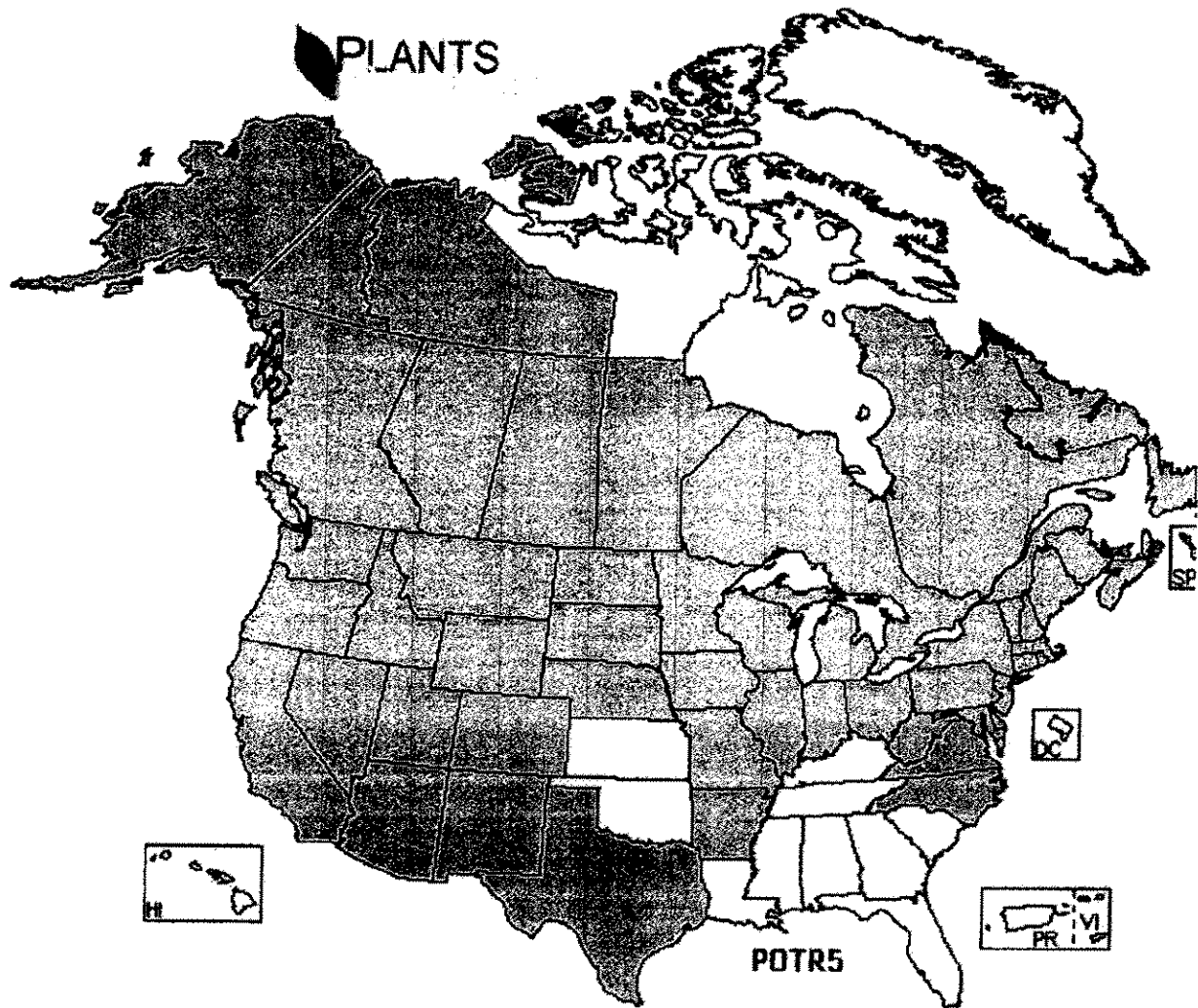
EXHIBIT A

RESPONSE TO ATTACHMENT 1.

SHOWS THE DISTRIBUTION OF VEGETATION WHICH THE 'FRIENDS OF SAND CREEK' PETITION ALLEGES IS 'RARE VEGETATION' THEREBY REQUIRING THAT PROPERTY IN WYOMING BE DECLARED A RARE AND UNCOMMON AREA.

Distribution:

Populus tremuloides Michx.



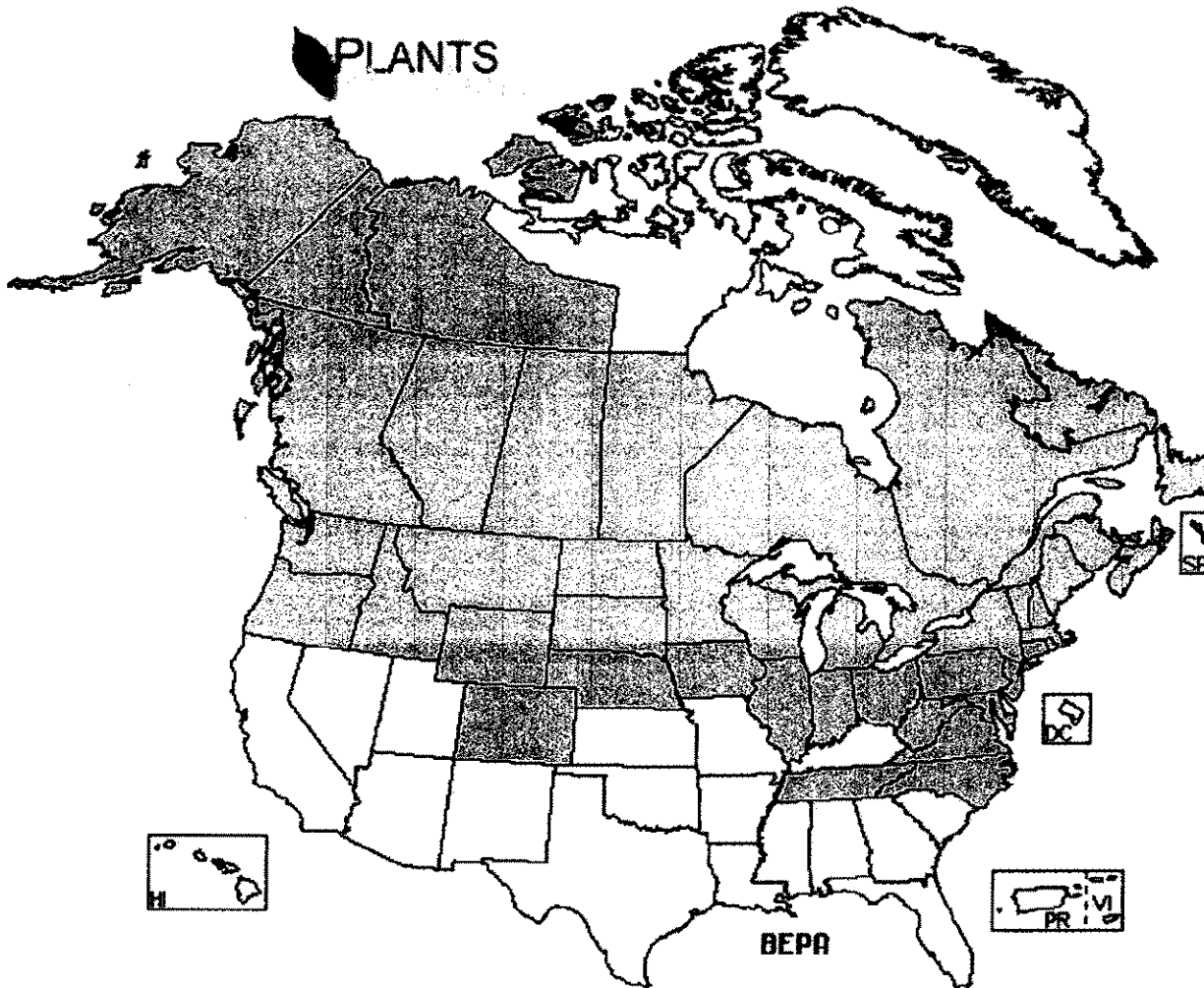
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Distribution:
Betula papyrifera Marsh.



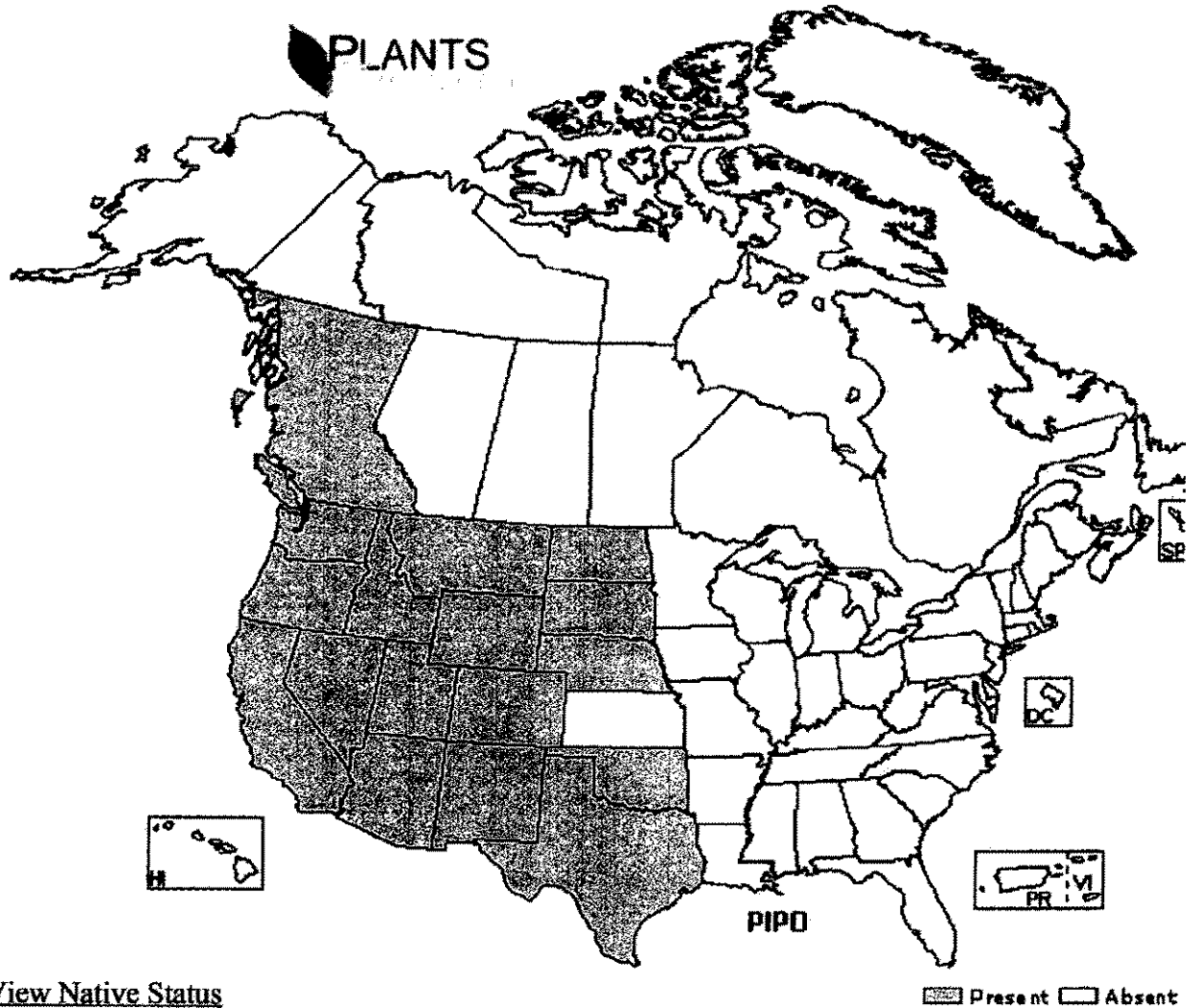
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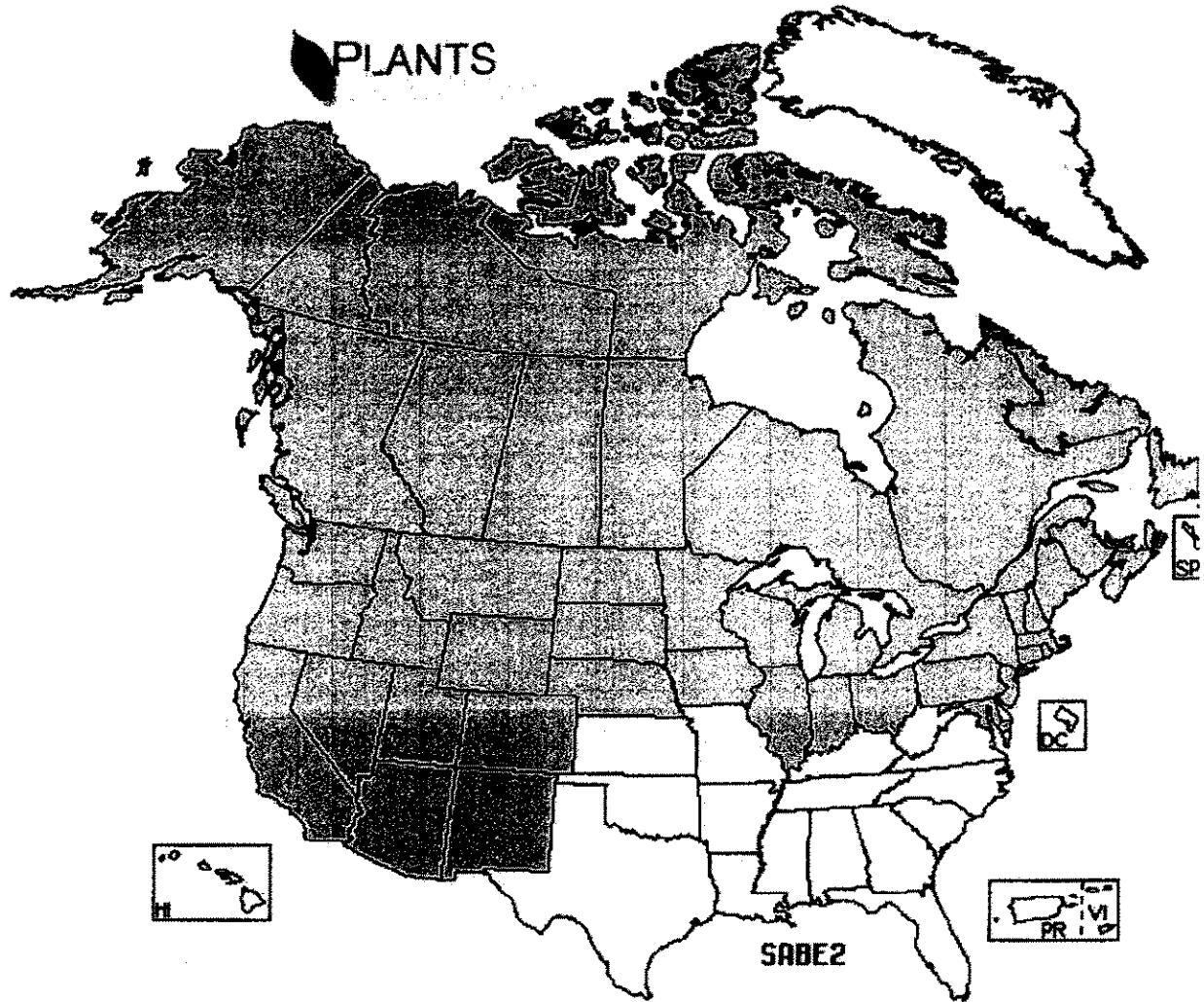
Pinus ponderosa C. Lawson



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Distribution:
Salix bebbiana Sarg.



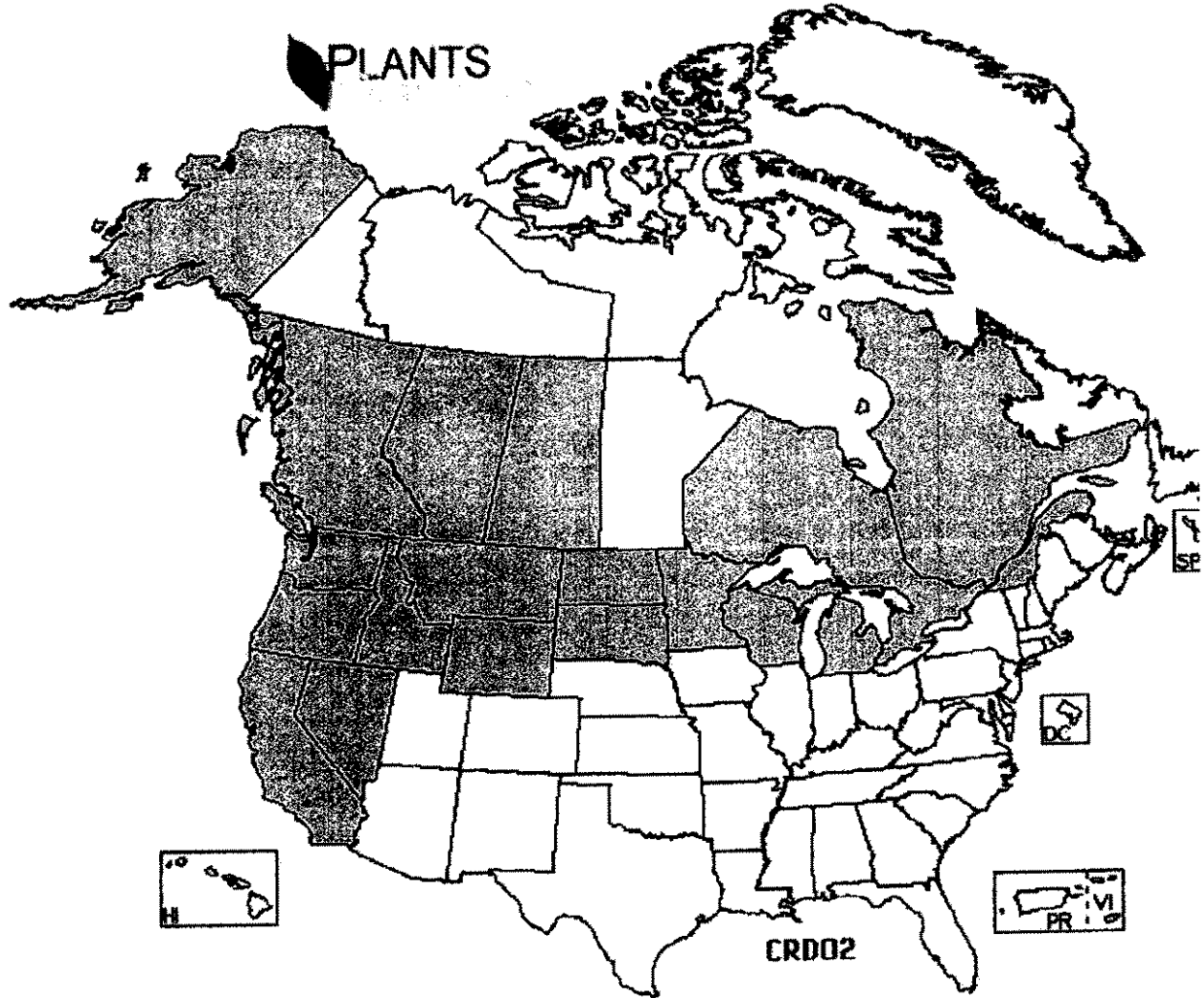
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[OH](#), [OR](#), [PA](#), [RI](#), [SD](#), [UT](#), [VT](#), [WA](#), [WI](#), [WY](#)

Distribution:
Crataegus douglasii Lindl.



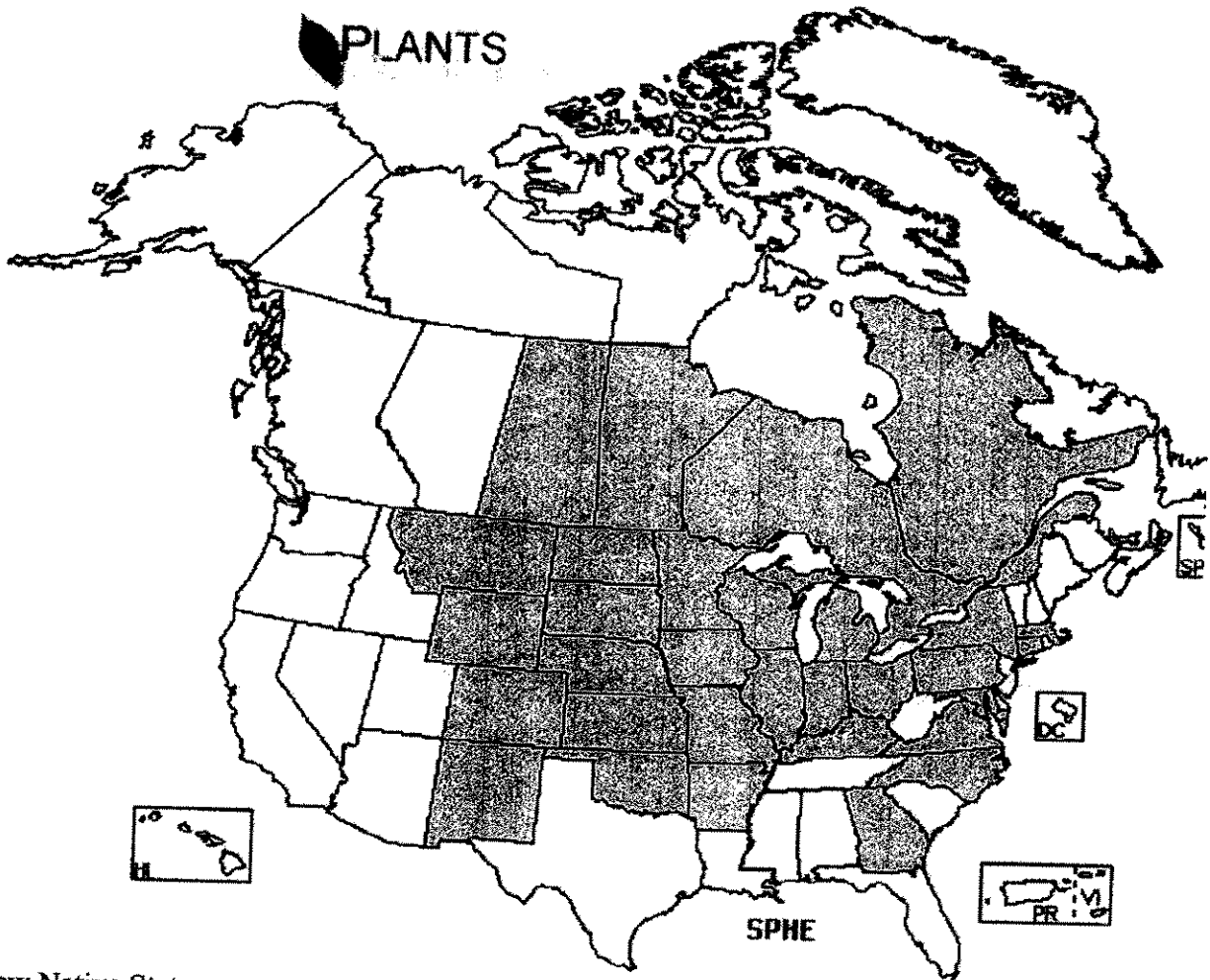
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Distribution:
Sporobolus heterolepis (A. Gray) A. Gray



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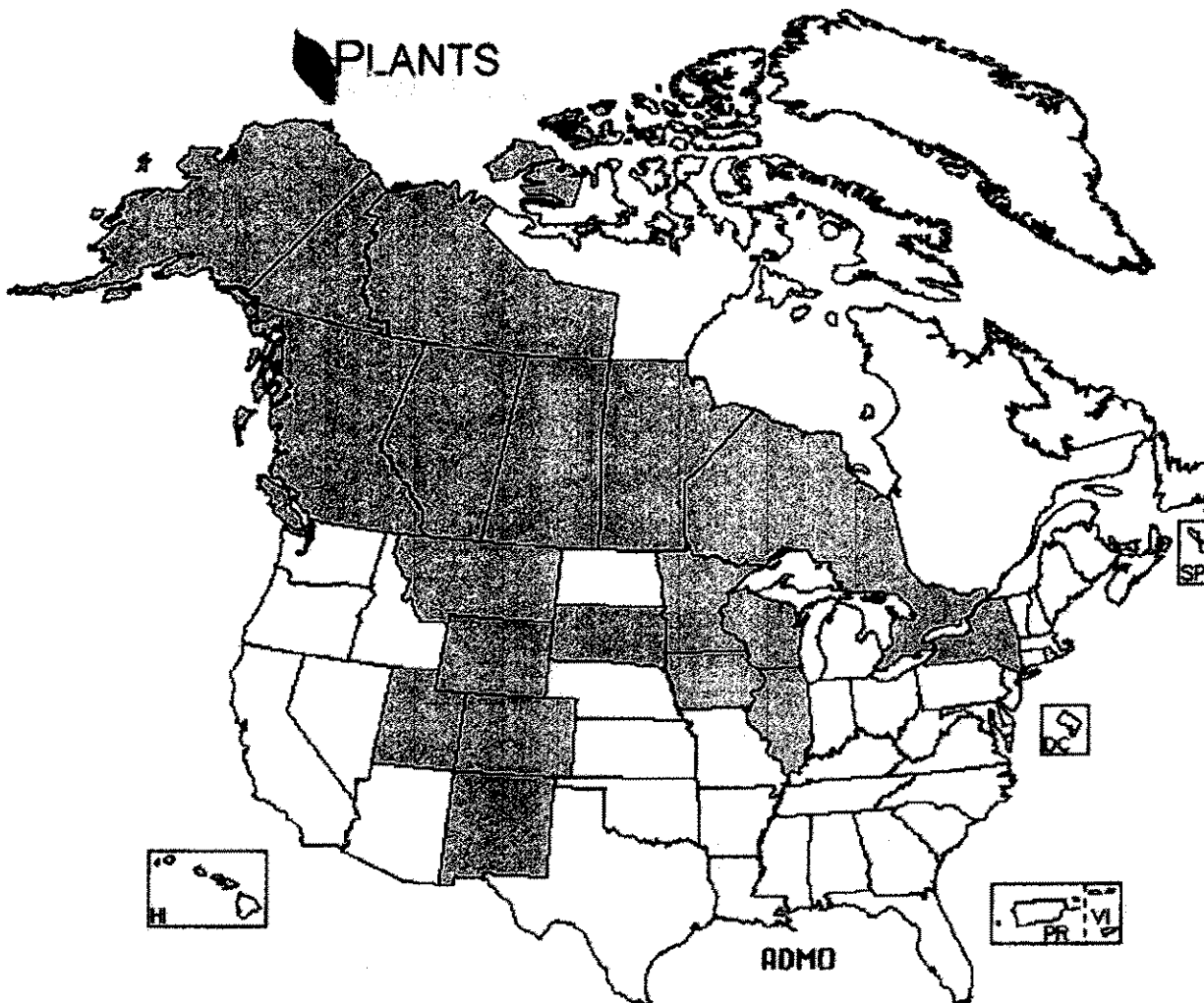
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Present Absent

RESPONSE TO ATTACHMENT 3.

SHOWS THE DISTRIBUTION OF VEGETATION WHICH THE 'FRIENDS OF SAND CREEK' PETITION ALLEGES IS 'RARE PLANT SPECIES PRESENT IN SAND CREEK PETITION AREA' THEREBY REQUIRING THAT THE PROPERTY BE DECLARED A RARE AND UNCOMMON AREA.

Distribution:
Adoxa moschatellina L.



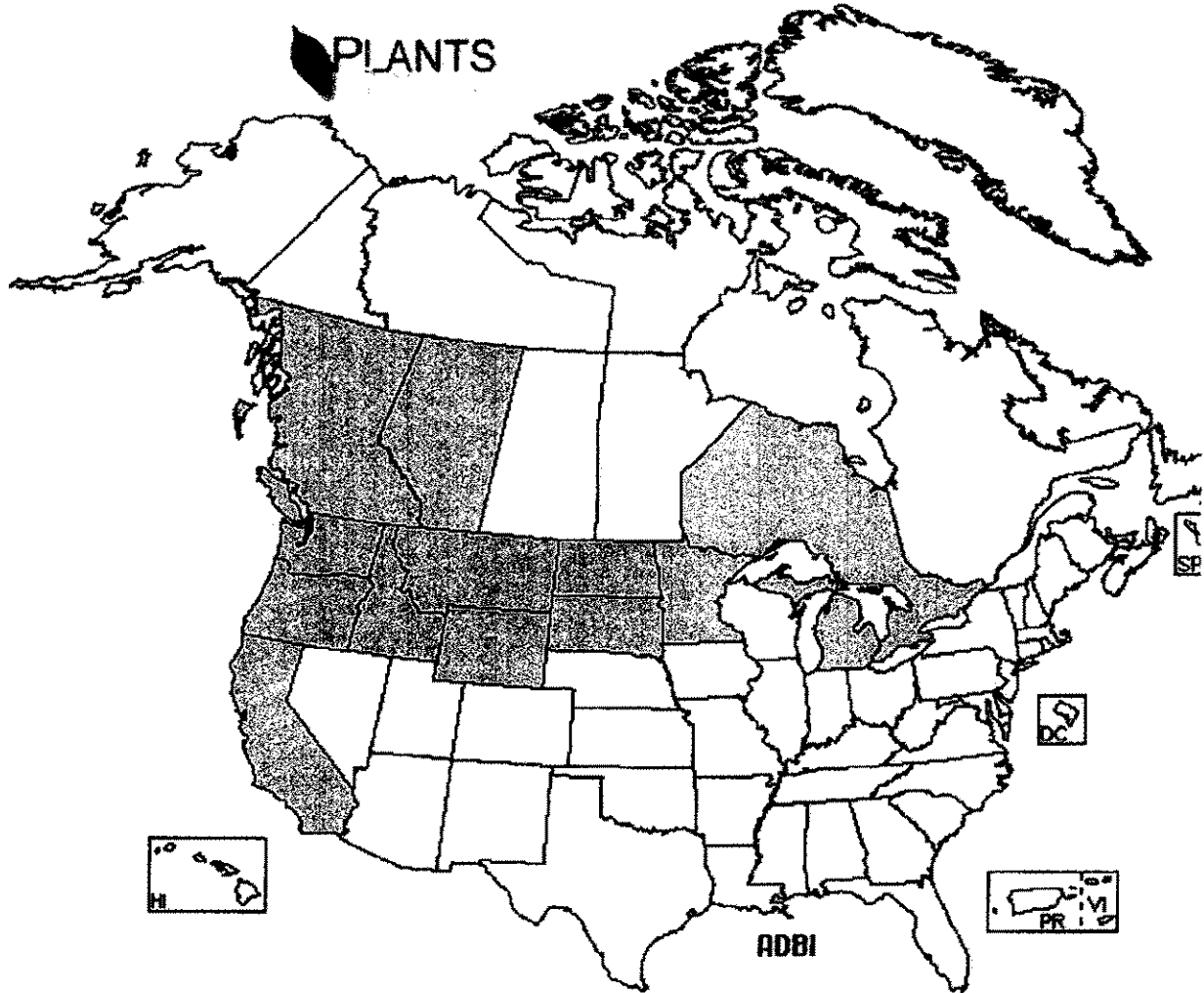
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Distribution:
Adenocaulon bicolor Hook.



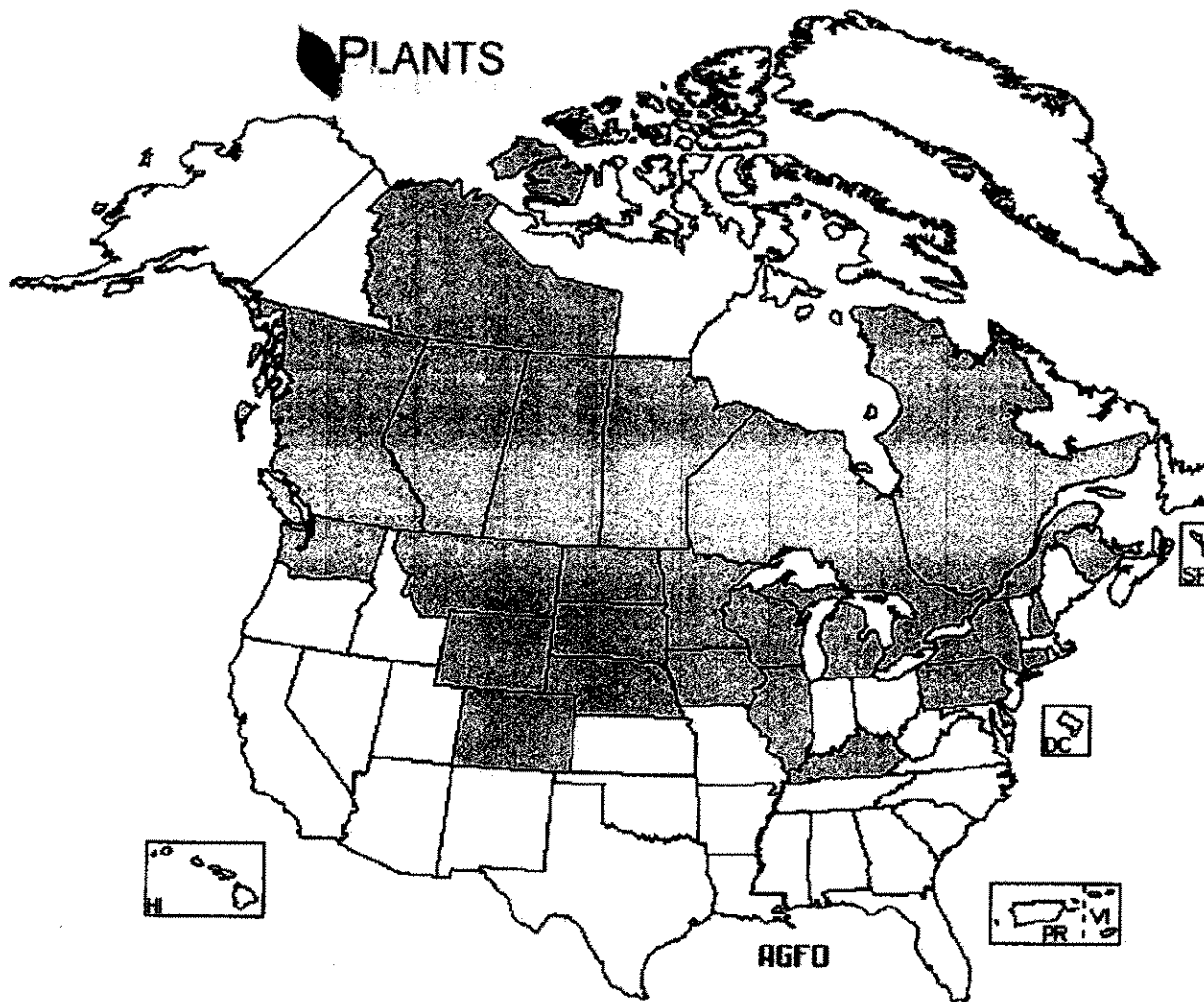
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Distribution:
Agastache foeniculum (Pursh) Kuntze



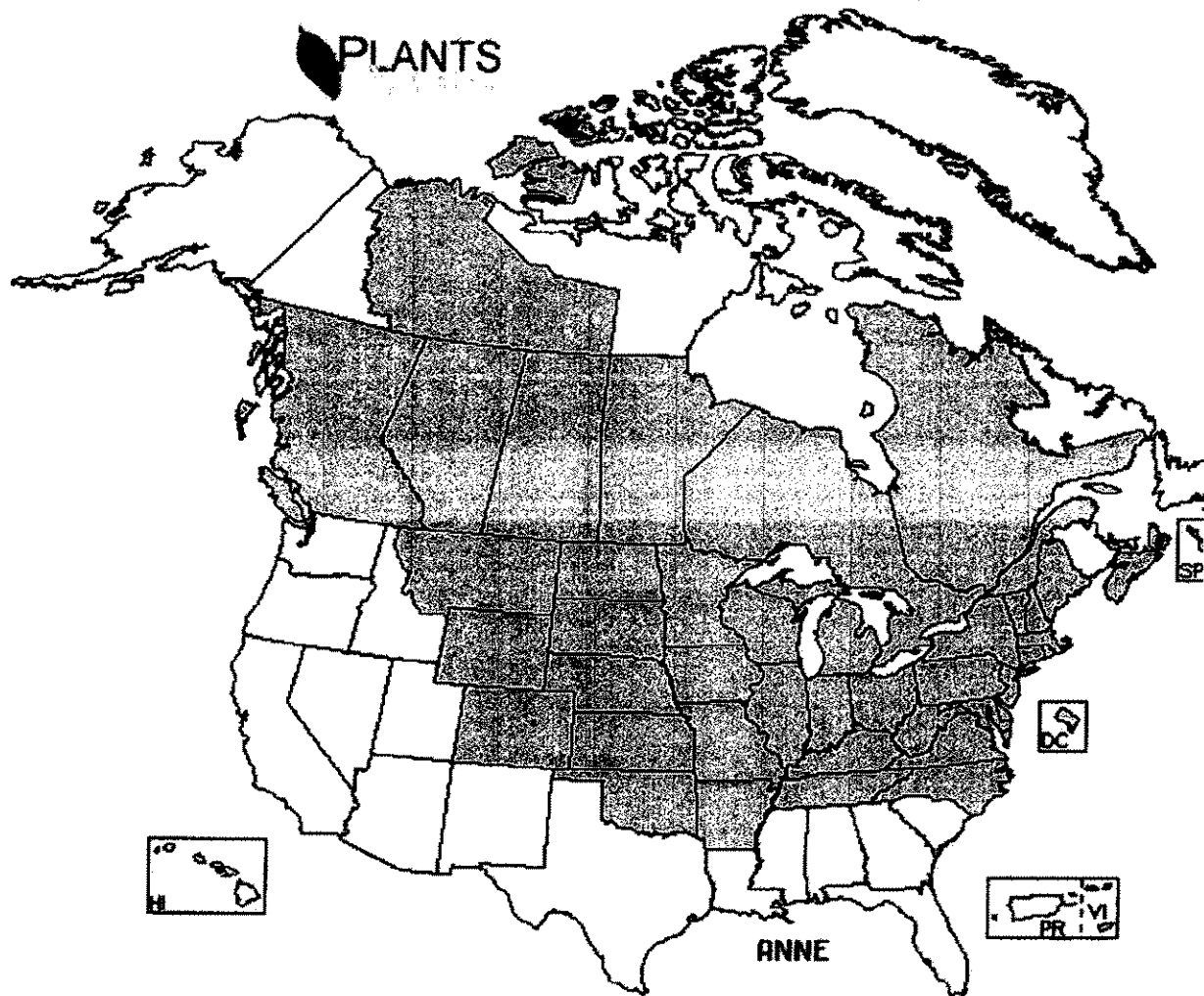
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Distribution:
Antennaria neglecta Greene



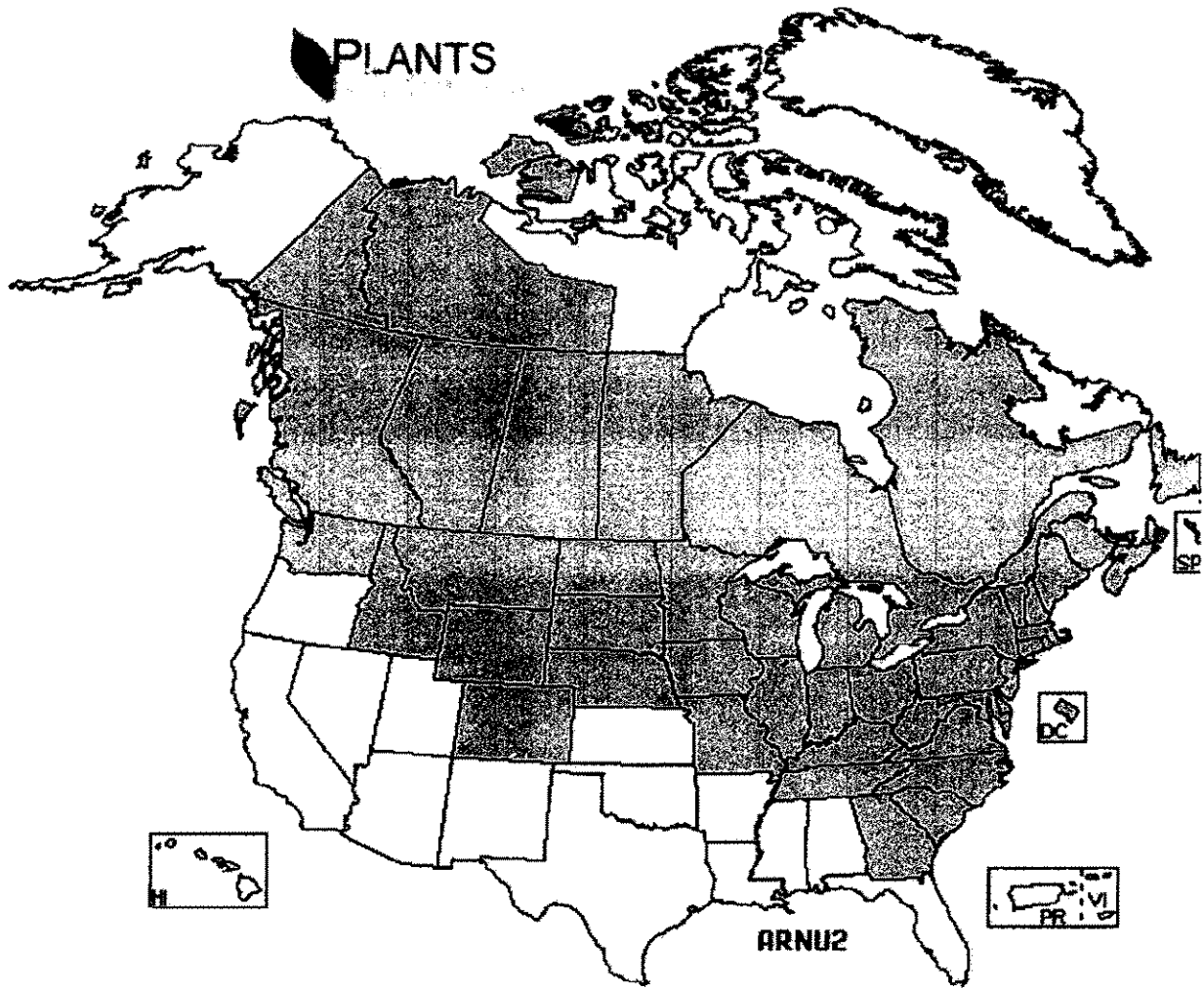
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Distribution:
Aralia nudicaulis L.



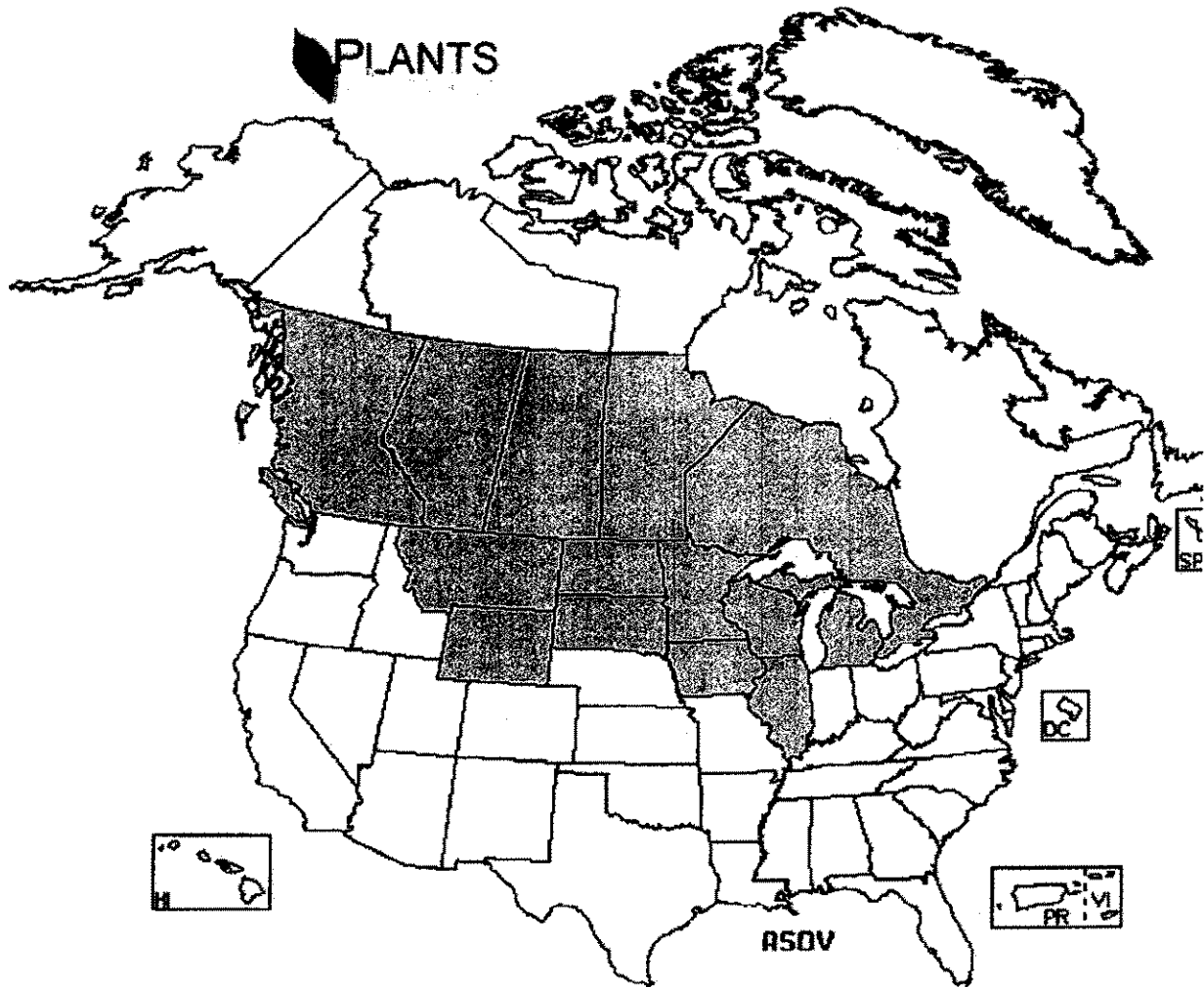
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Distribution:
Asclepias ovalifolia Decne.



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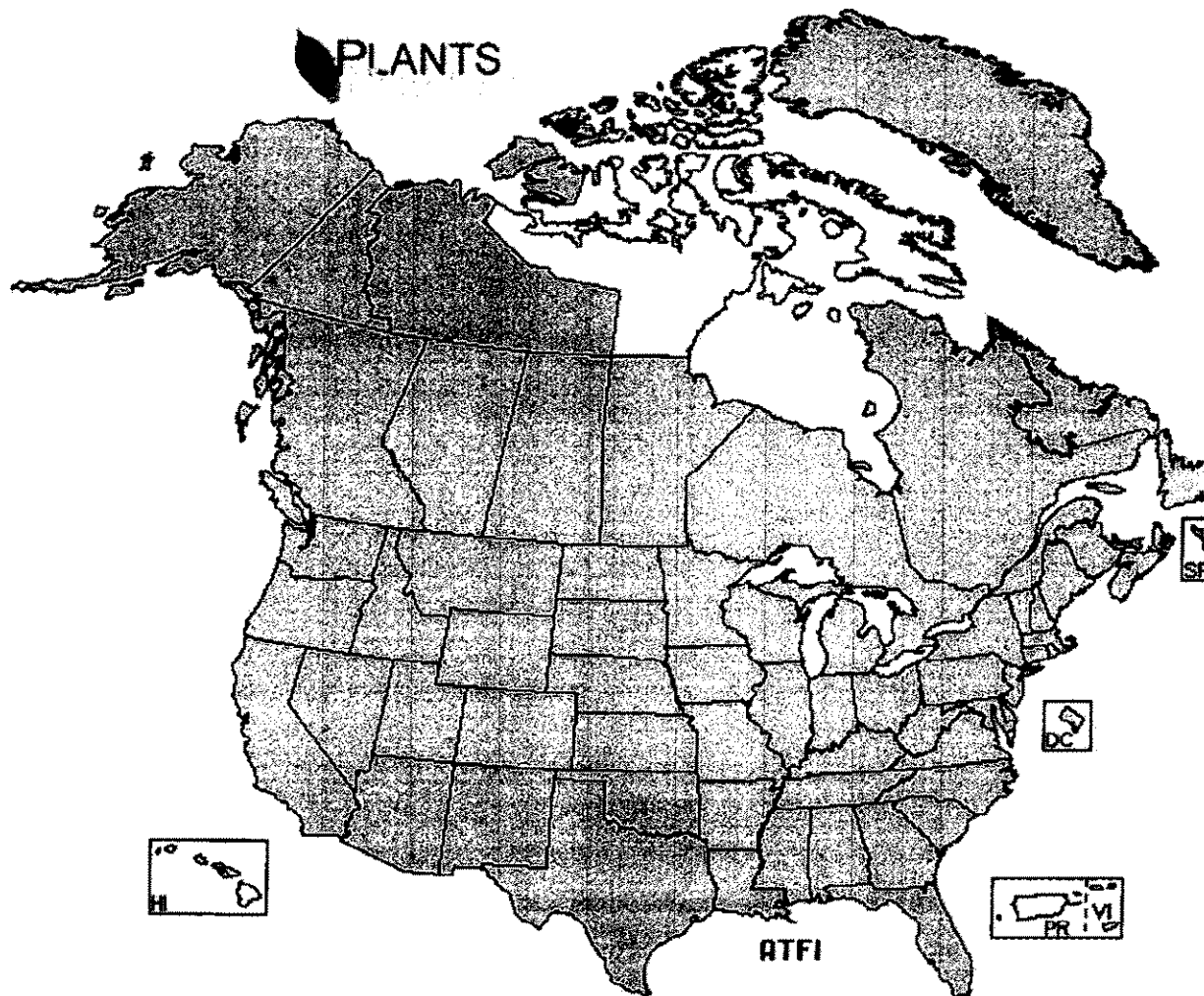
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Distribution:

Athyrium filix-femina (L.) Roth



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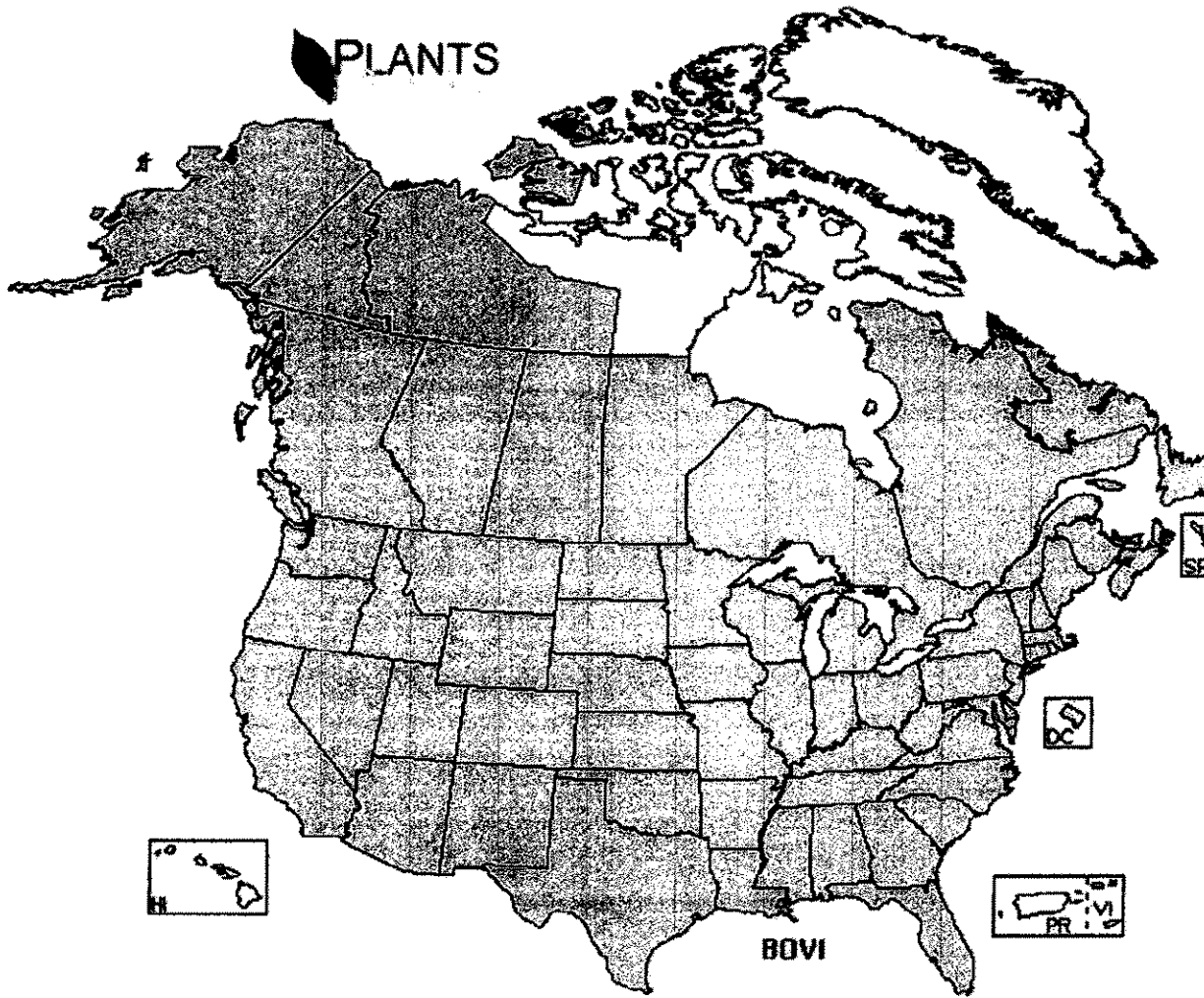
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Distribution:

Botrychium virginianum (L.) Sw.



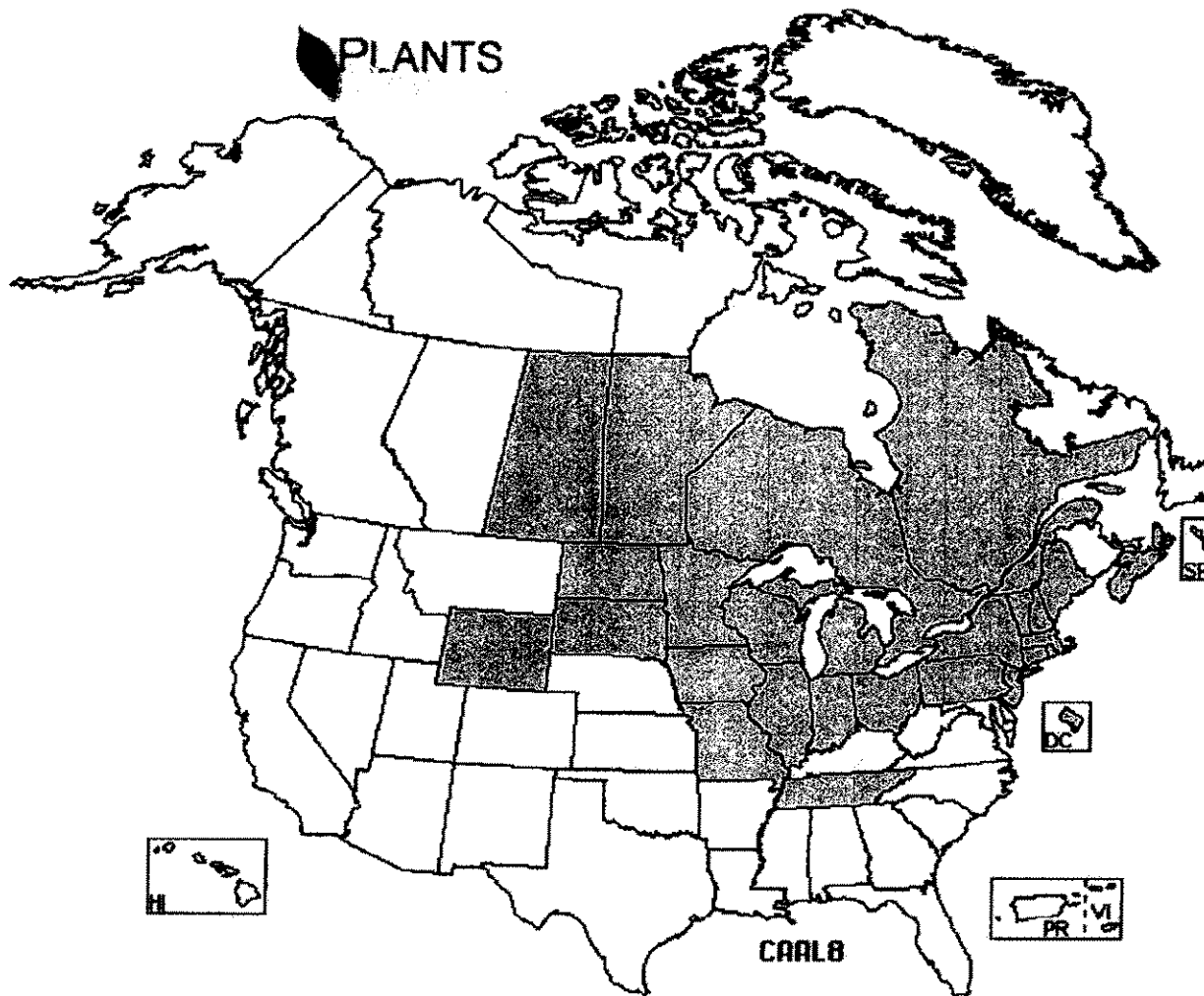
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Distribution:
Carex alopecoidea Tuck.

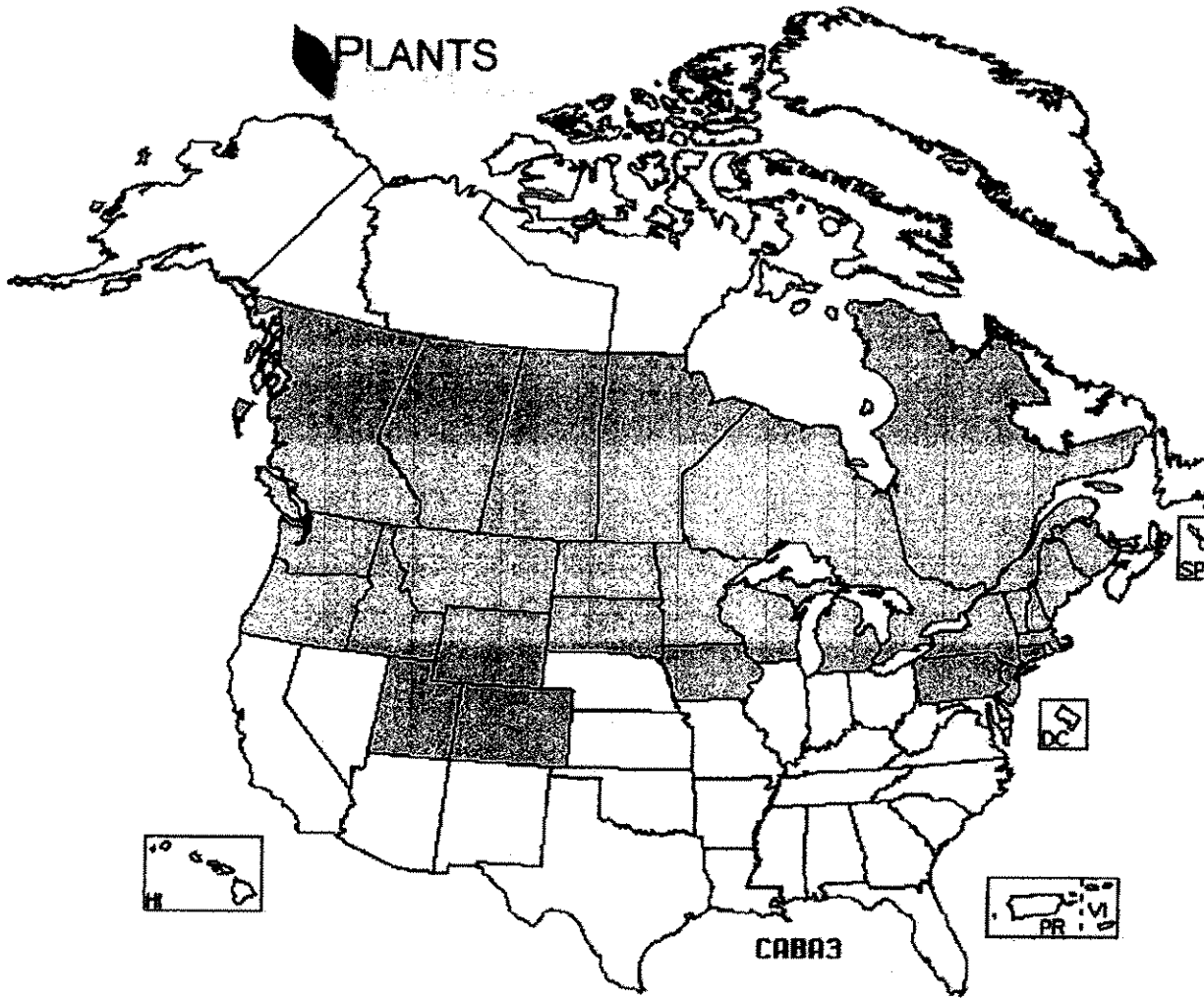


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Present Absent

Distribution:
Carex backii Boott

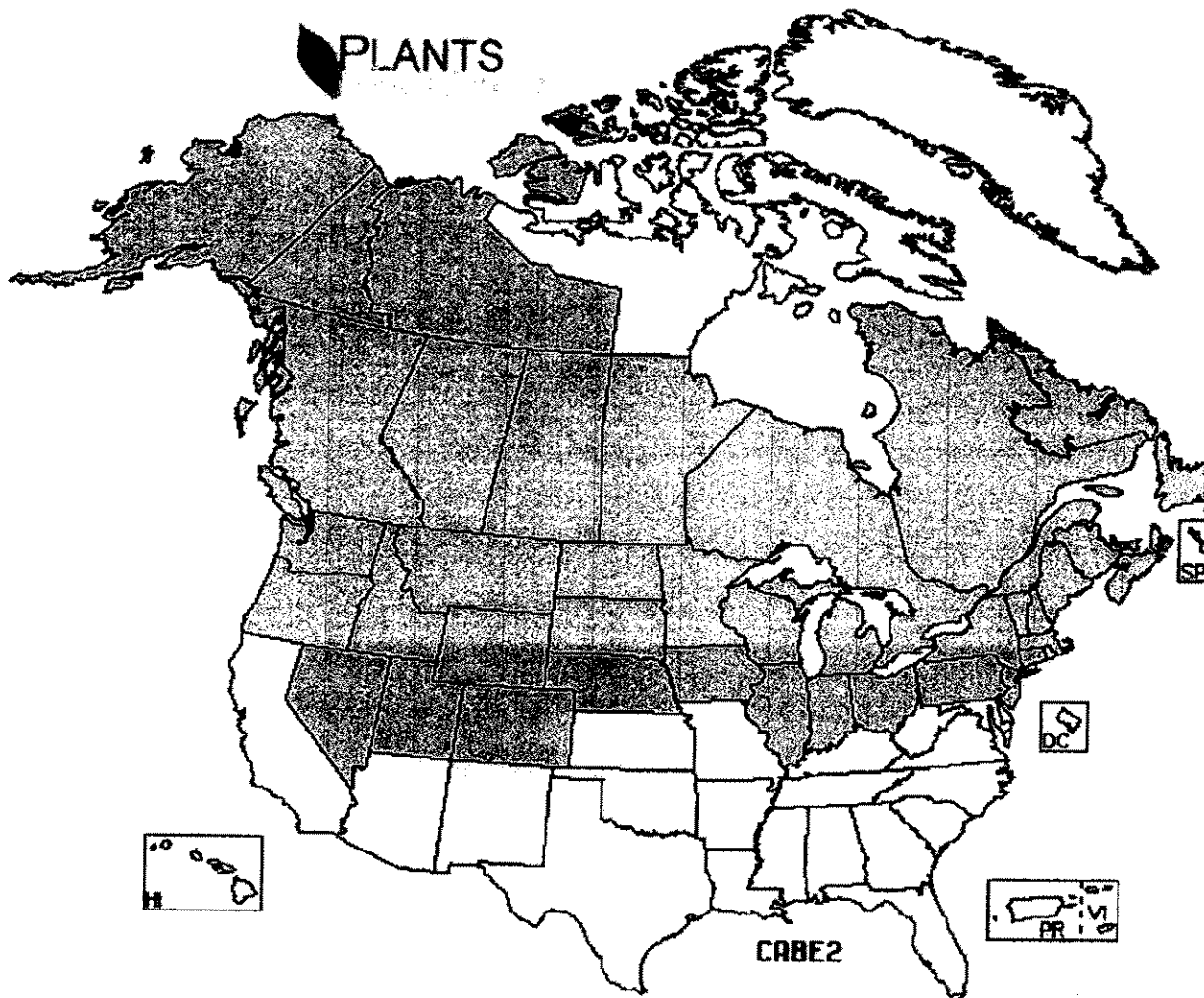


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Present Absent

Distribution:
Carex bebbii Olney ex Fernald



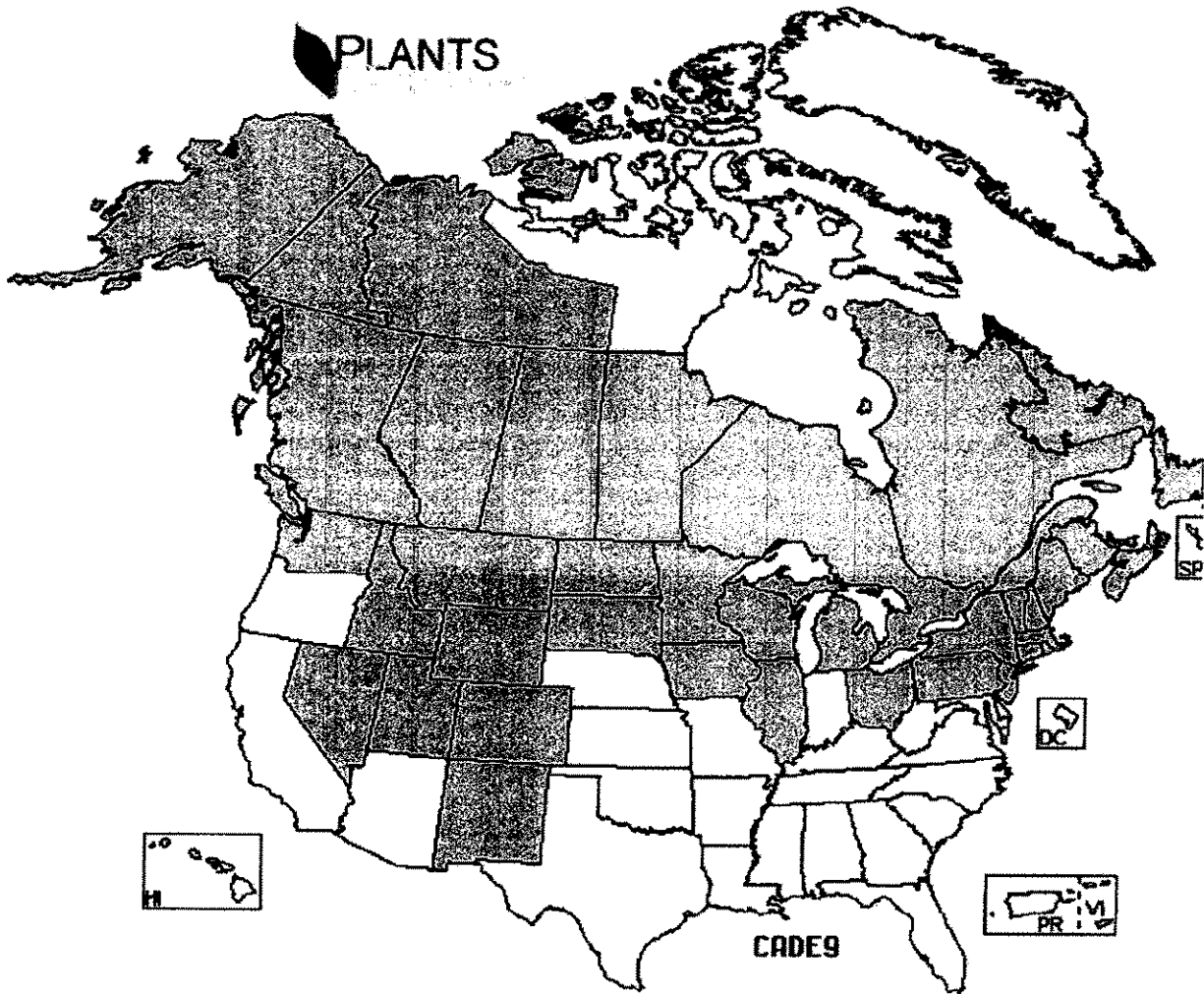
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[SD](#), [UT](#), [VT](#), [WA](#), [WI](#), [WY](#)

Present Absent

Distribution:
Carex deweyana Schwein.

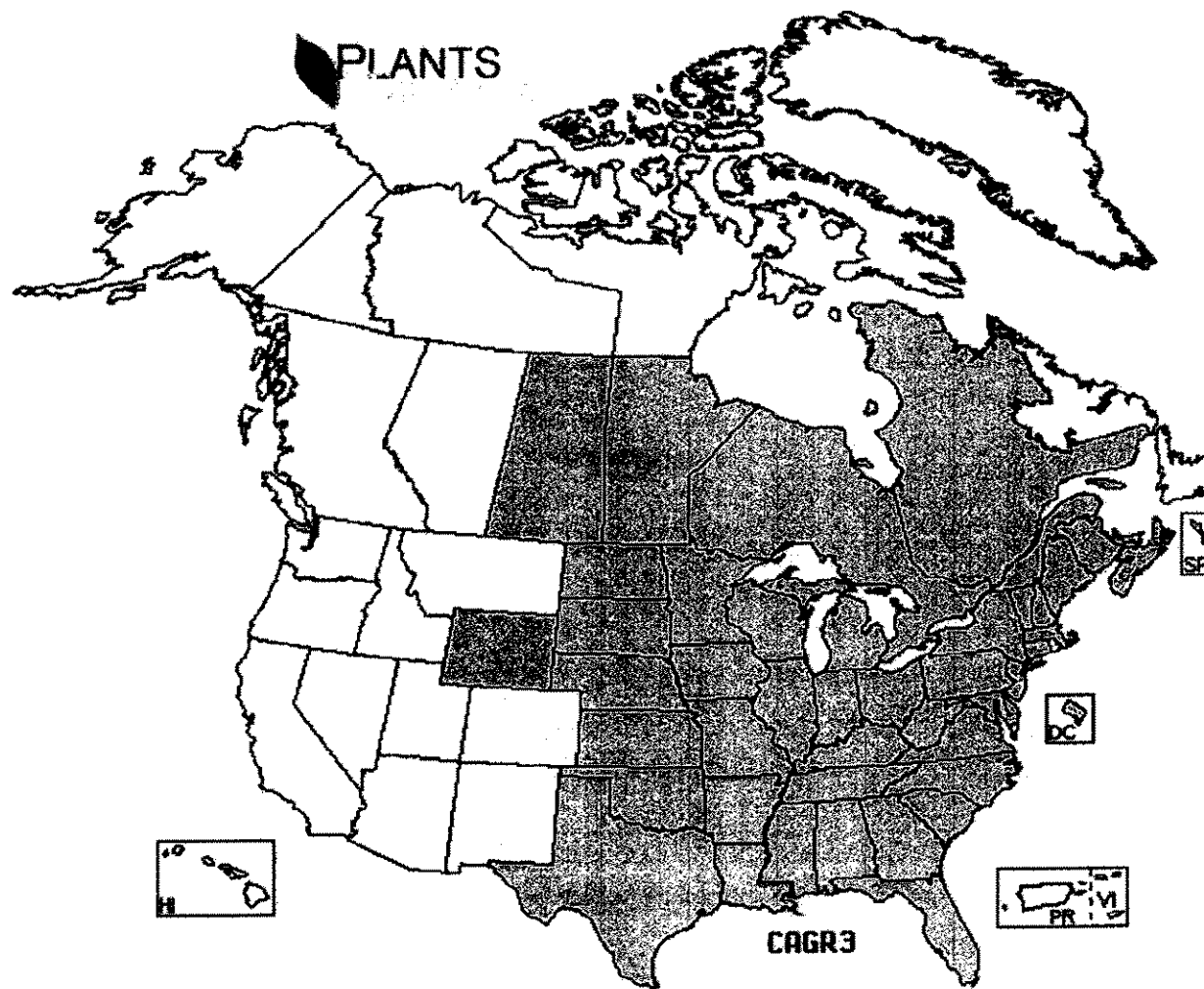


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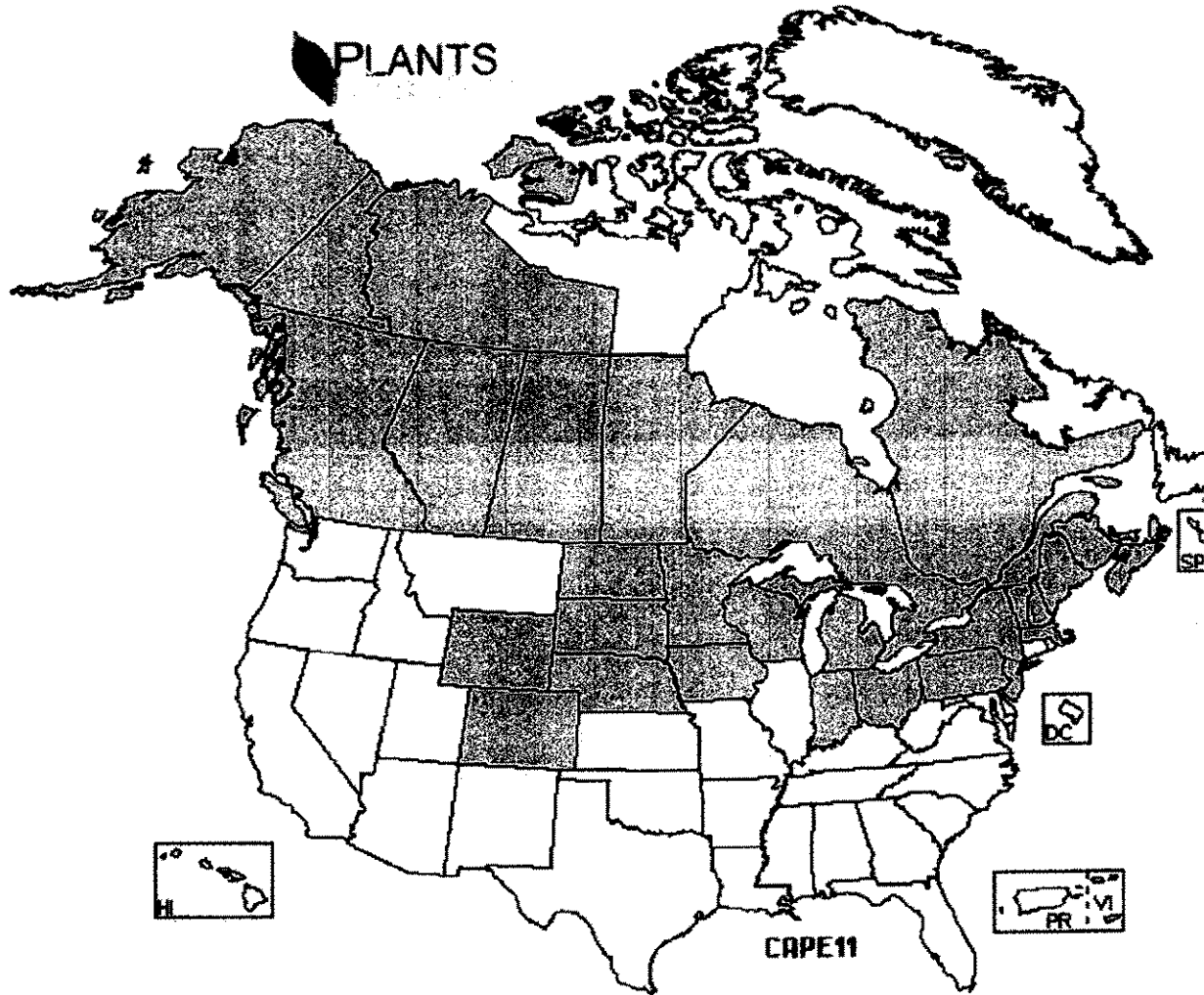
Distribution:
Carex granularis Muhl. ex Willd.



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Distribution:
Carex peckii Howe



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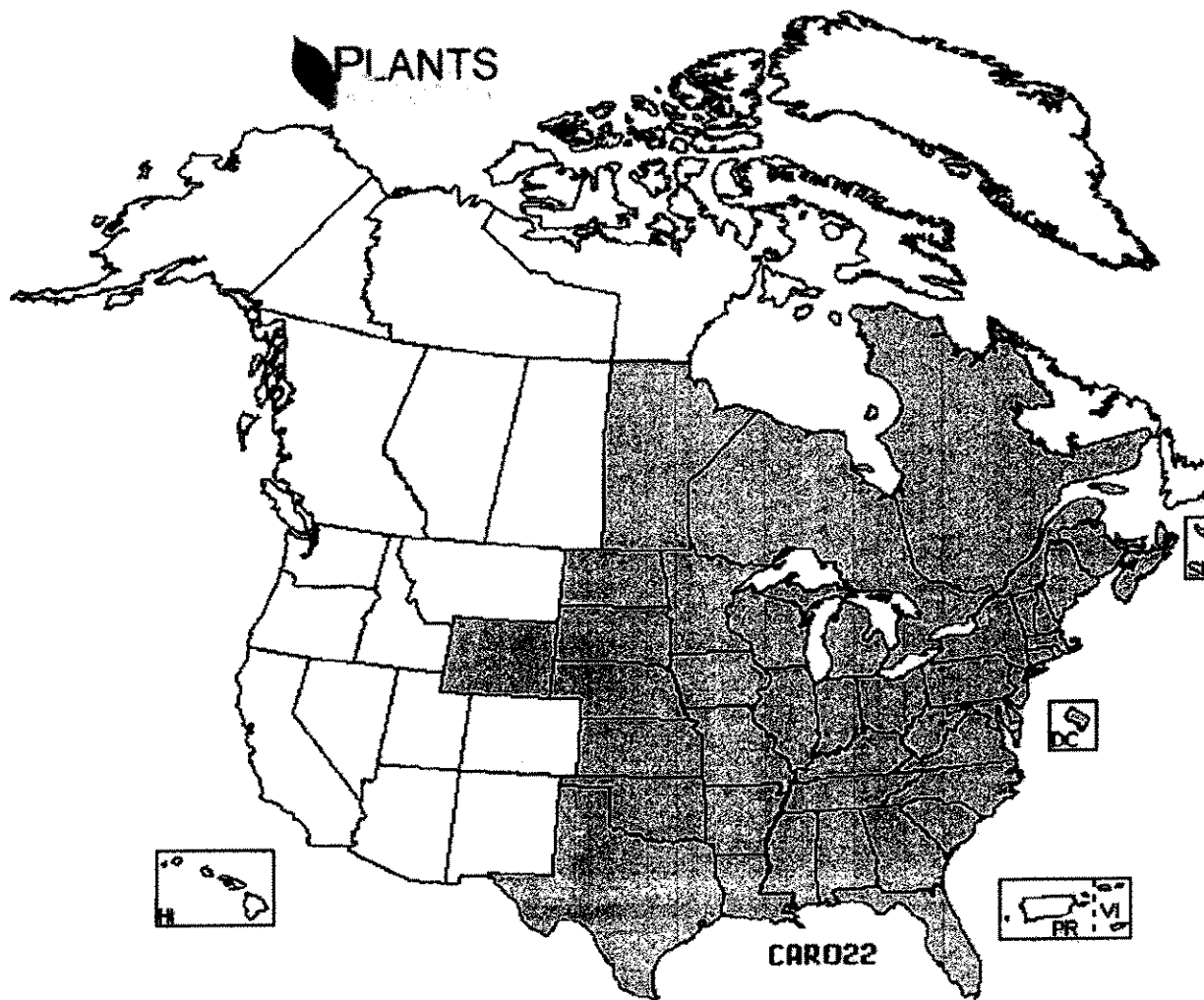
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Distribution:

Carex rosea Schkuhr ex Willd.



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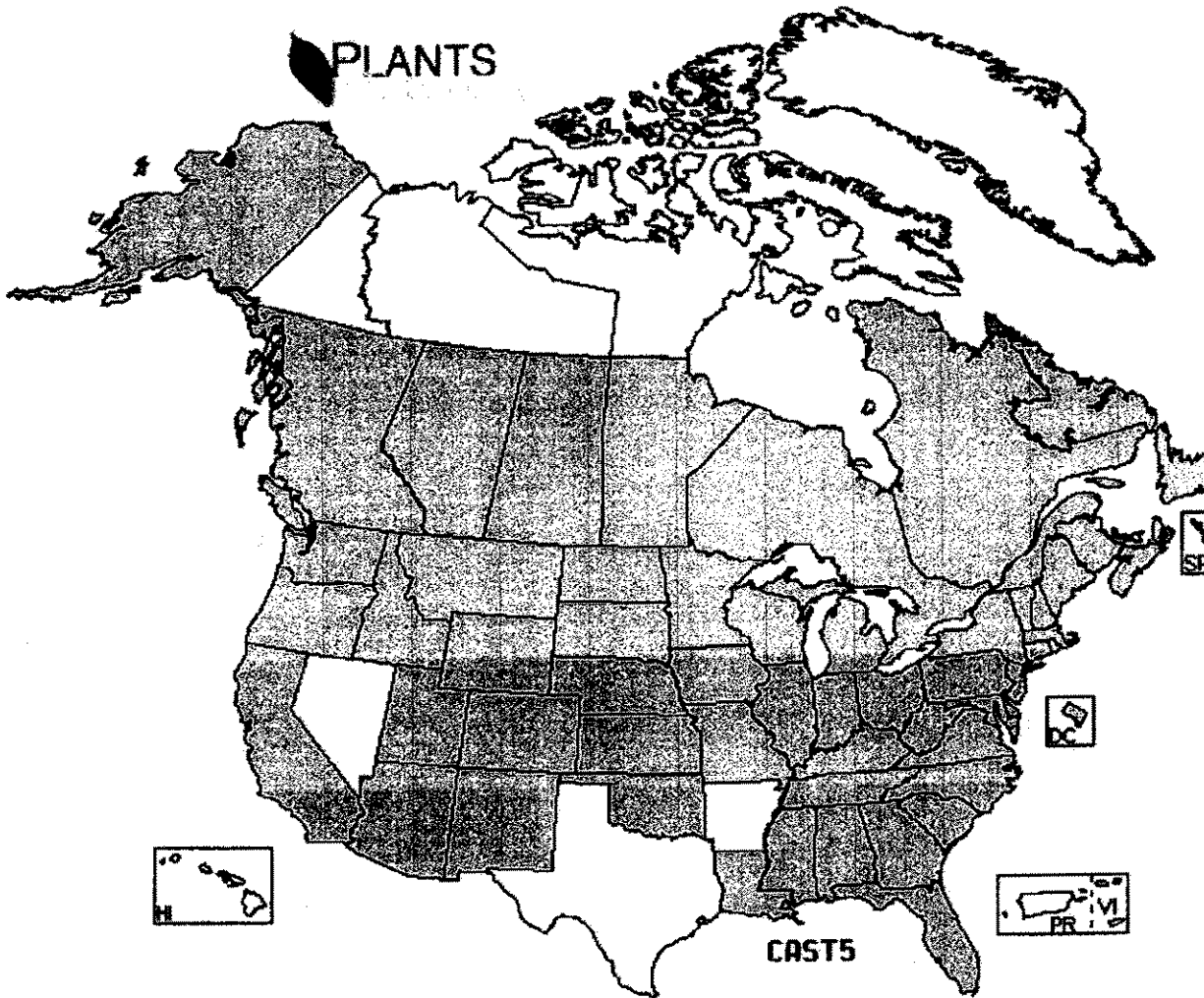
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Distribution:

Carex stipata Muhl. ex Willd.



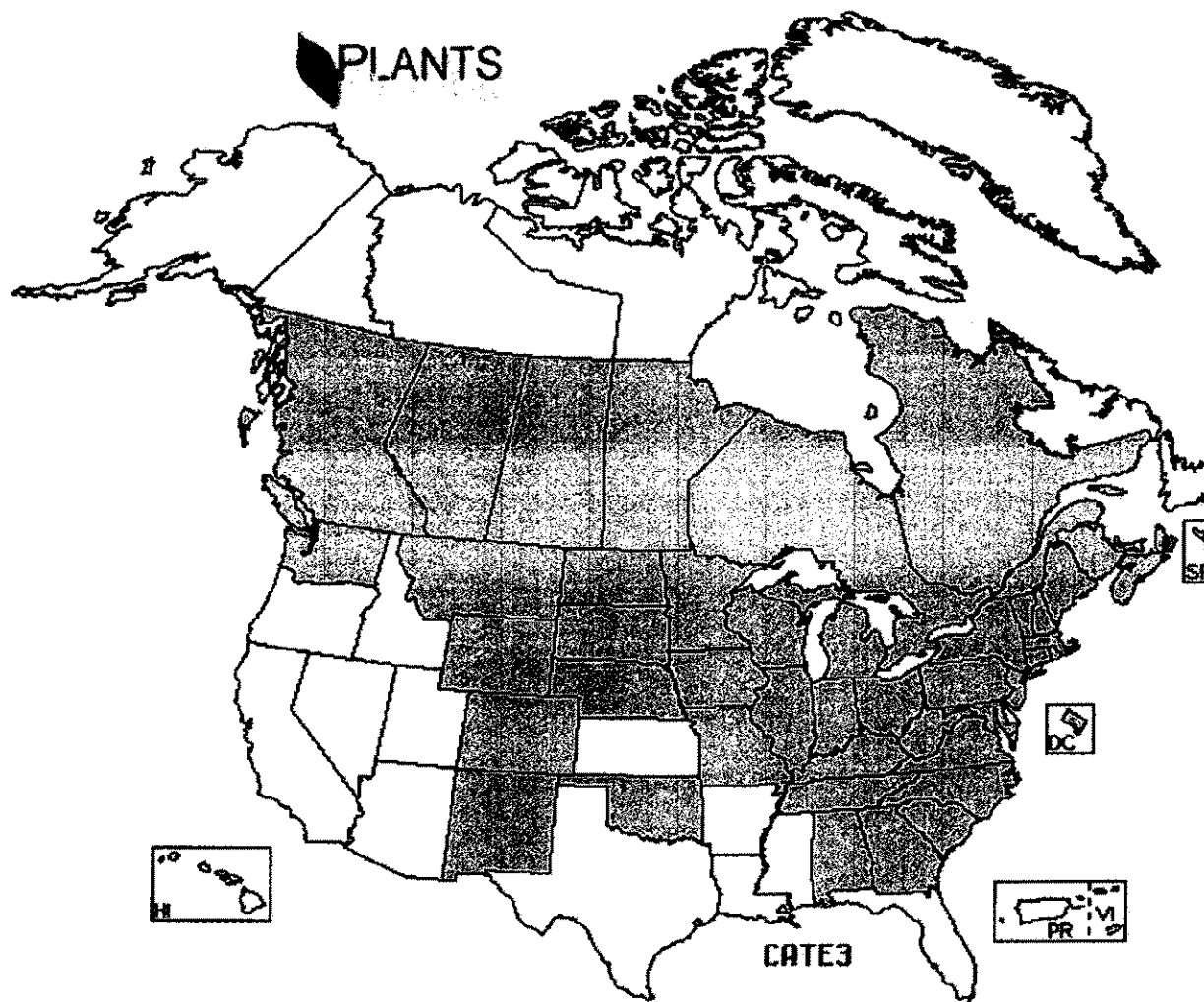
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Distribution:
Carex tenera Dewey



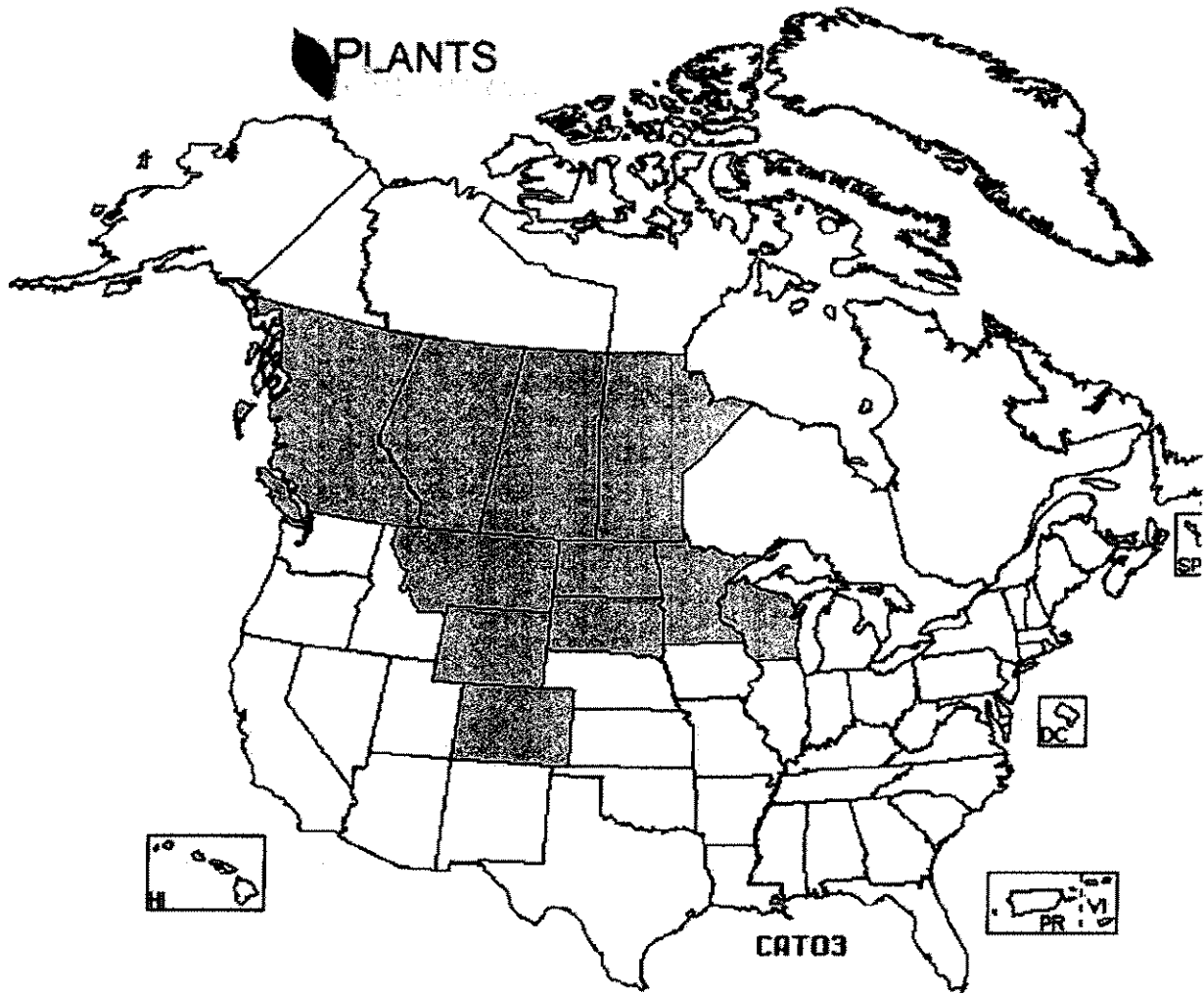
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[SD](#), [TN](#), [VA](#), [VT](#), [WA](#), [WI](#), [WV](#), [WY](#)

Distribution:
Carex torreyi Tuck.



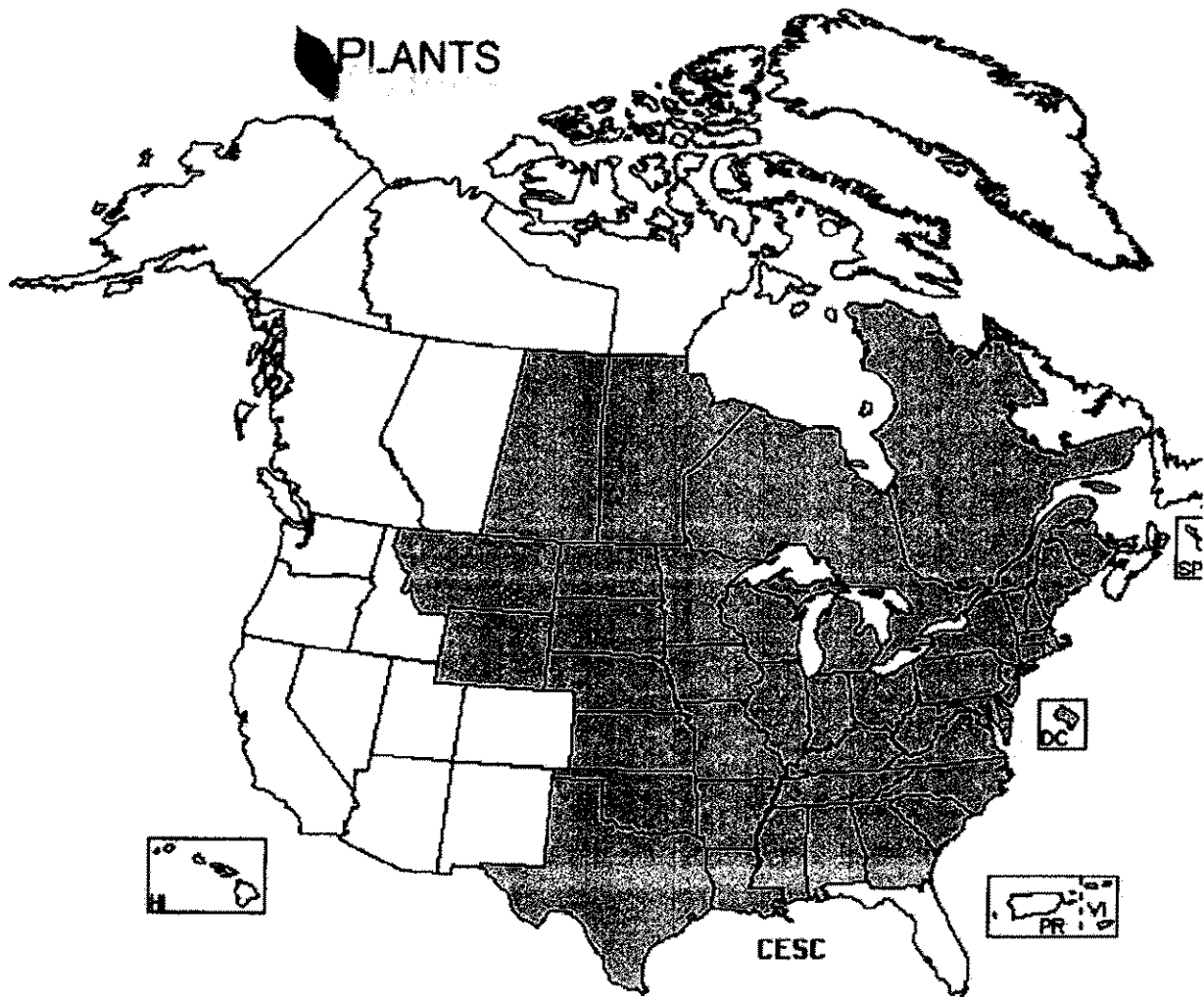
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Distribution:
Celastrus scandens L.



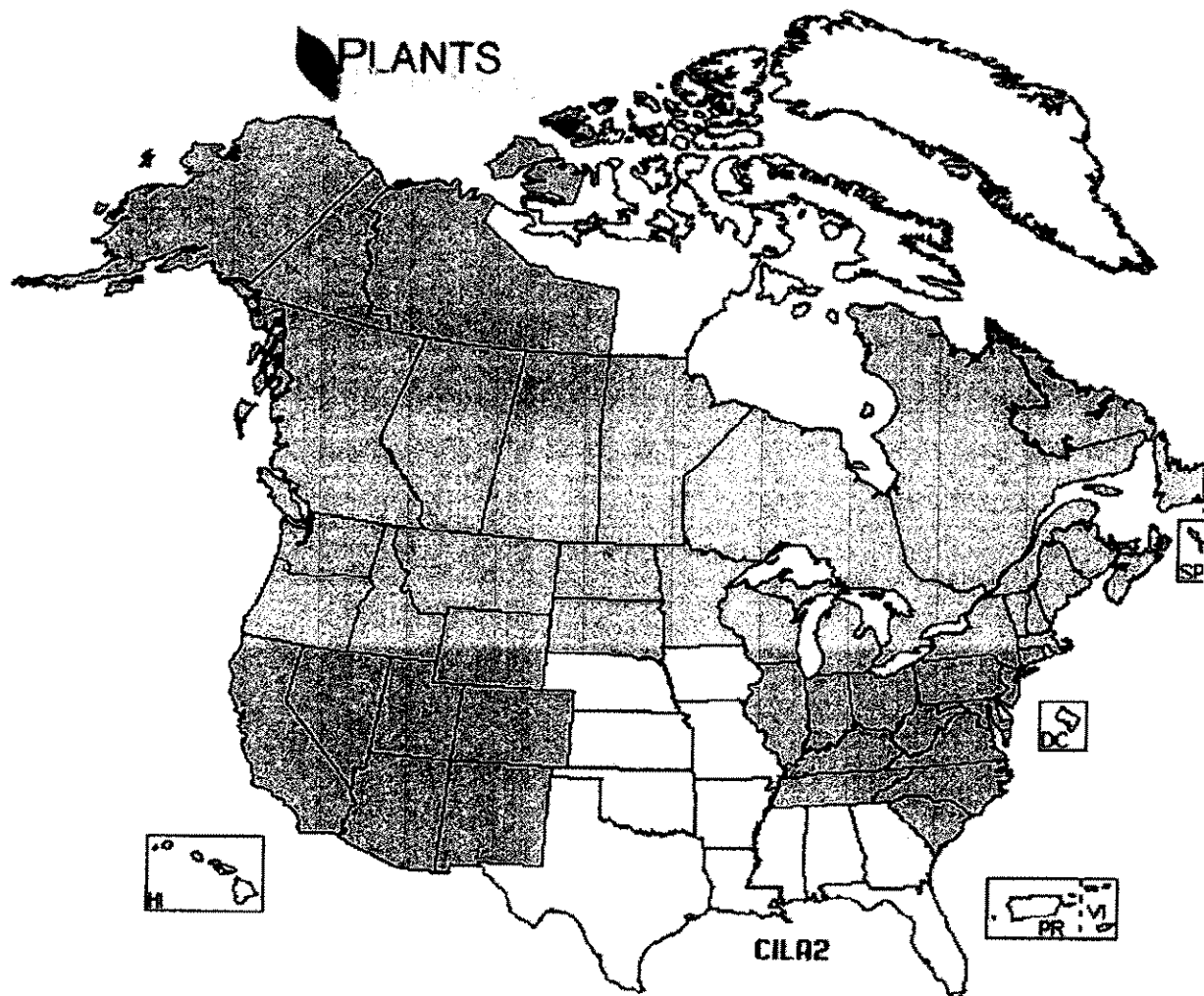
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Distribution:
Cinna latifolia (Trevis. ex Goepp.) Griseb.

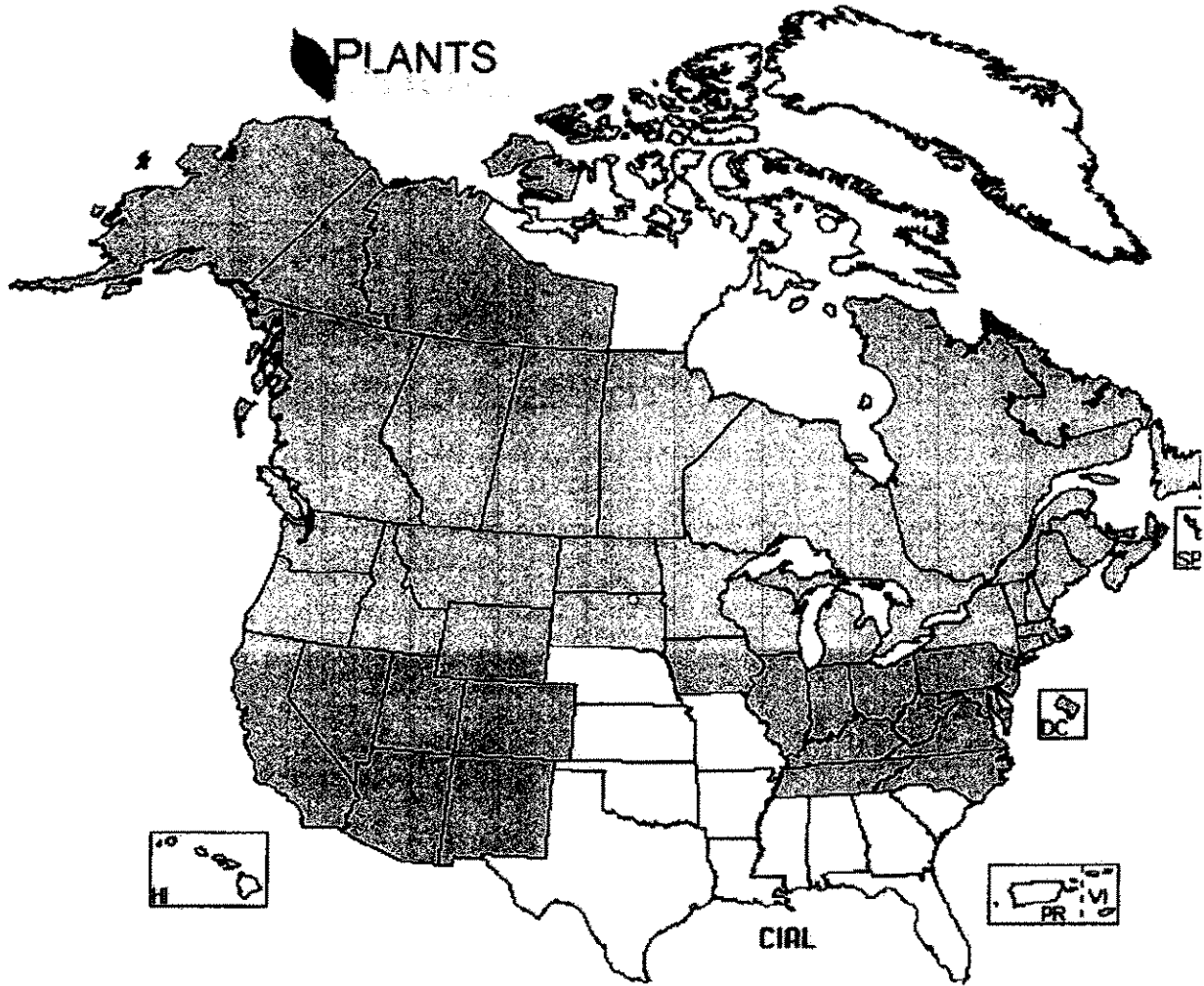


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Distribution:
Circaea alpina L.



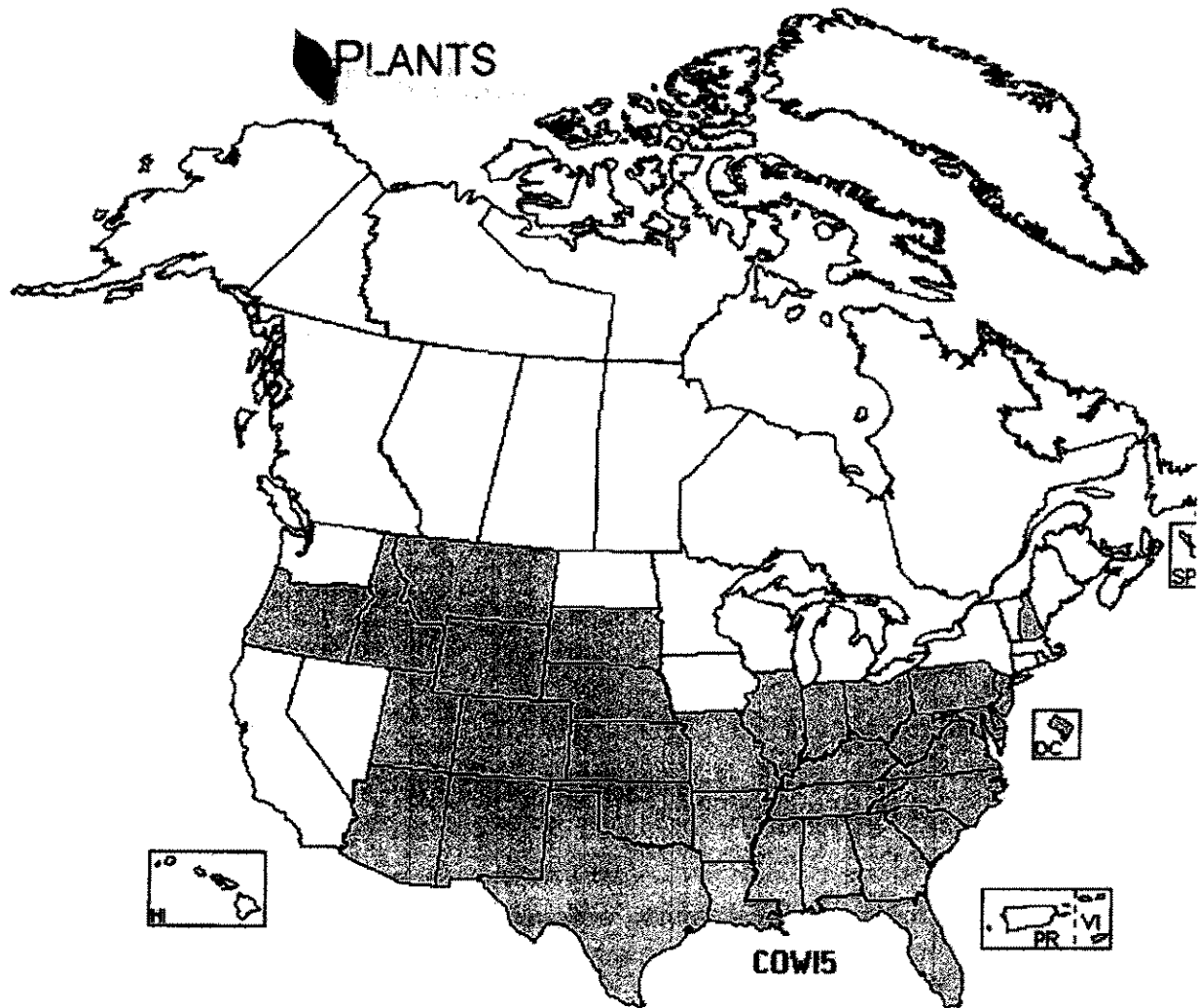
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Distribution:
Corallorhiza wisteriana Conrad



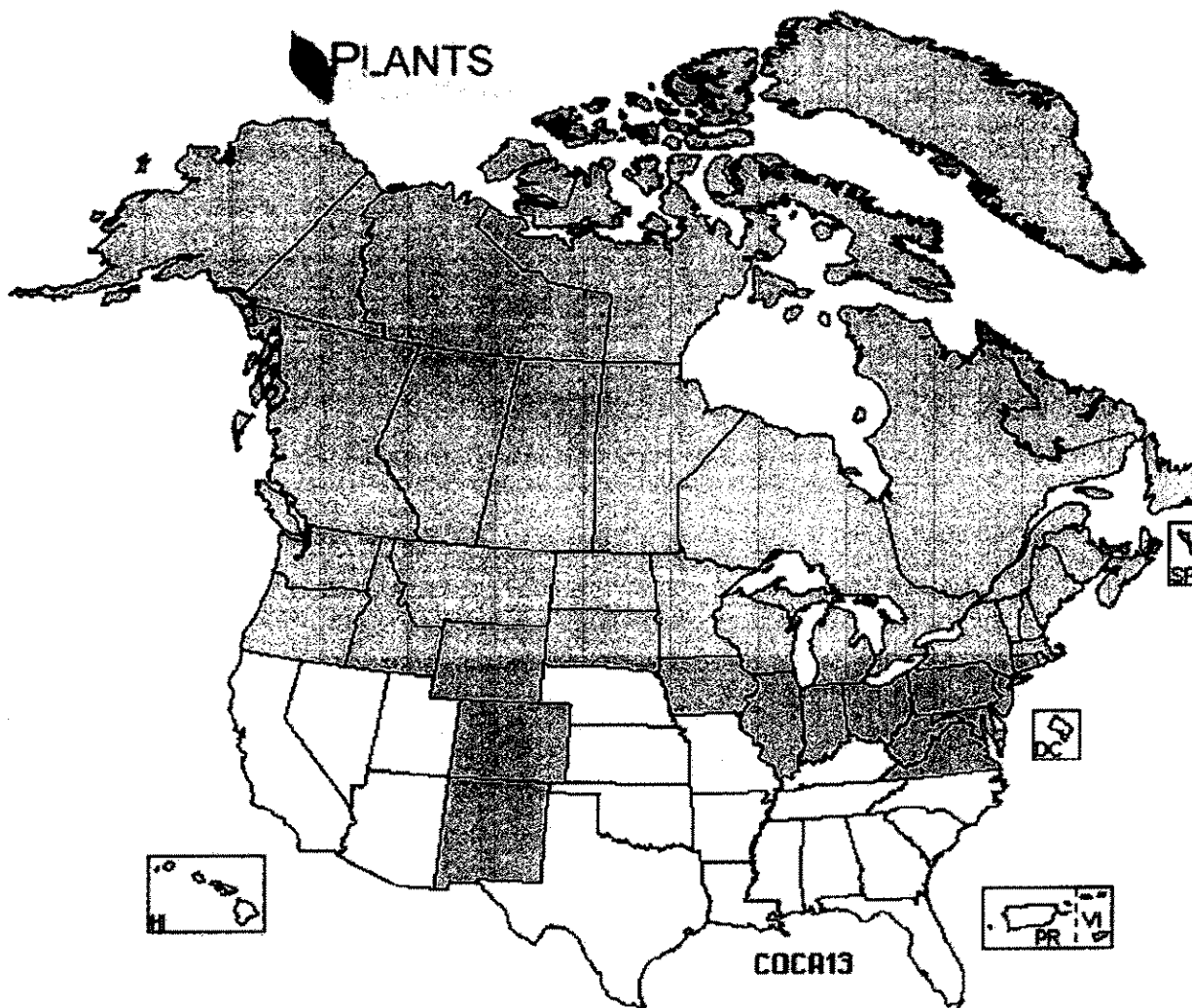
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[OK](#), [OR](#), [PA](#), [SC](#), [SD](#), [TN](#), [TX](#), [UT](#), [VA](#), [WV](#), [WY](#)

Distribution:
Cornus canadensis L.



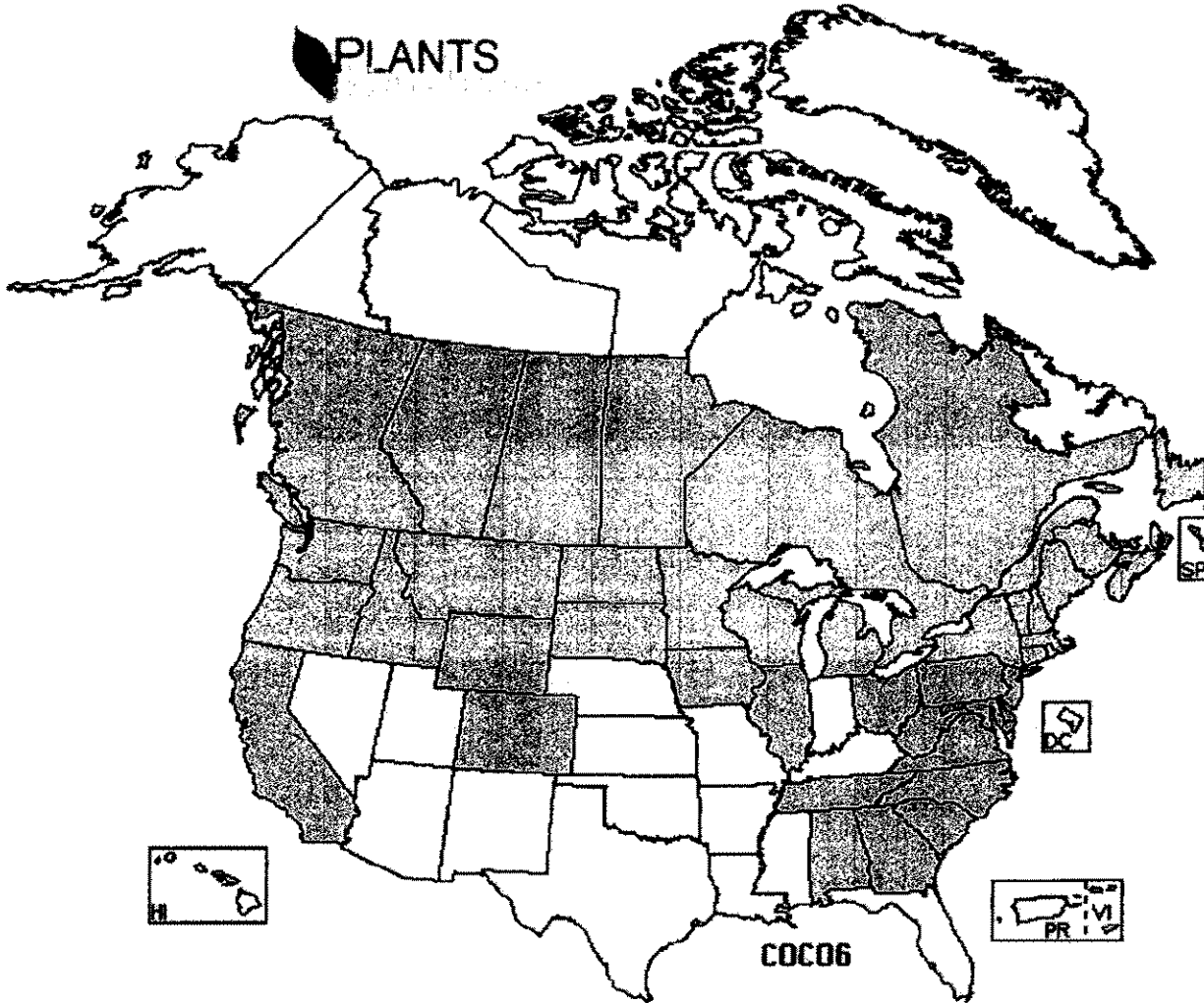
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Distribution:
Corylus cornuta Marsh.



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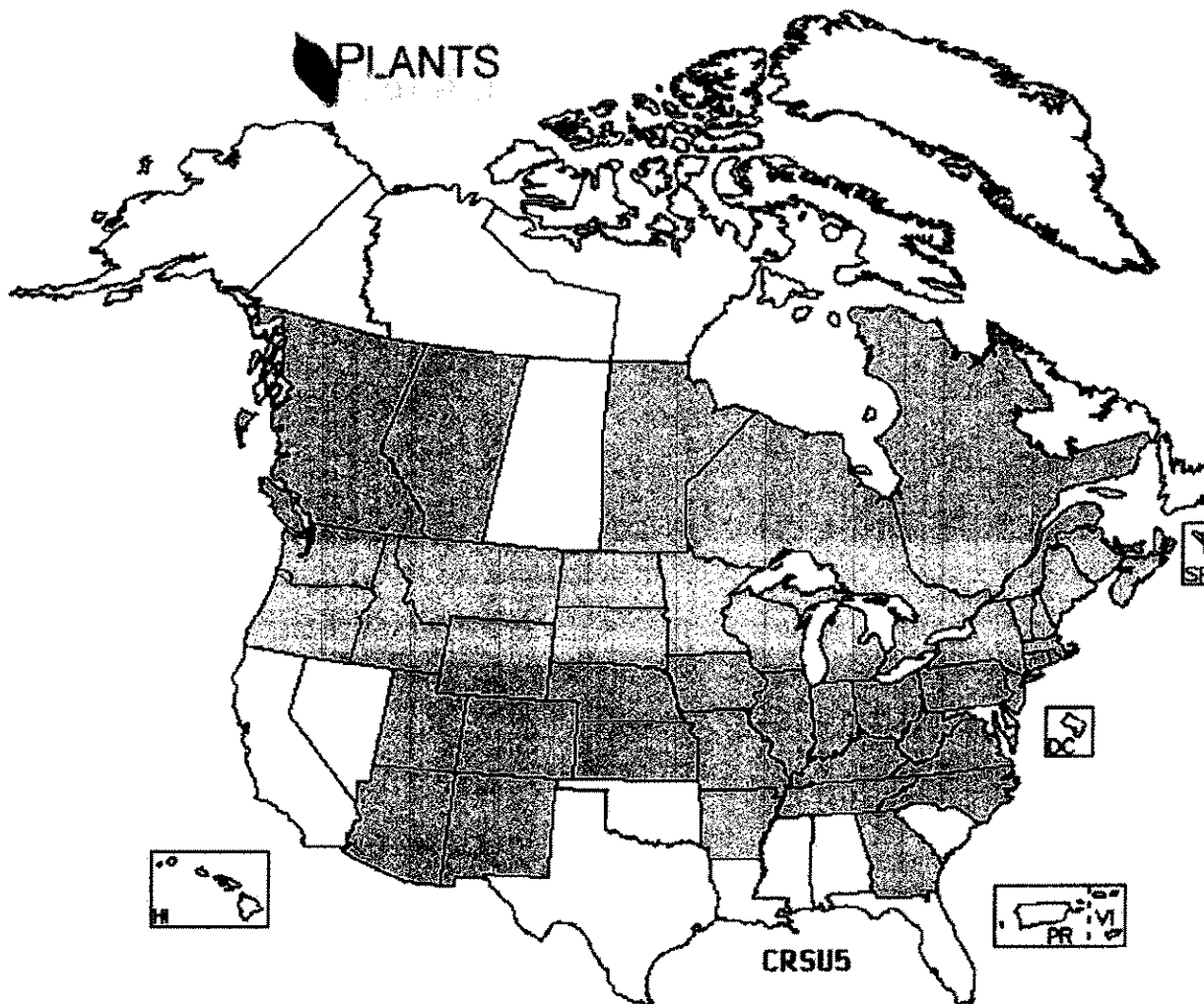
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Distribution:

Crataegus succulenta Schrad. ex Link



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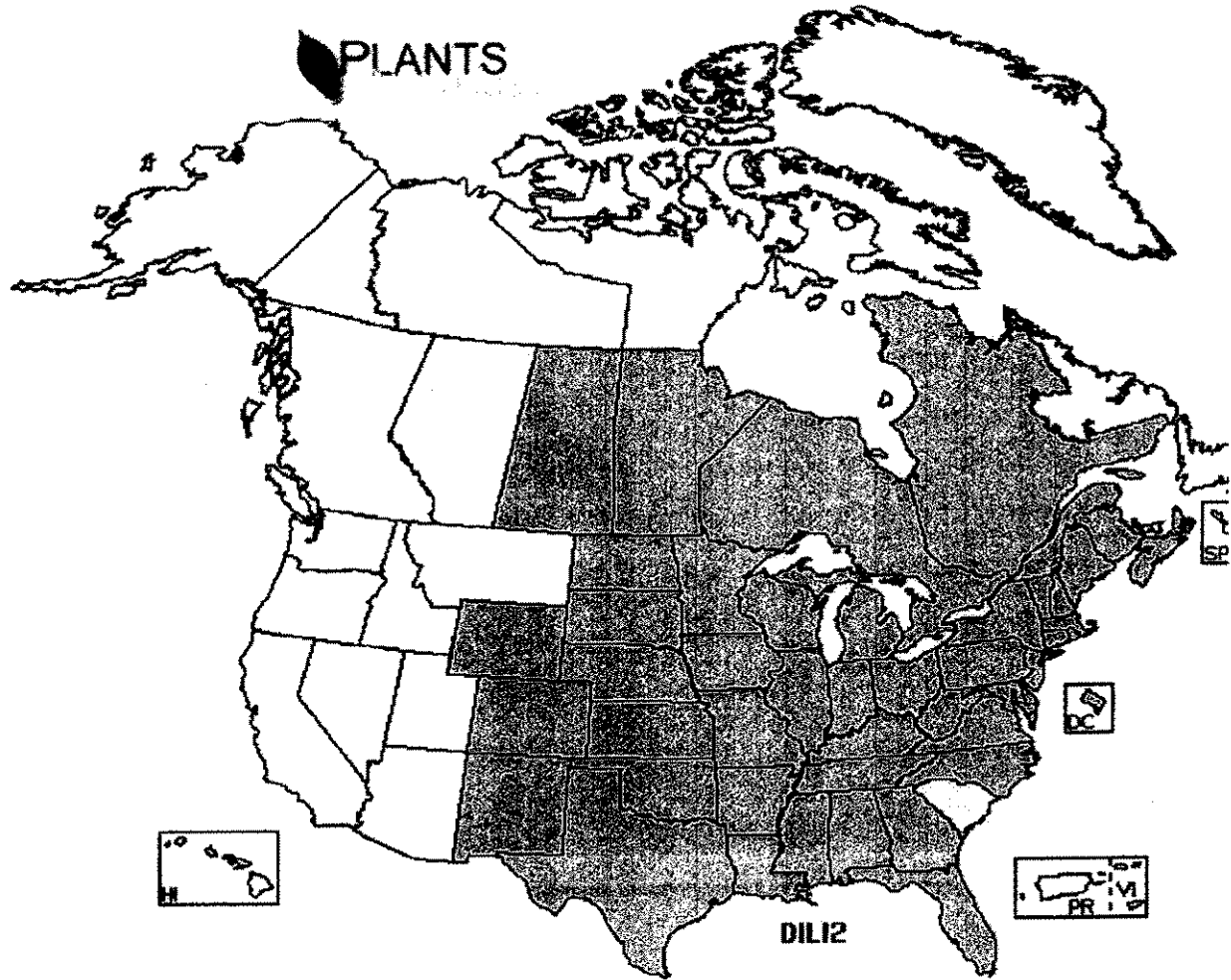
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Distribution:

Dichanthelium linearifolium (Scribn. ex Nash) Gould



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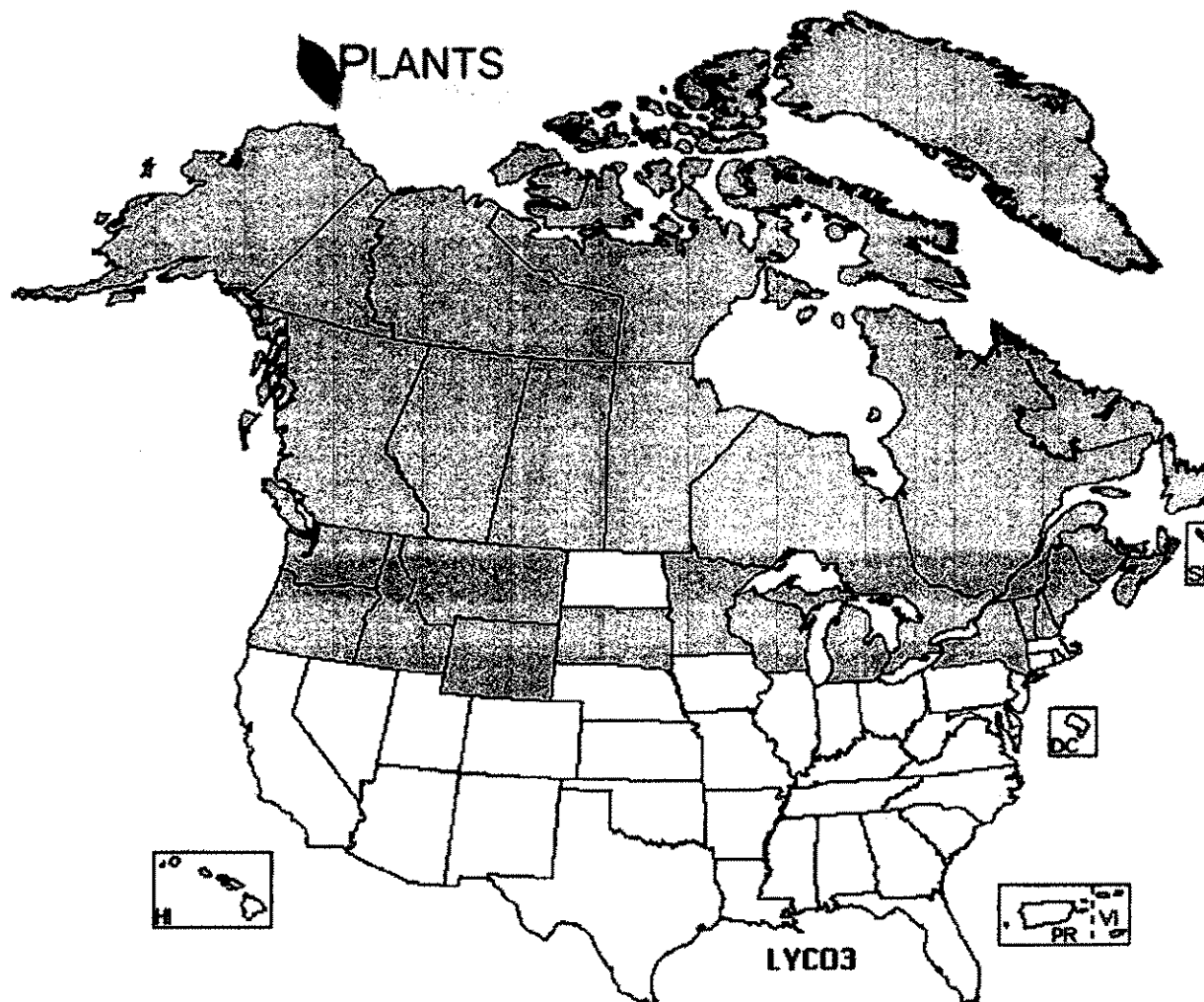
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Distribution:

Lycopodium complanatum L.



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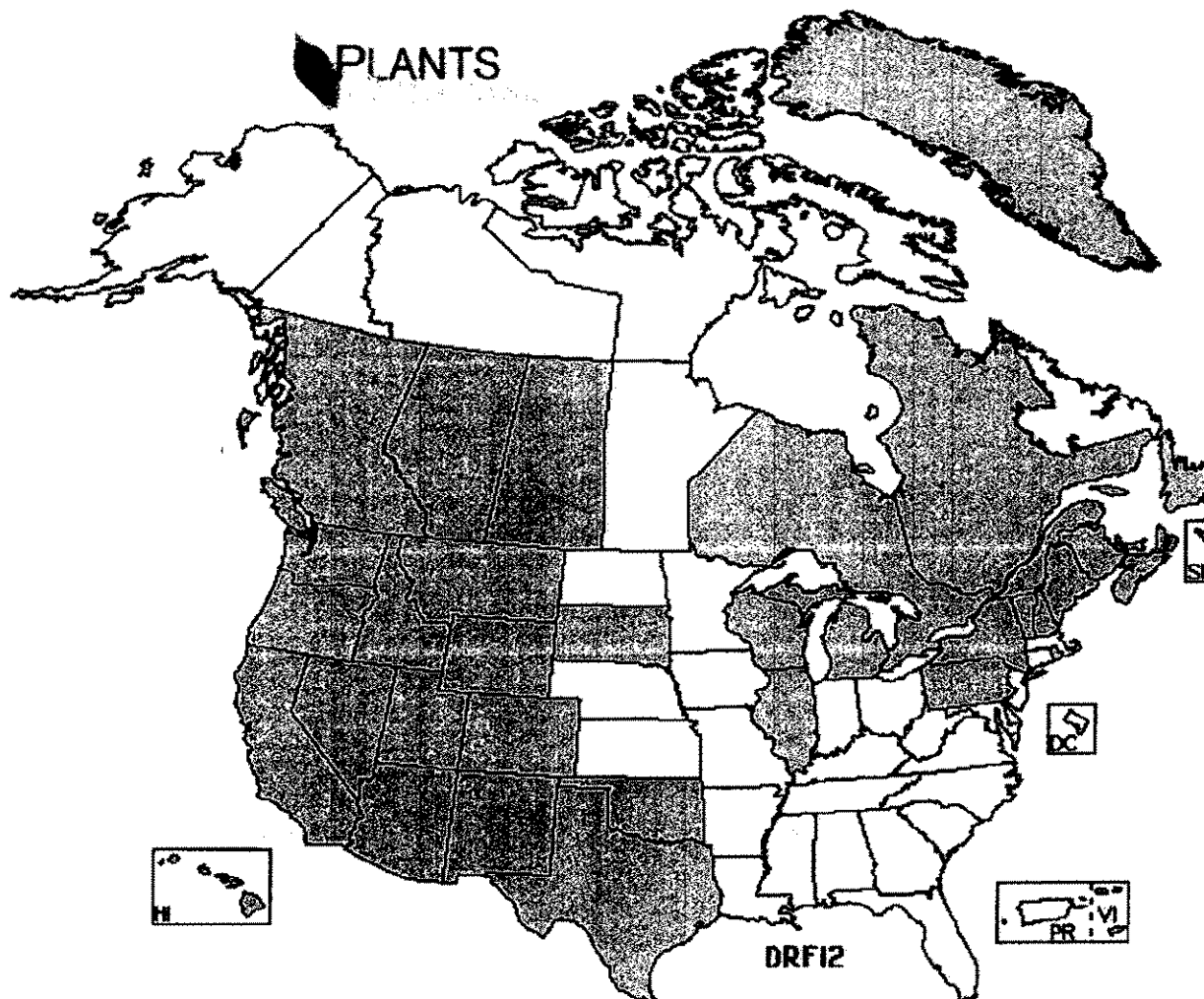
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Distribution:

Dryopteris filix-mas (L.) Schott



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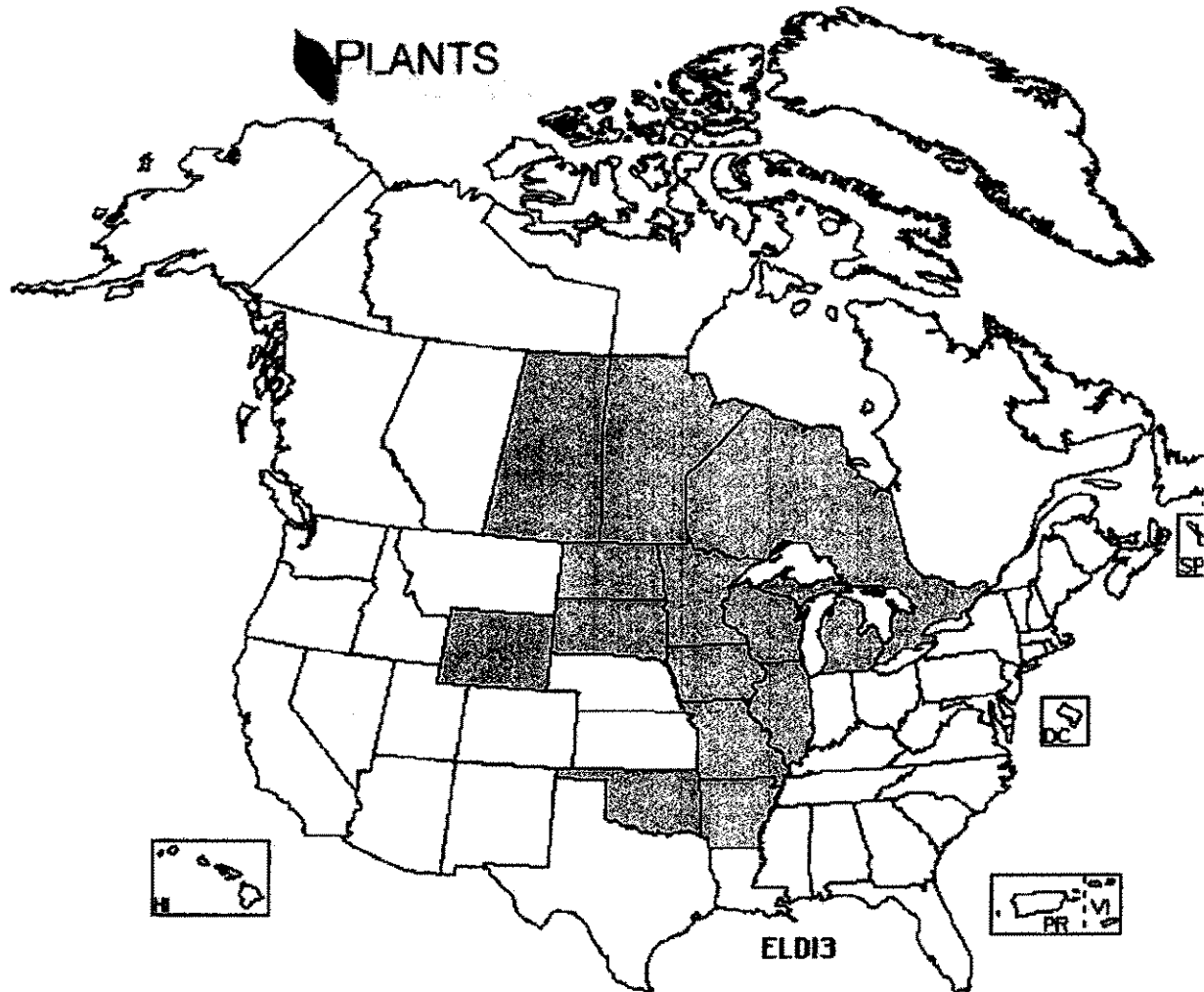
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Distribution:

Elymus diversiglumis Scribn. & C.R. Ball



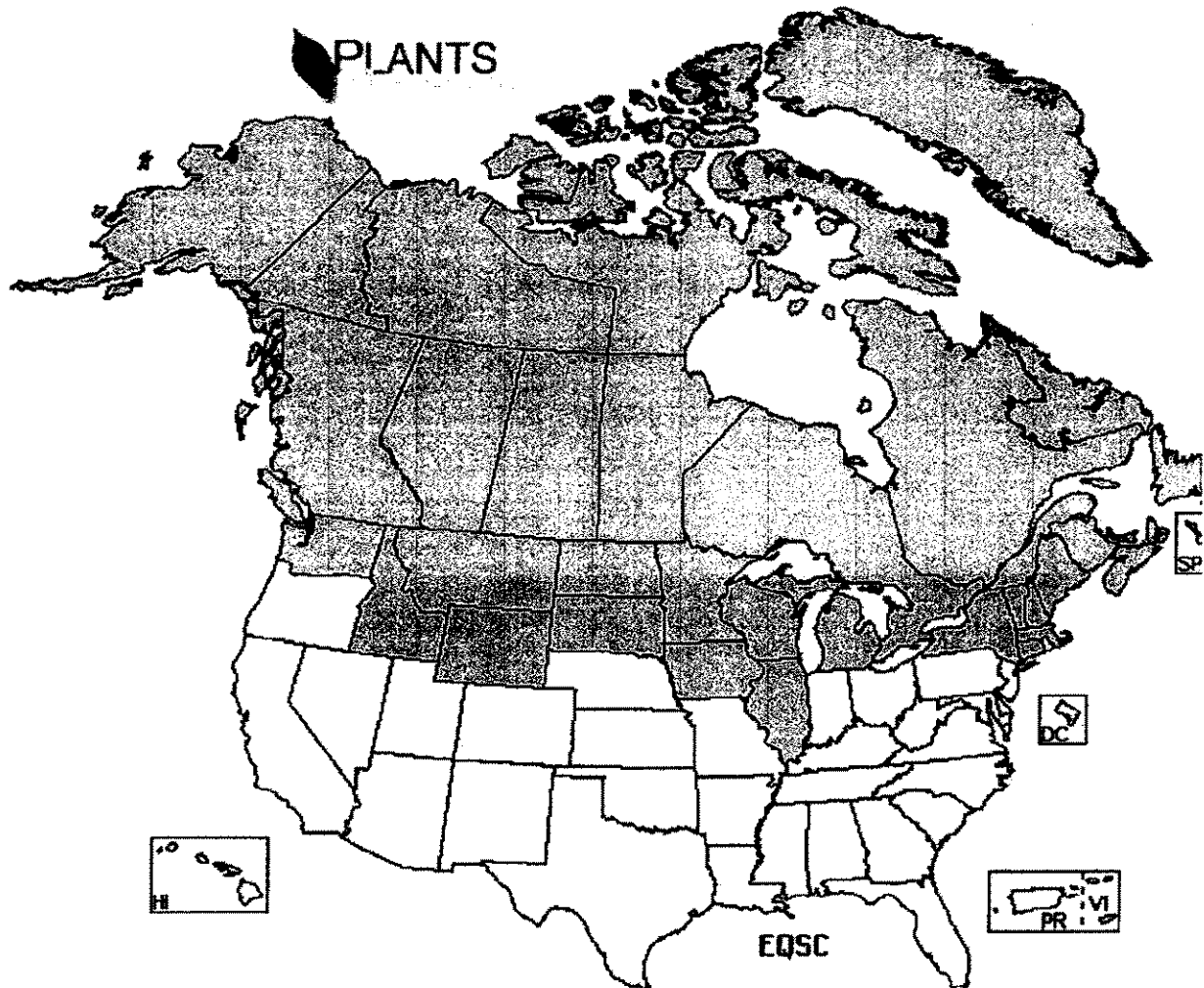
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Distribution:
Equisetum scirpoides Michx.



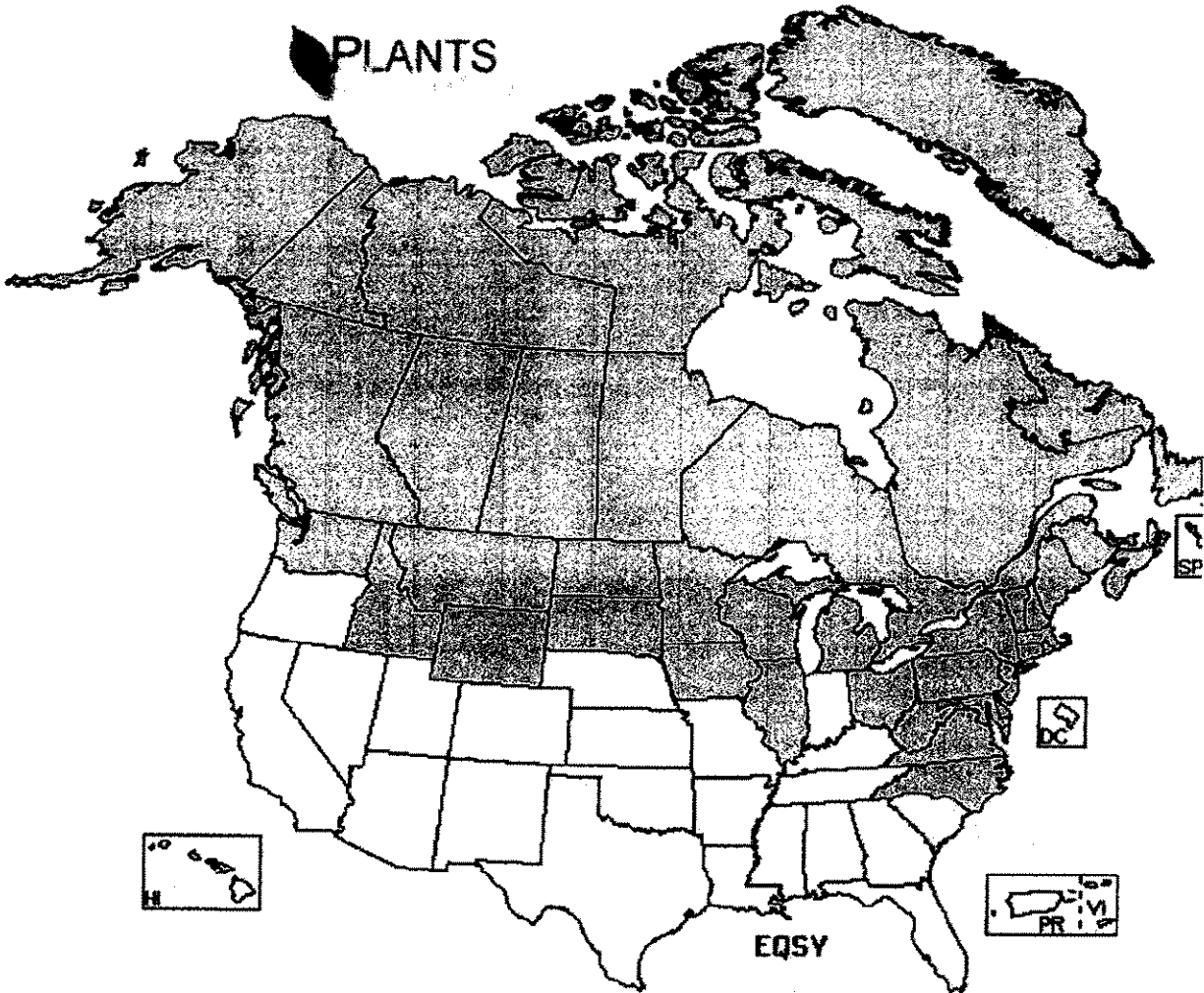
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Distribution:
Equisetum sylvaticum L.



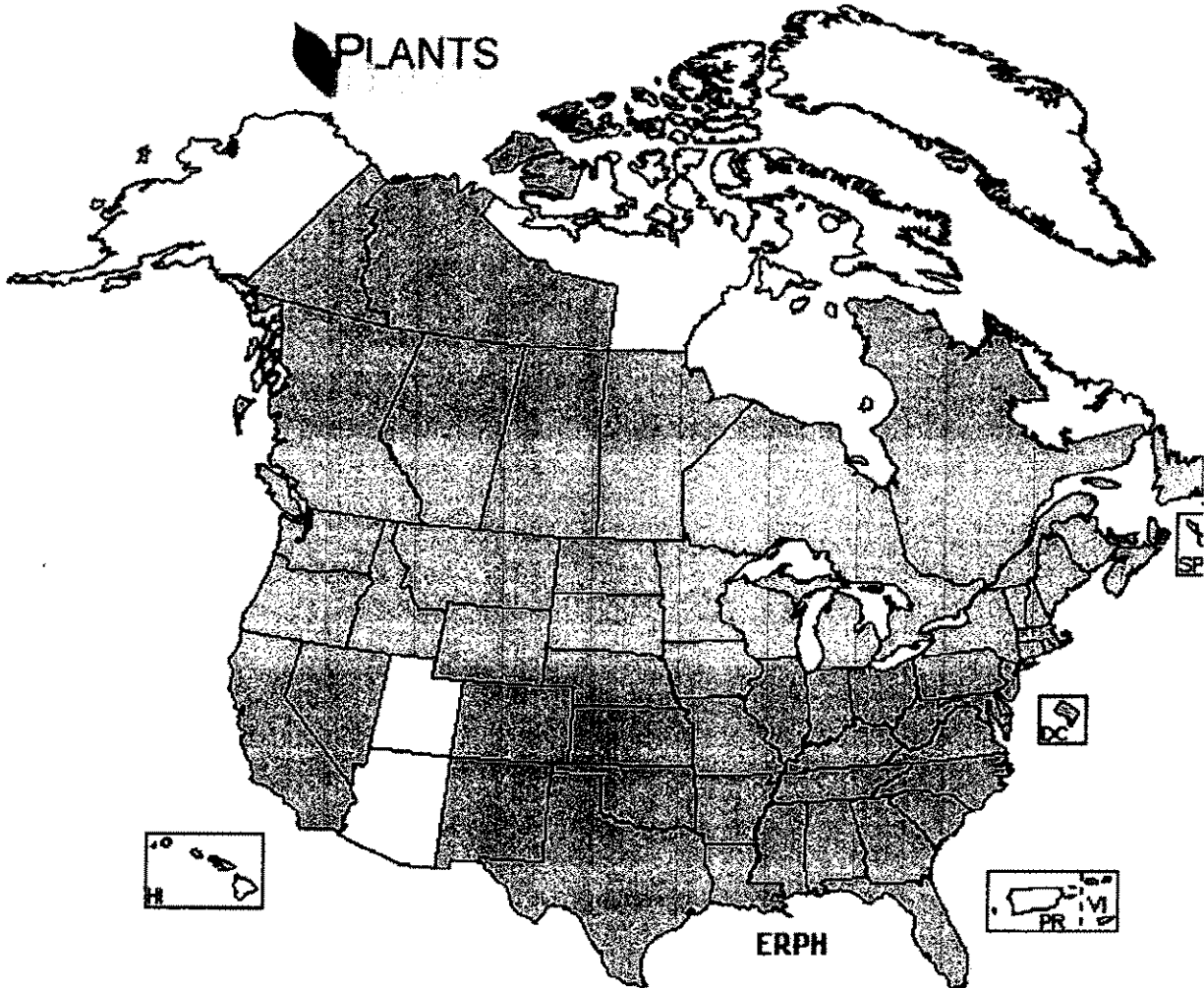
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Distribution:

Erigeron philadelphicus L.



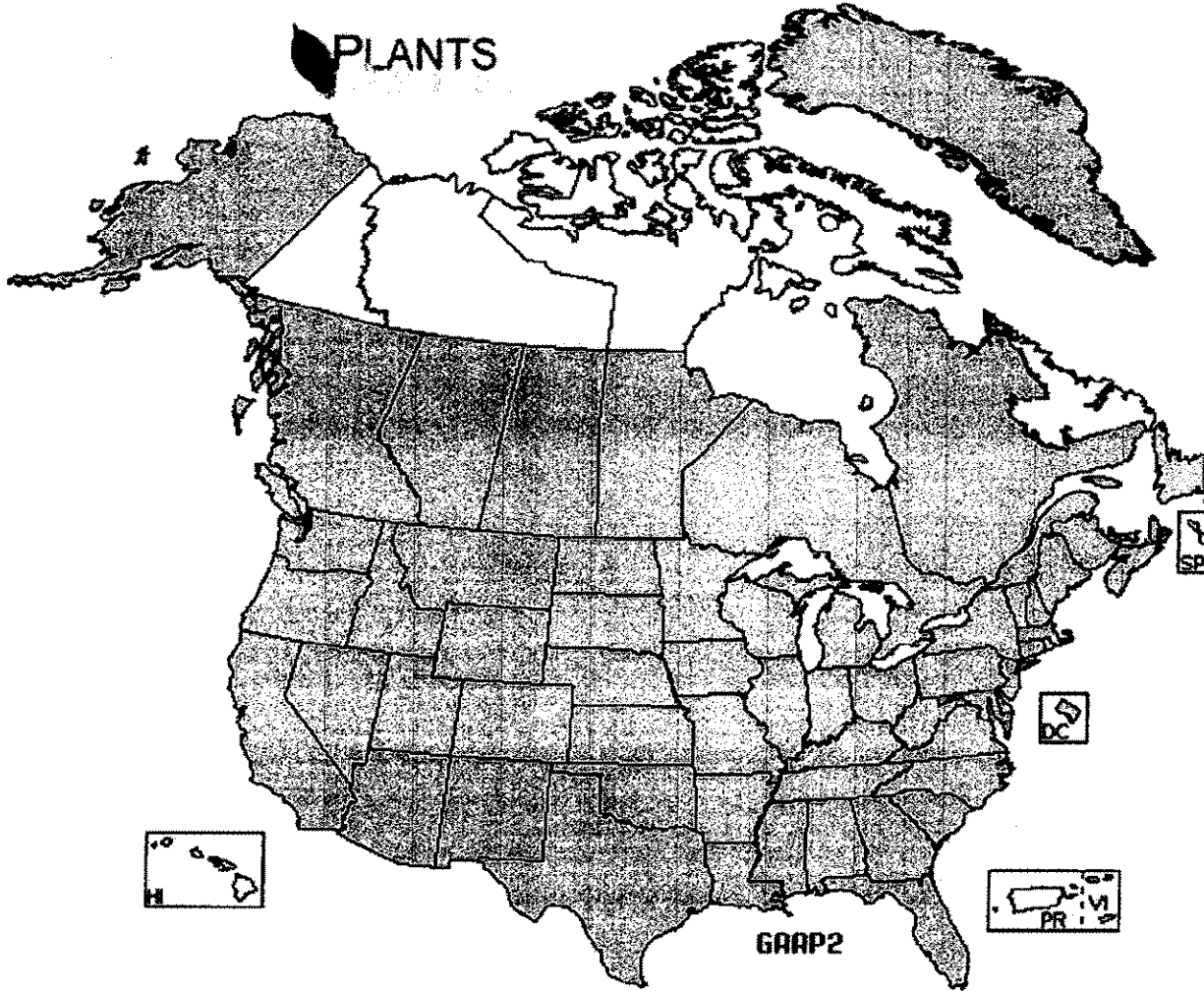
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MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, SC, SD, TN, TX, VA, VI,
WA, WI, WV, WY

Distribution:
Galium aparine L.



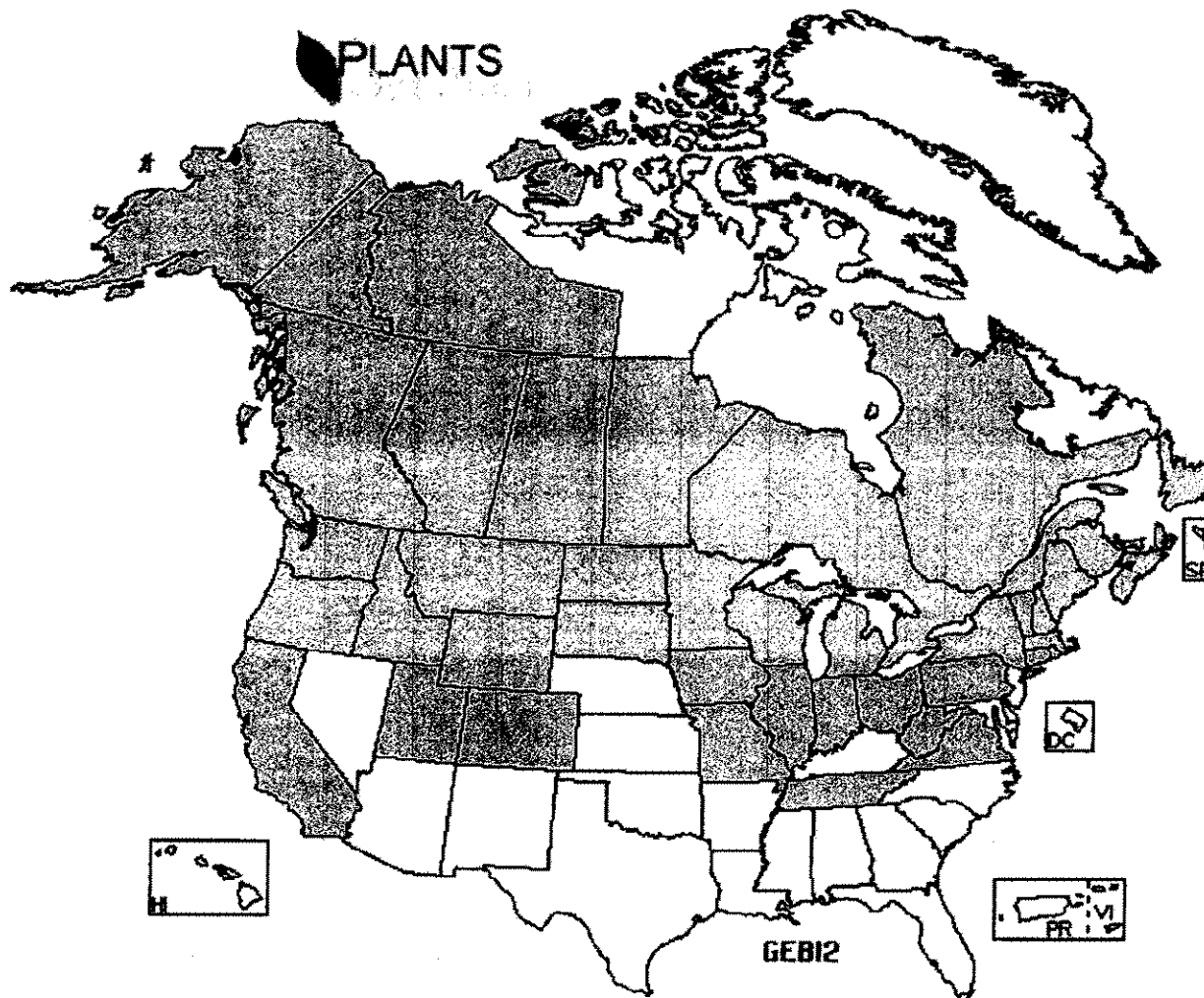
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Distribution:
Geranium bicknellii Britton



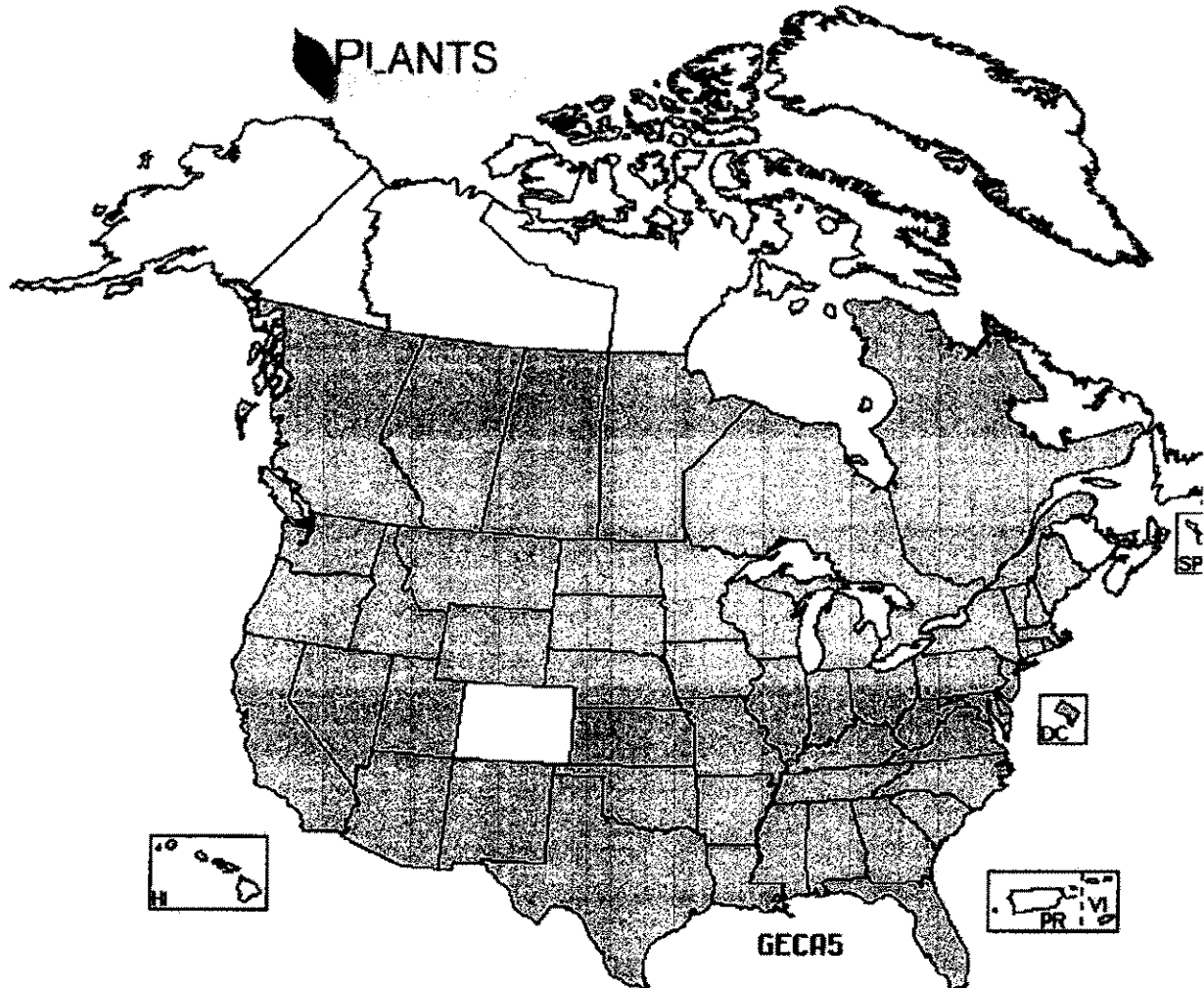
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Distribution:
Geranium carolinianum L.



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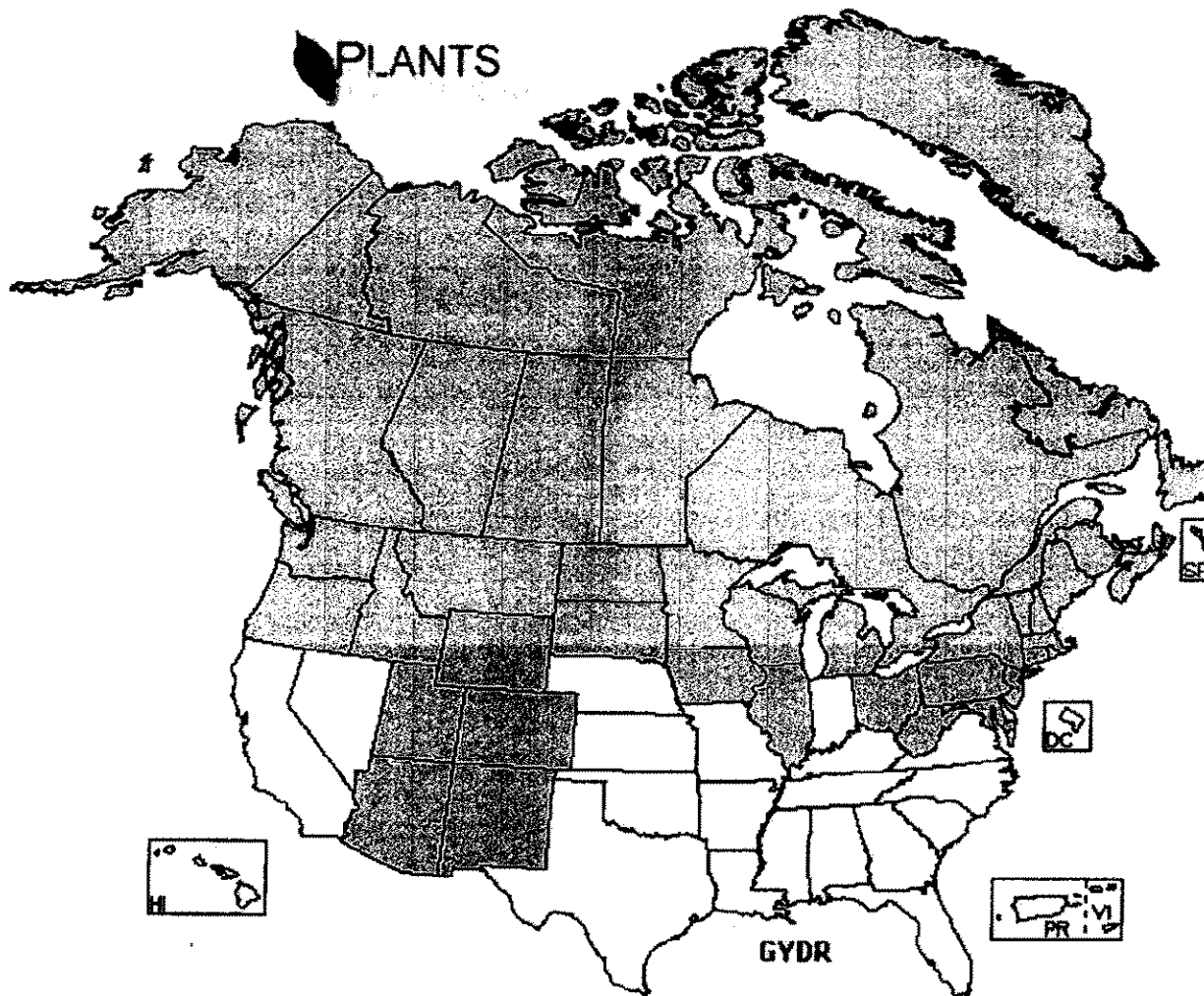
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MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA,
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Distribution:

Gymnocarpium dryopteris (L.) Newman



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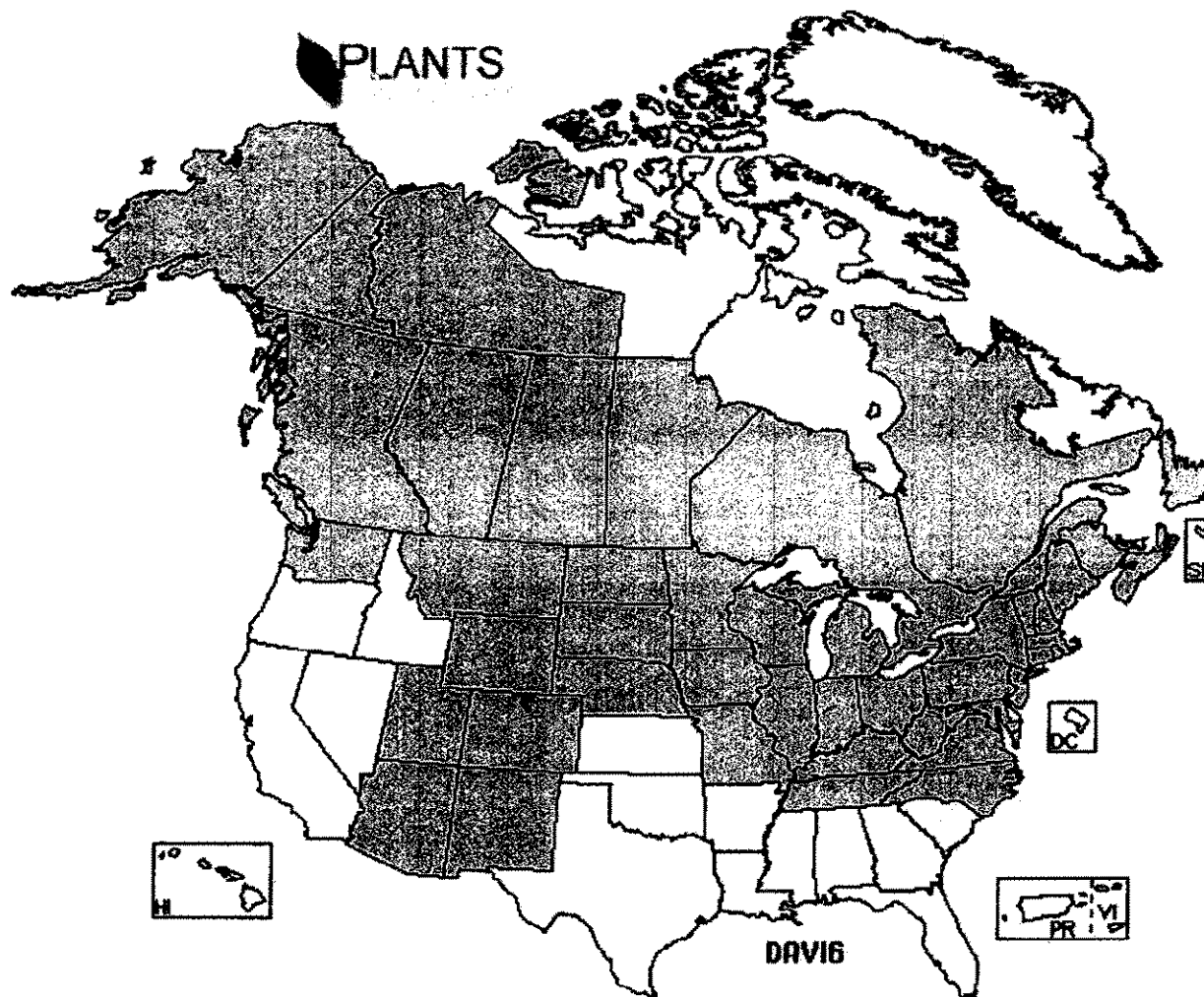
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Distribution:

Dactylorhiza viridis (L.) R.M. Bateman, A.M. Pridgeon & M.W. Chase



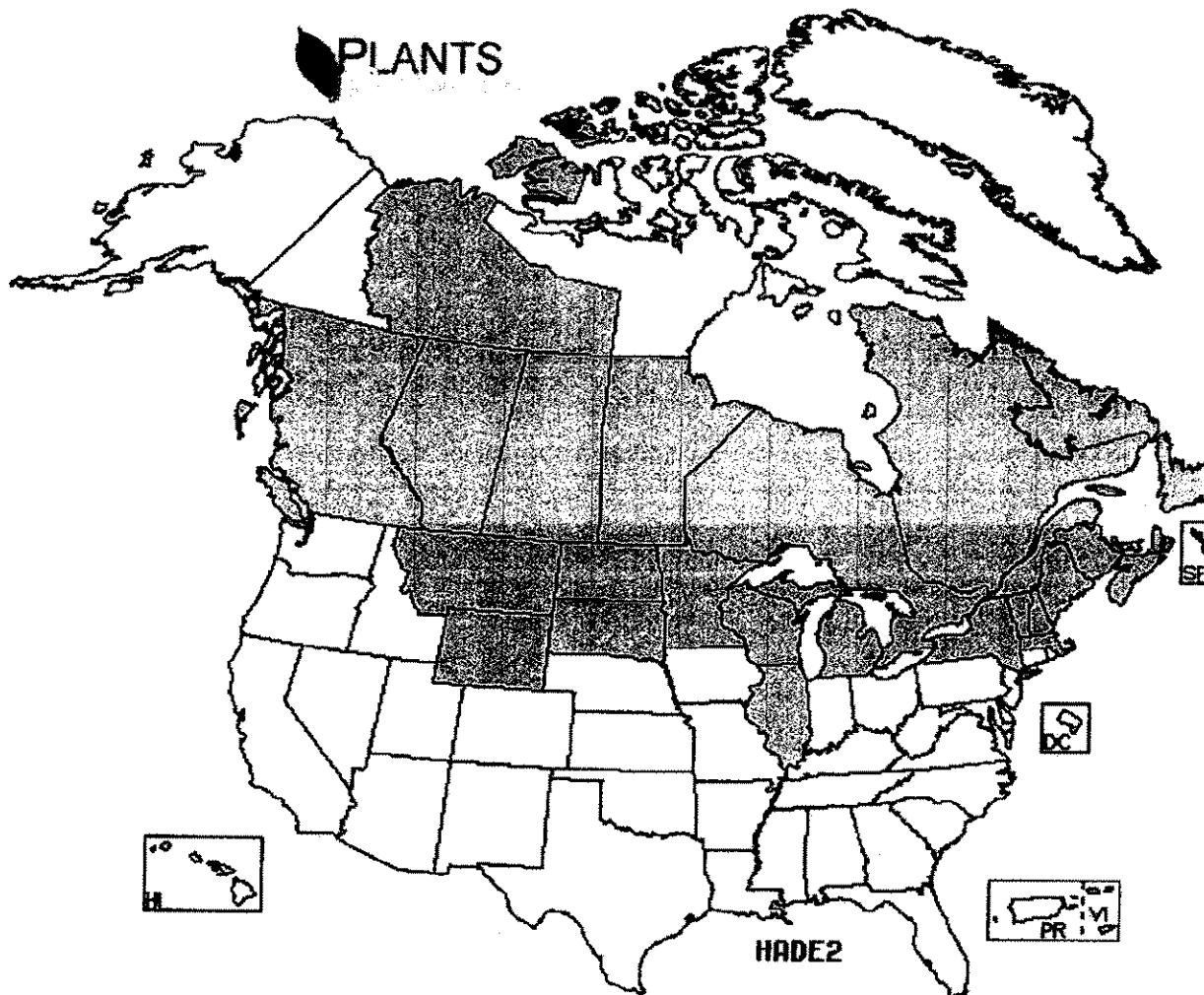
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Distribution:
Halenia deflexa (Sm.) Griseb.



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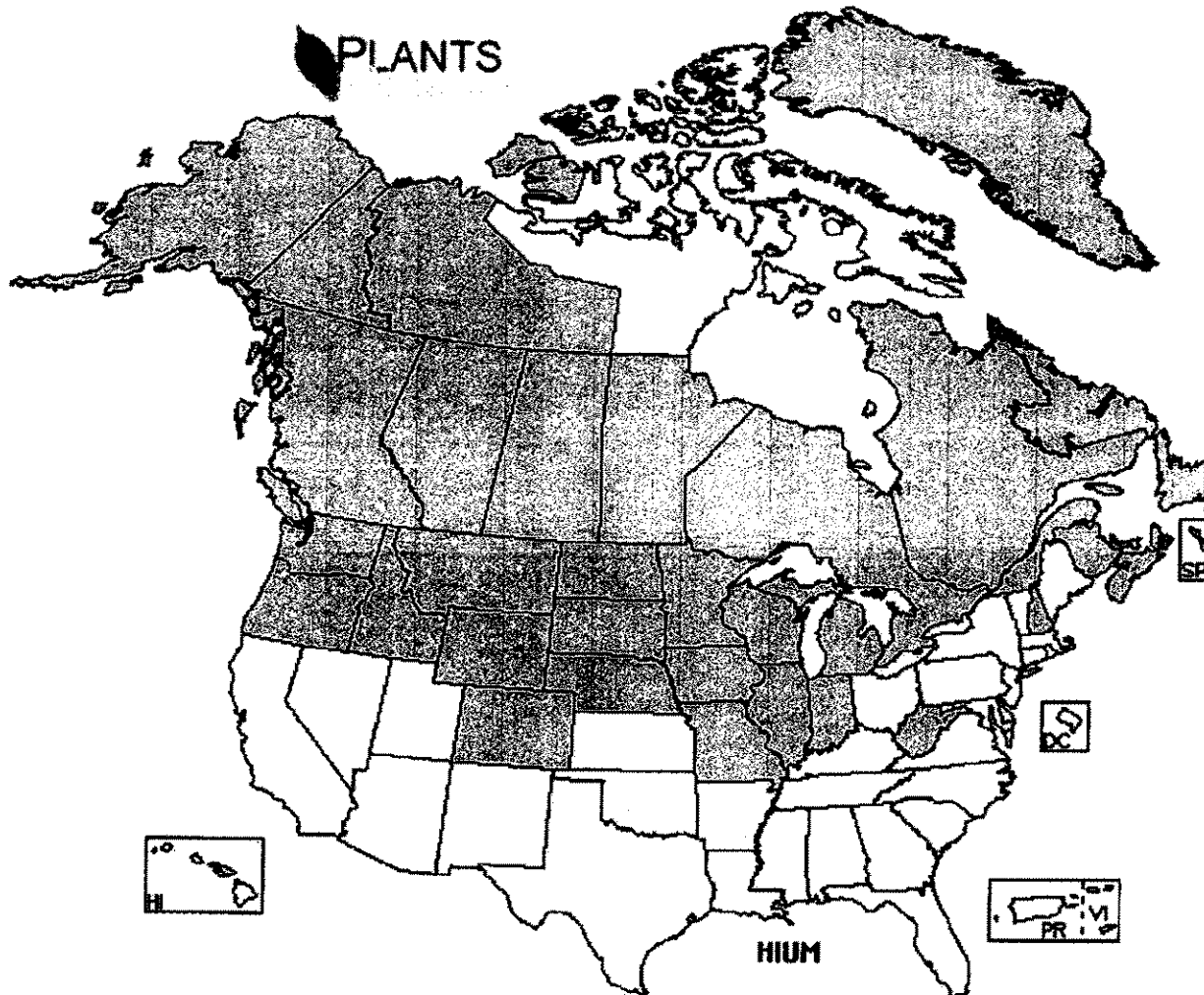
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Distribution:

Hieracium umbellatum L.



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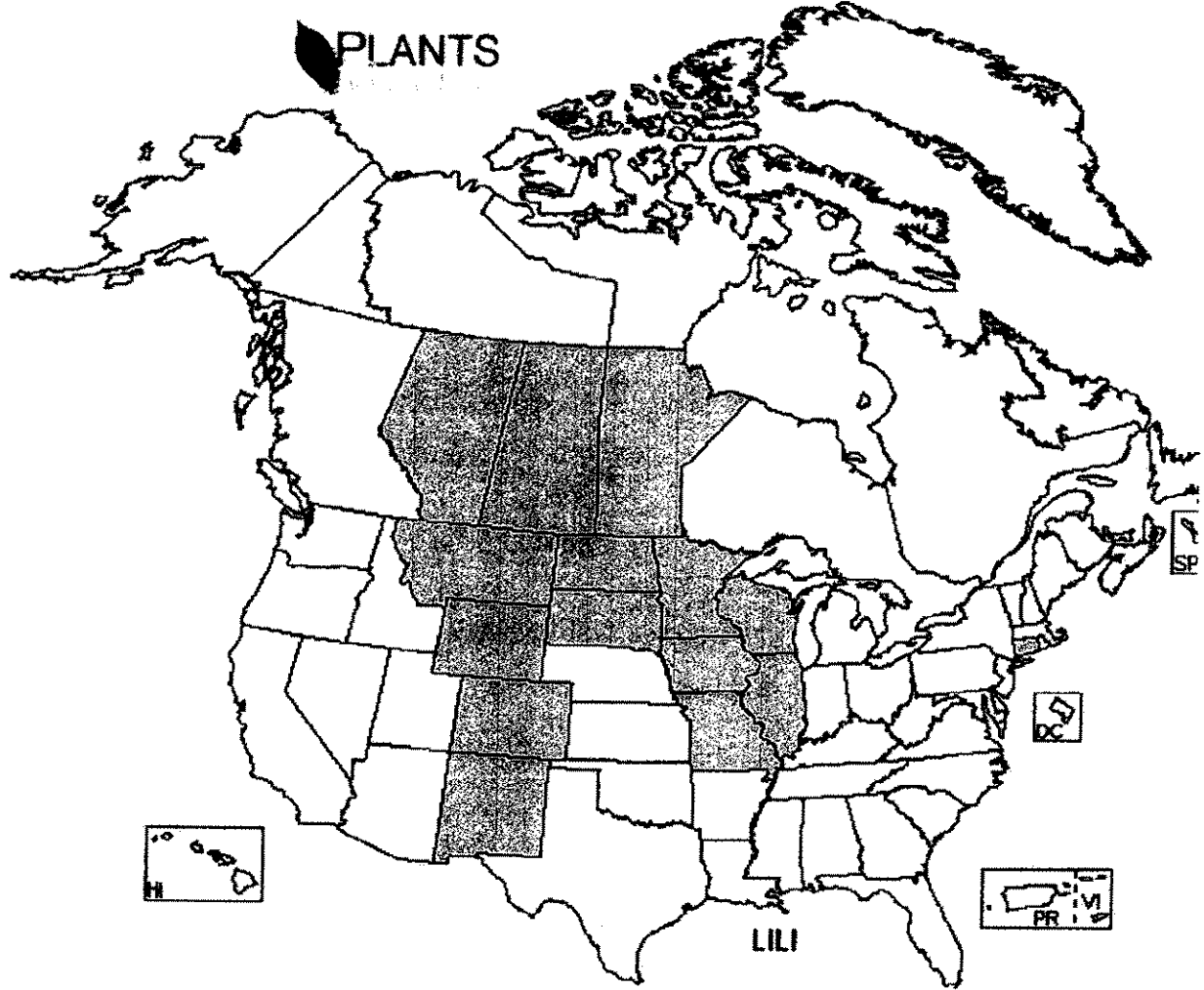
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Distribution:

Liatris ligulistylis (A. Nelson) K. Schum.



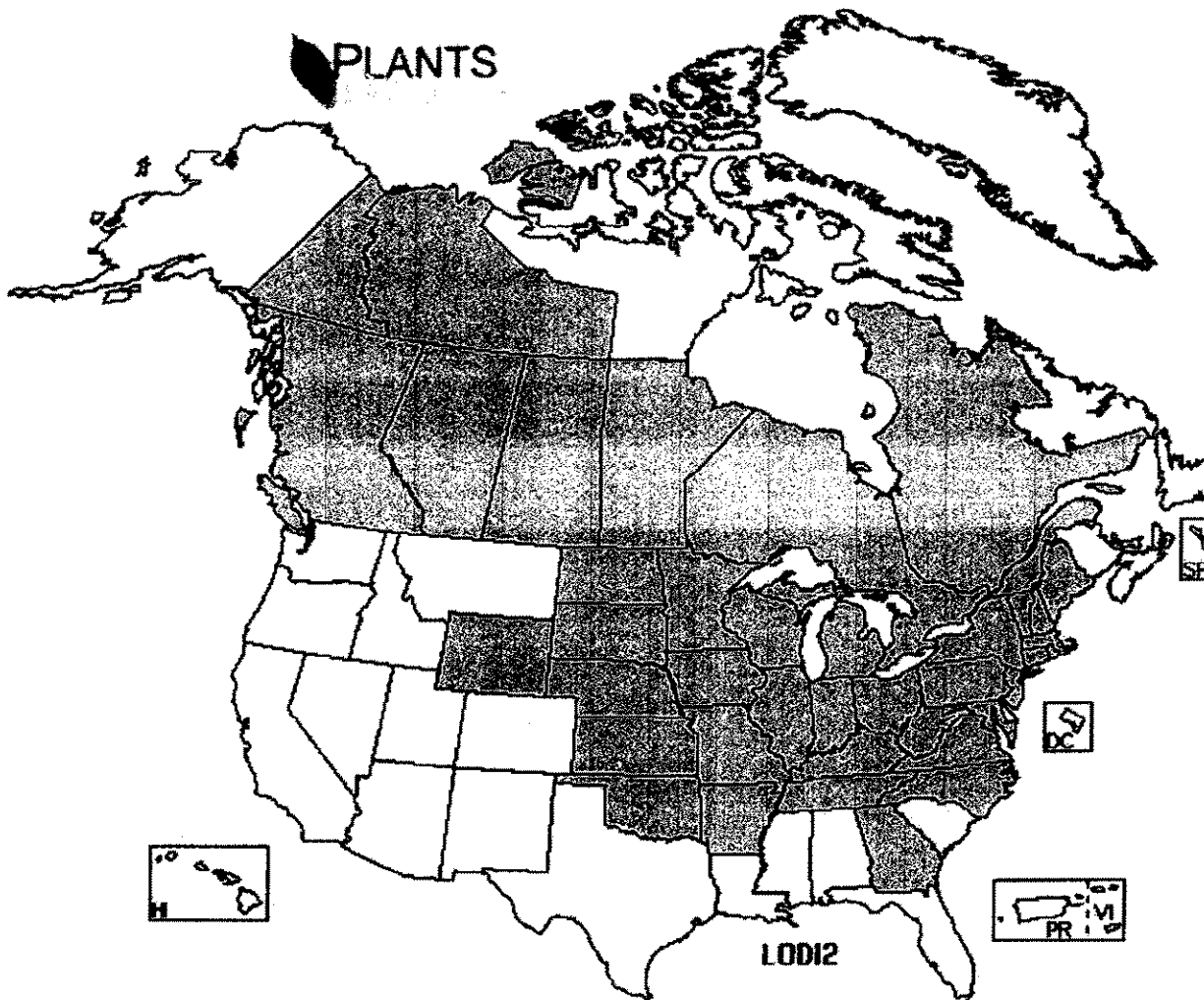
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Distribution:
Lonicera dioica L.



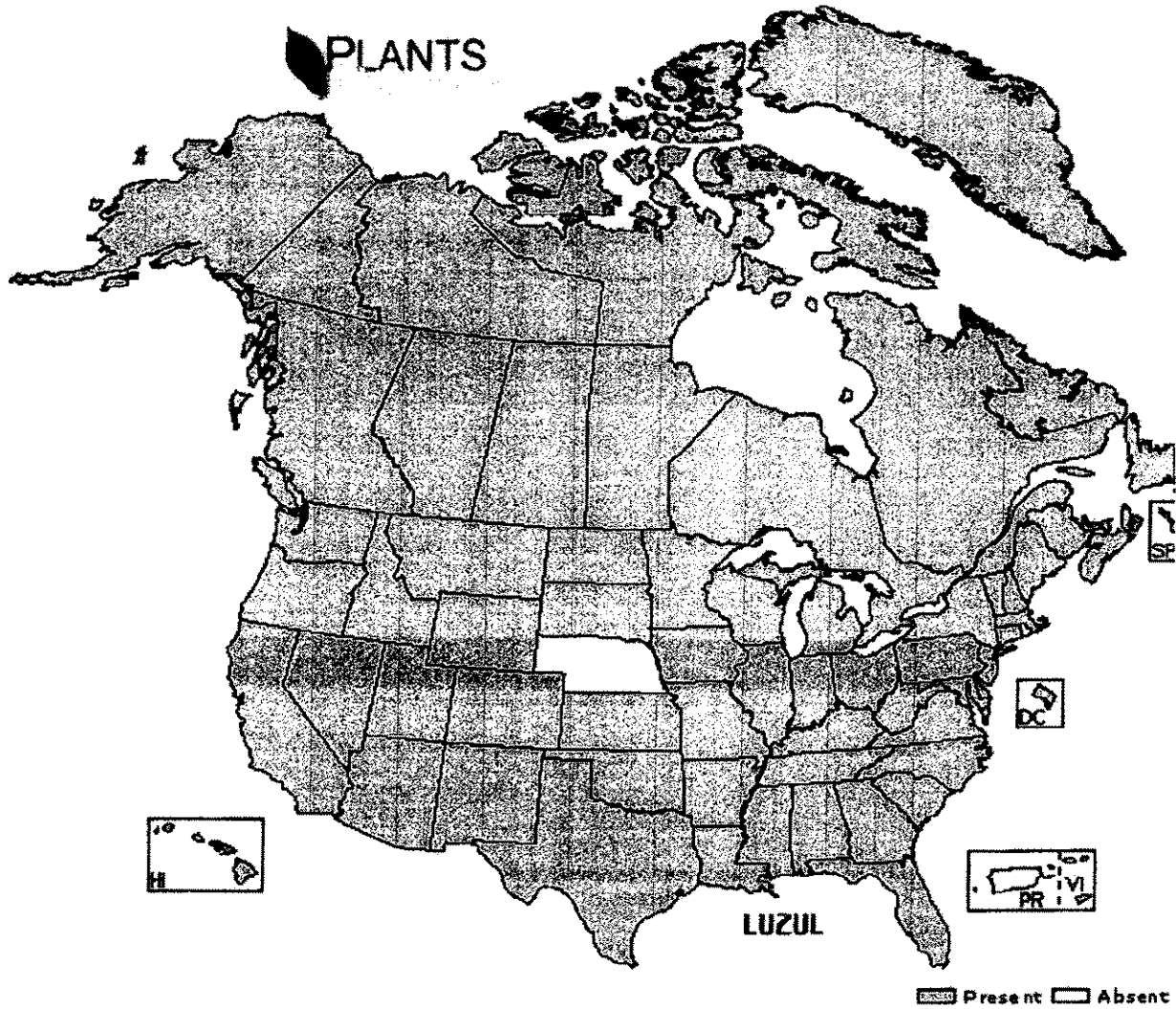
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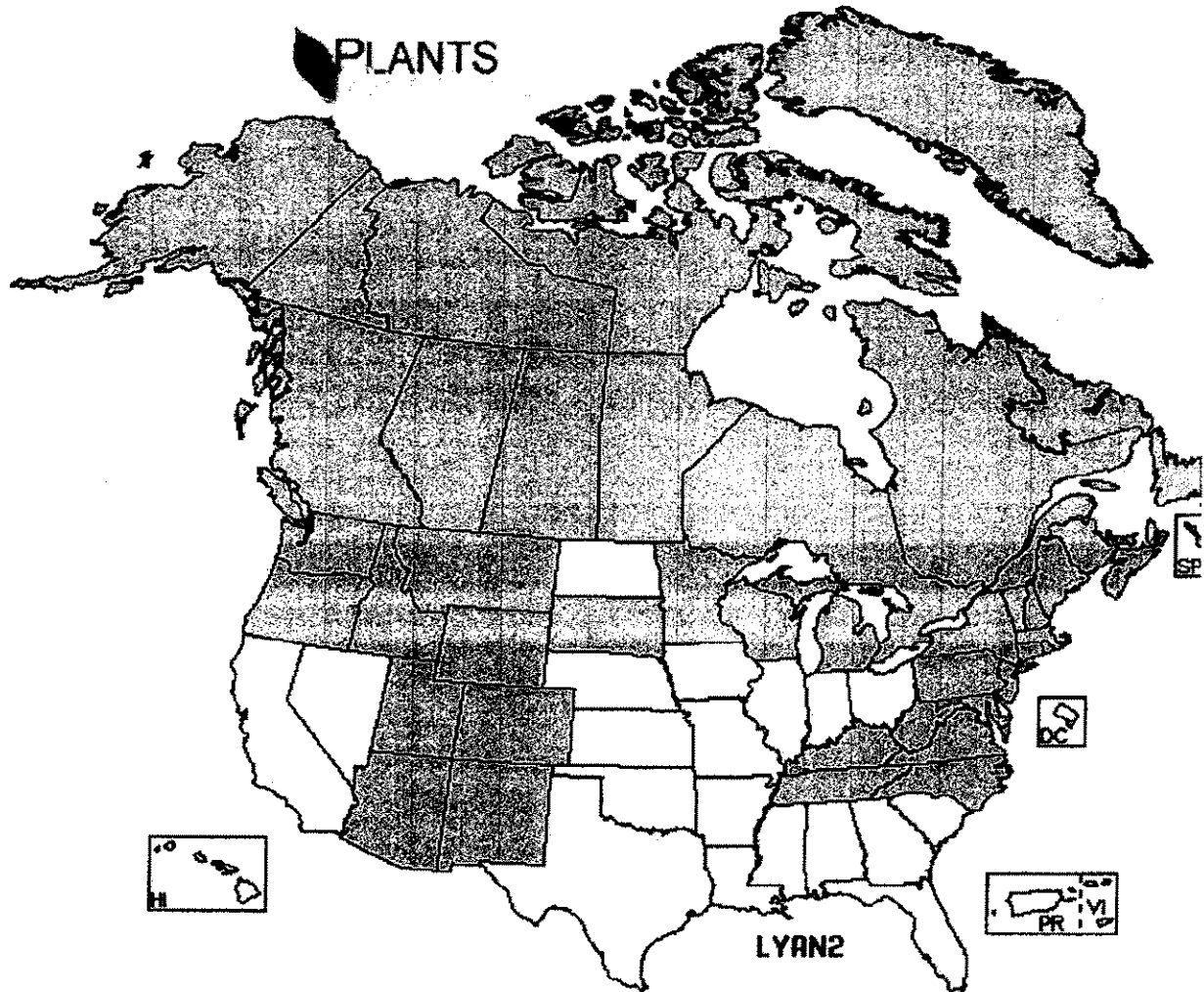
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Distribution:
Luzula DC.



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Distribution:
Lycopodium annotinum L.



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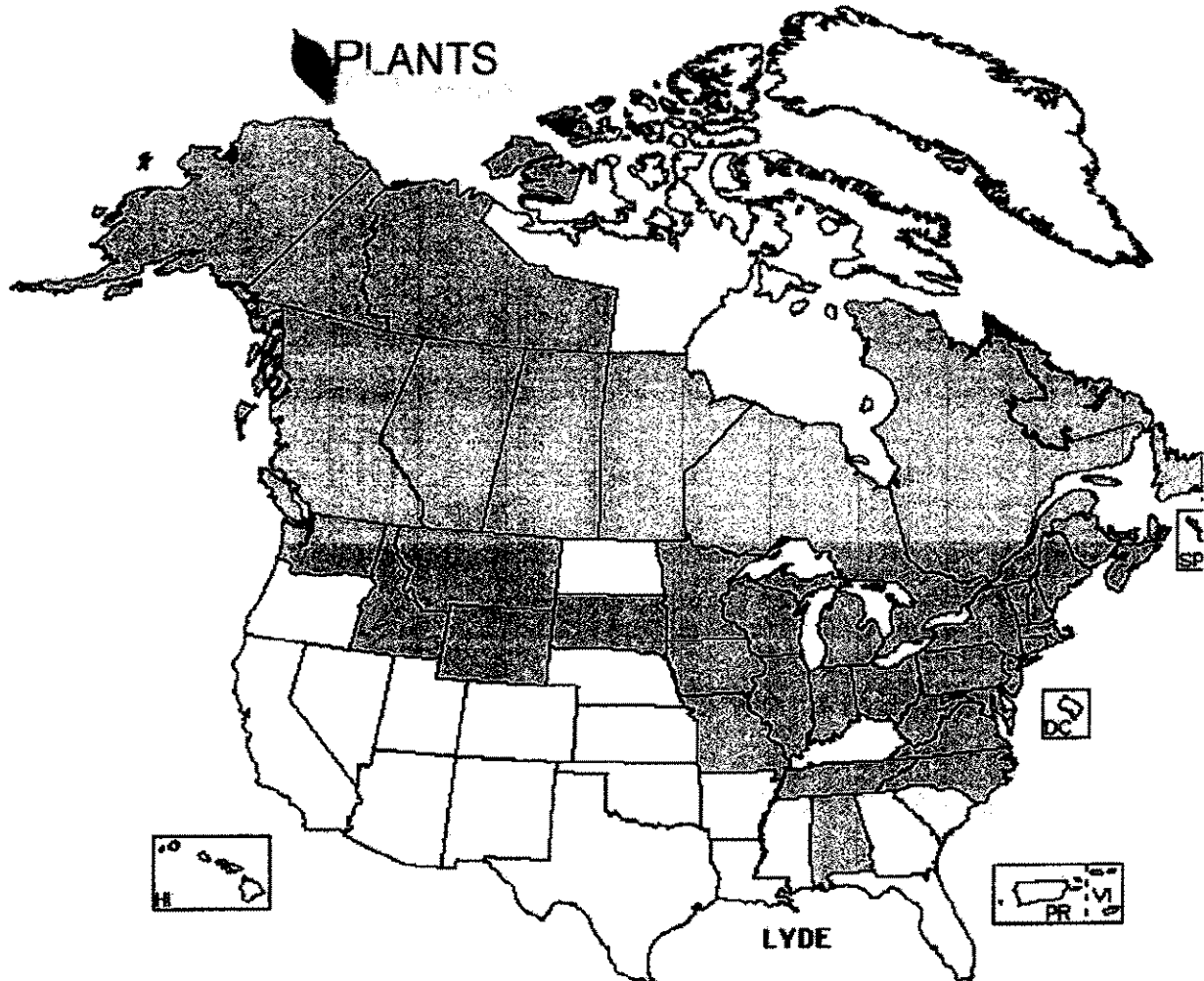
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Distribution:

Lycopodium dendroideum Michx.



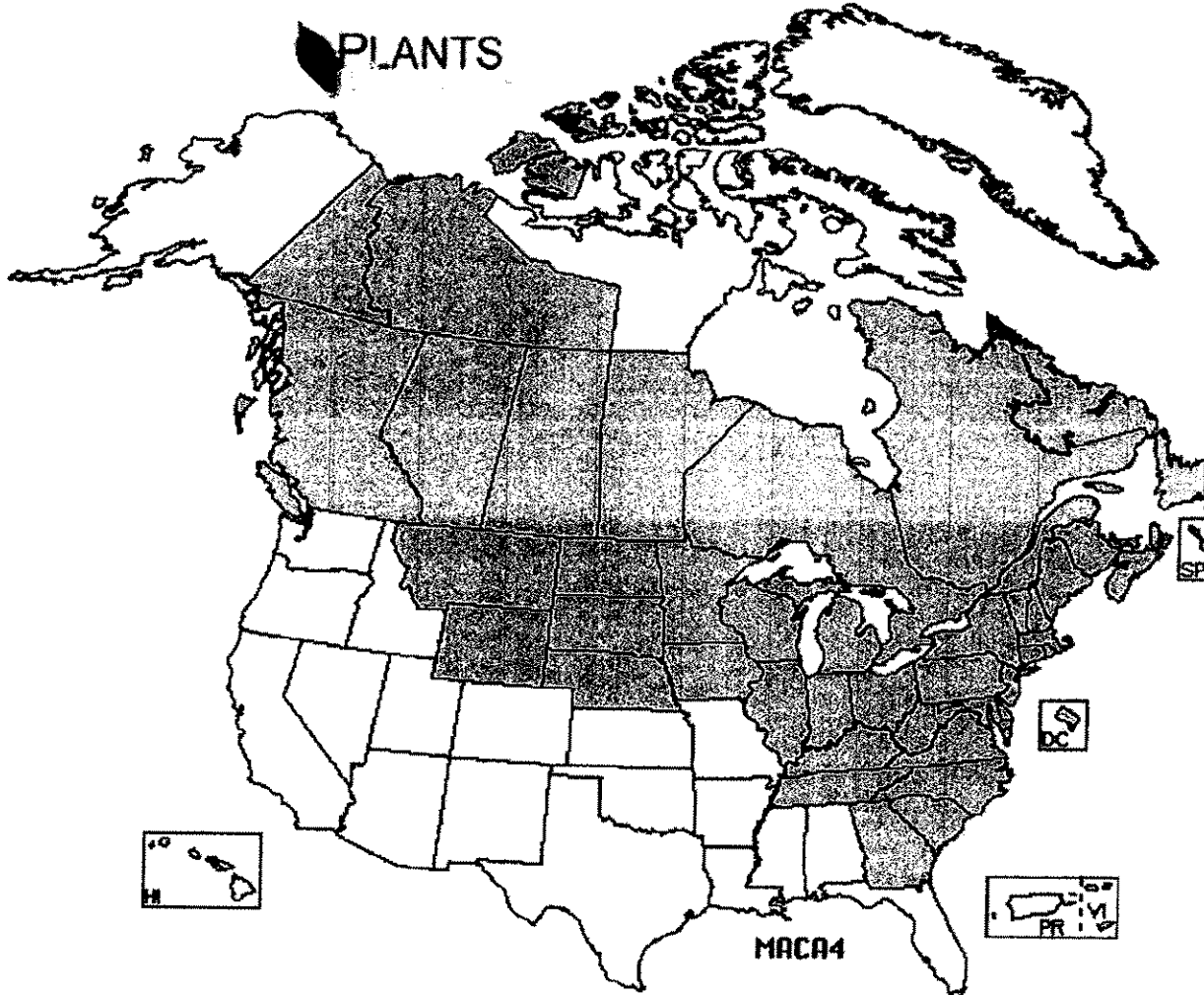
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Distribution:
Maianthemum canadense Desf.



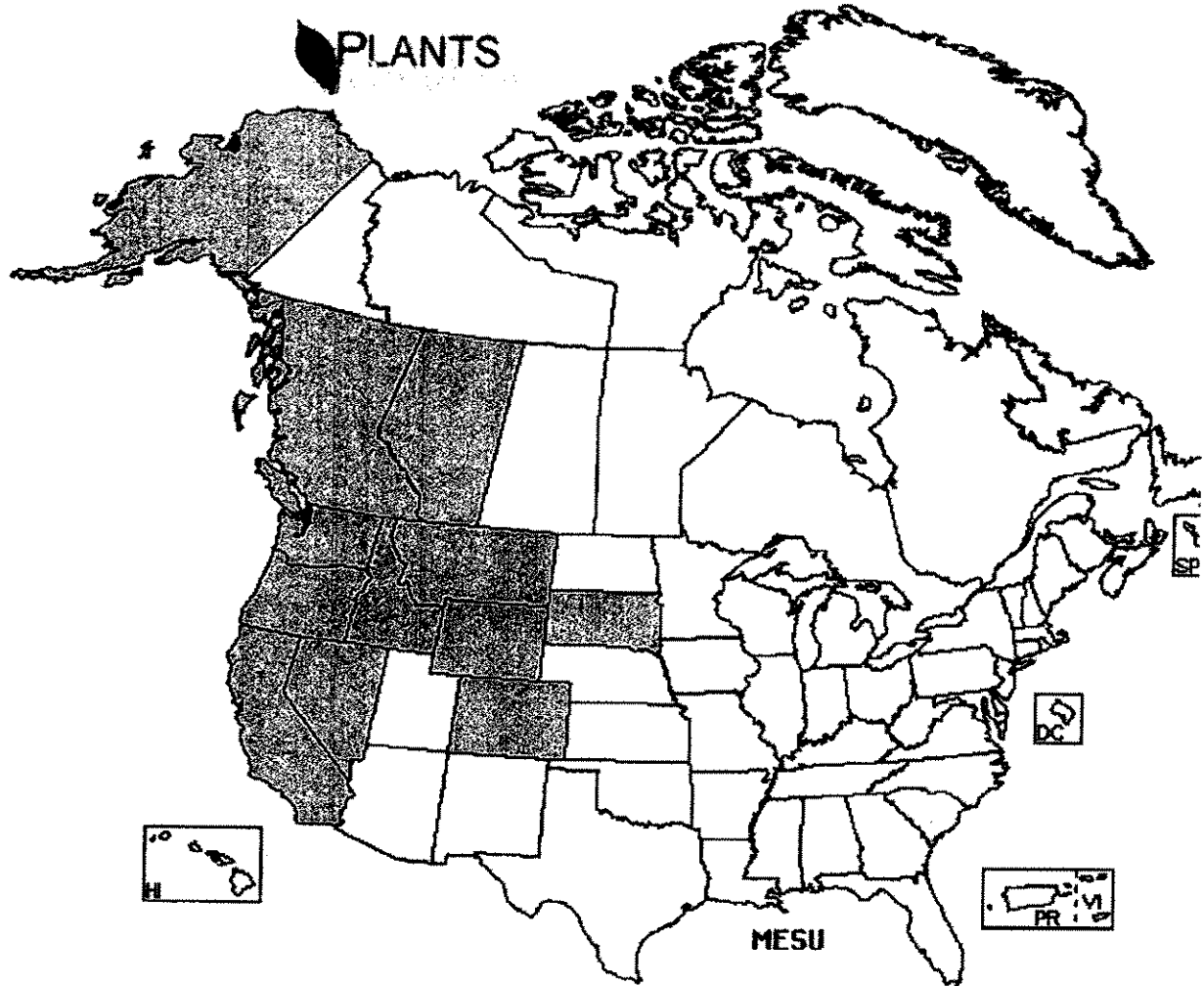
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Distribution:
Melica subulata (Griseb.) Scribn.



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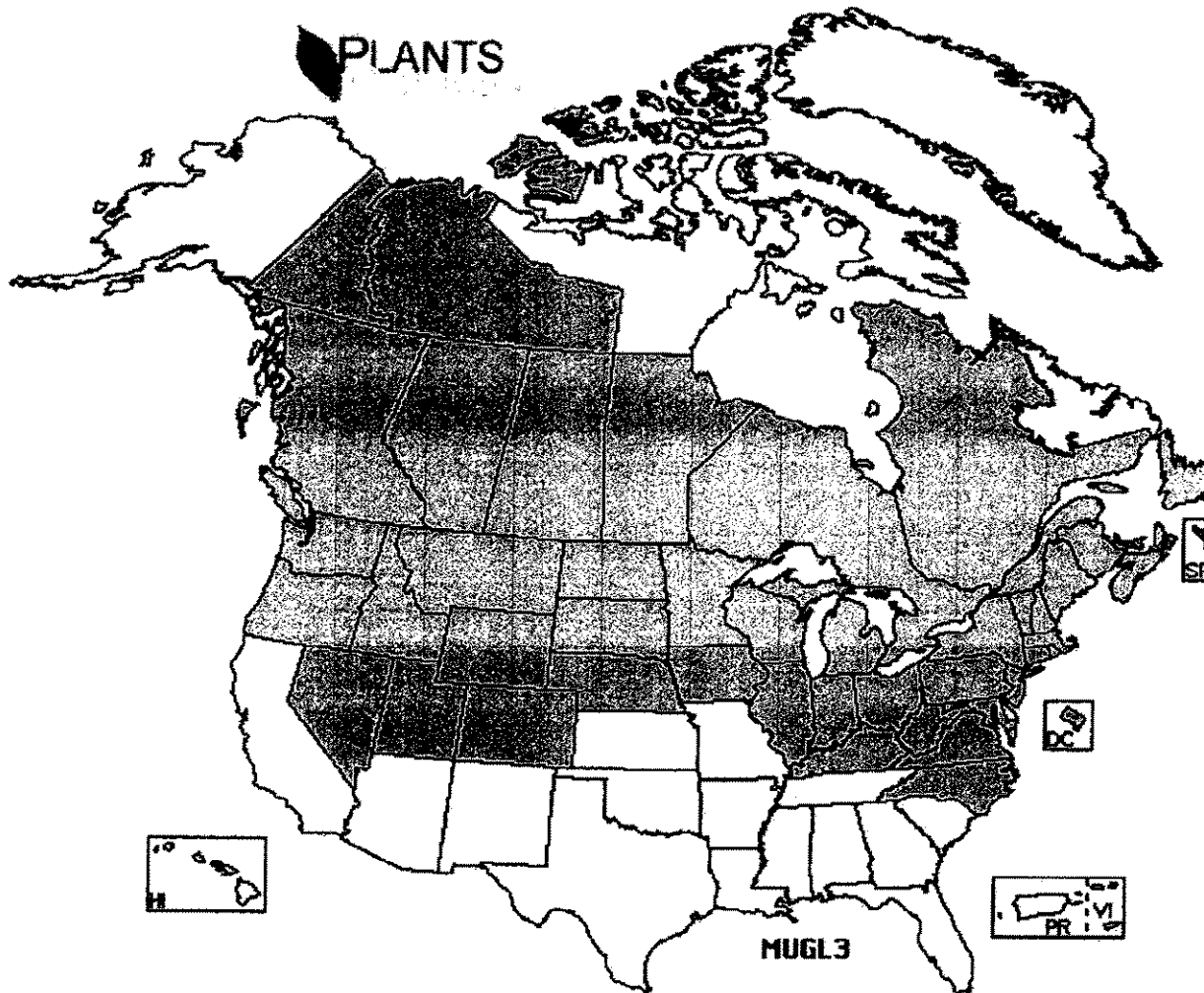
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Distribution:

Muhlenbergia glomerata (Willd.) Trin.



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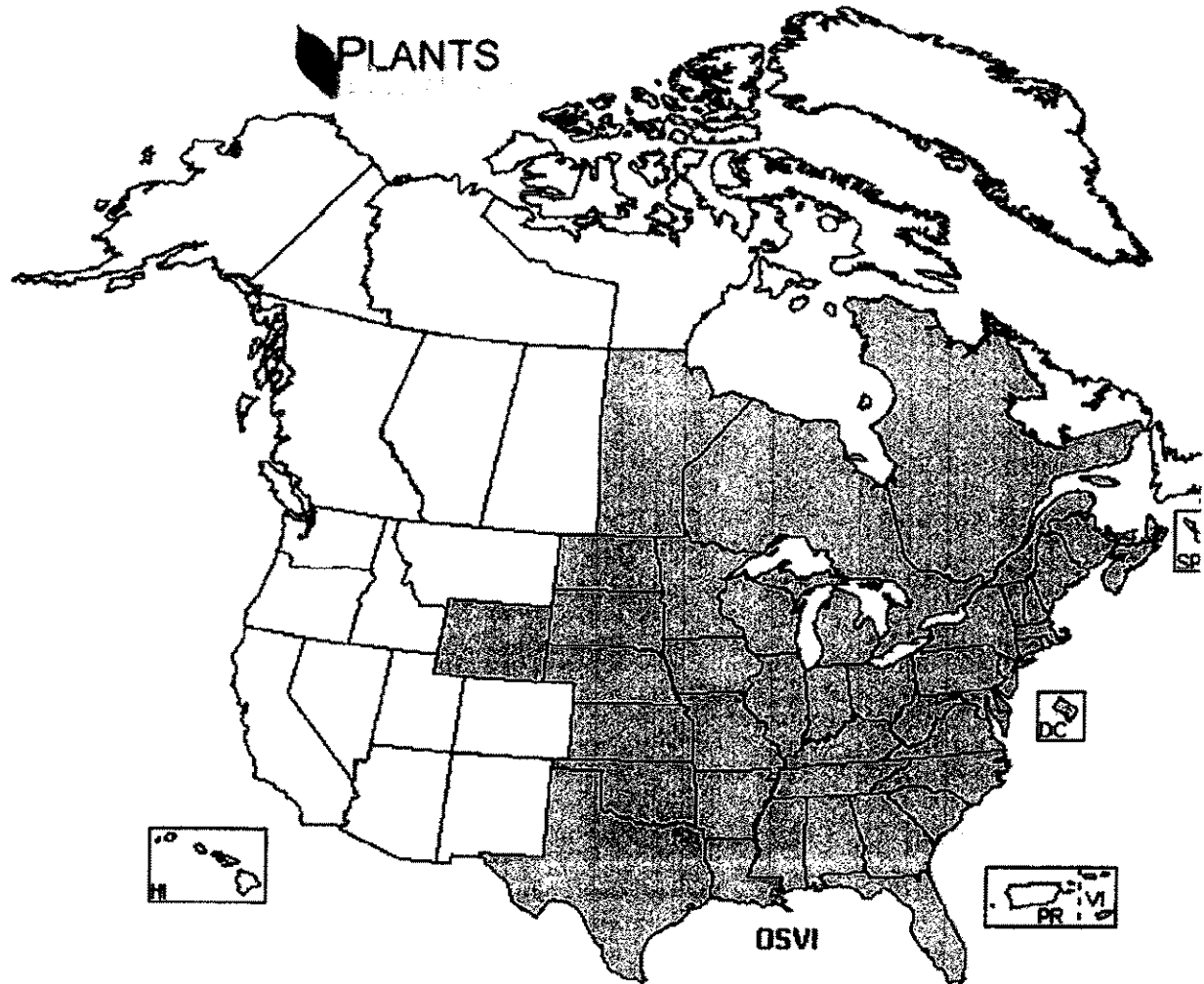
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Distribution:

Ostrya virginiana (Mill.) K. Koch



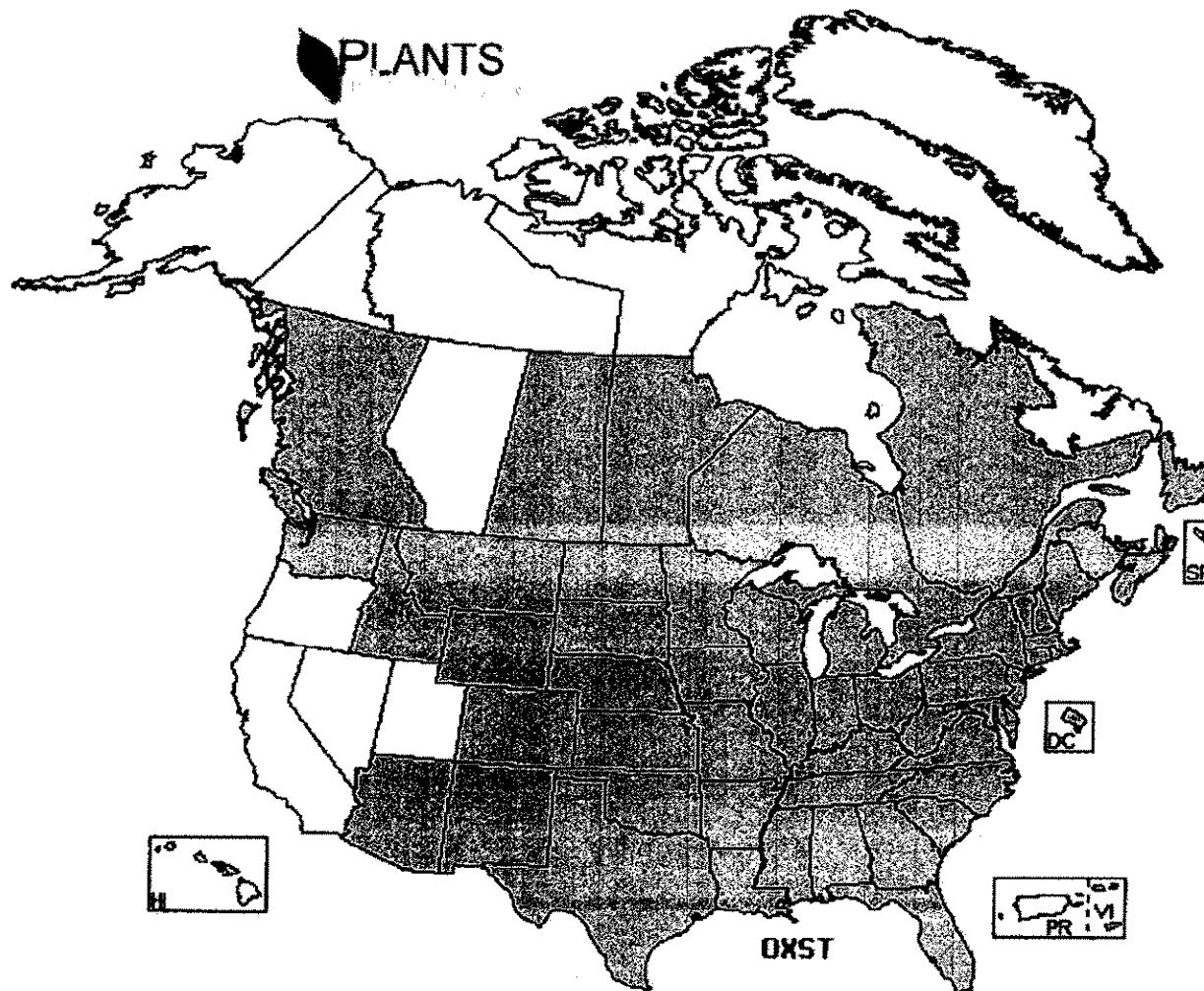
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Distribution:
Oxalis stricta L.

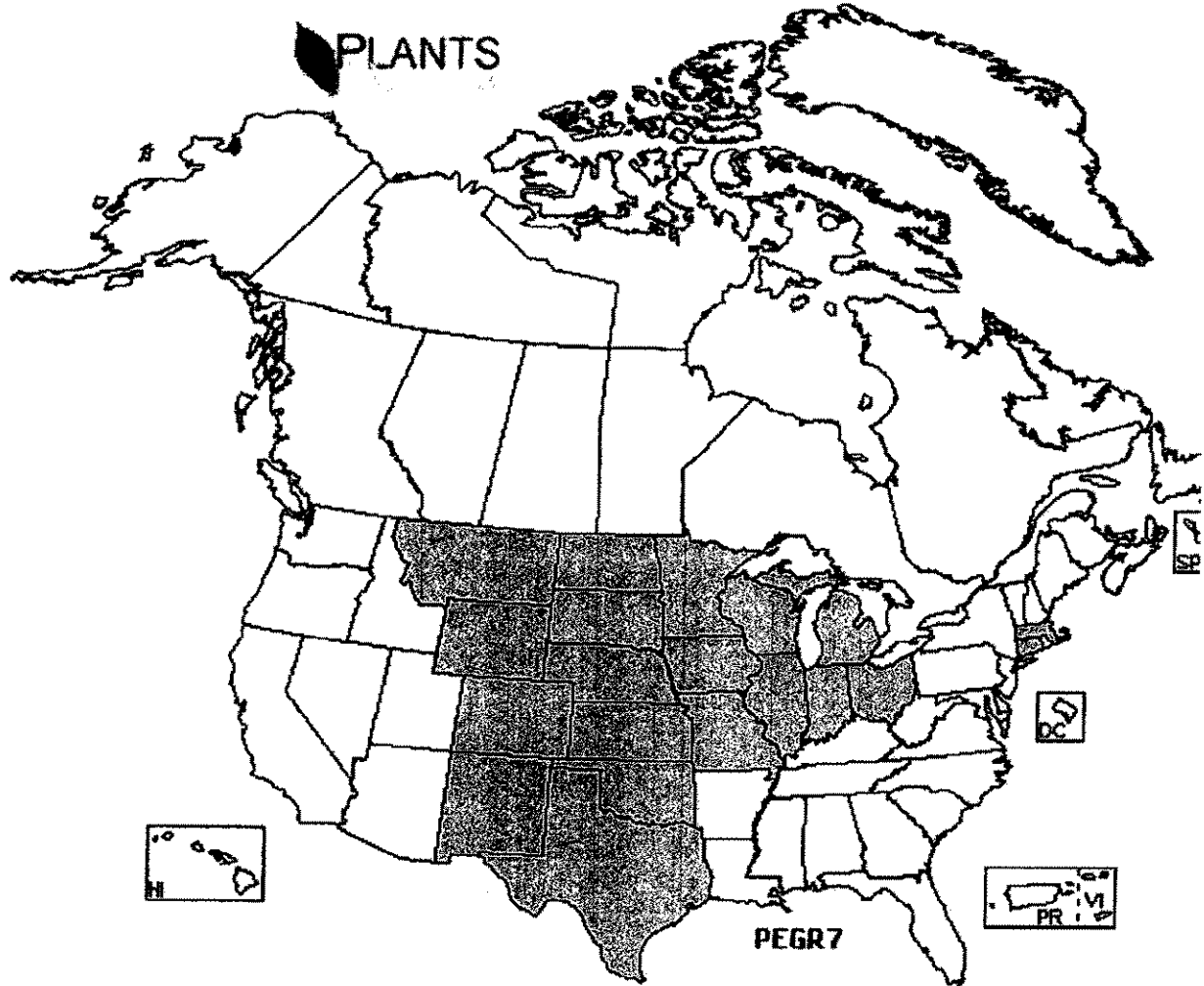


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Distribution:
Penstemon grandiflorus Nutt.



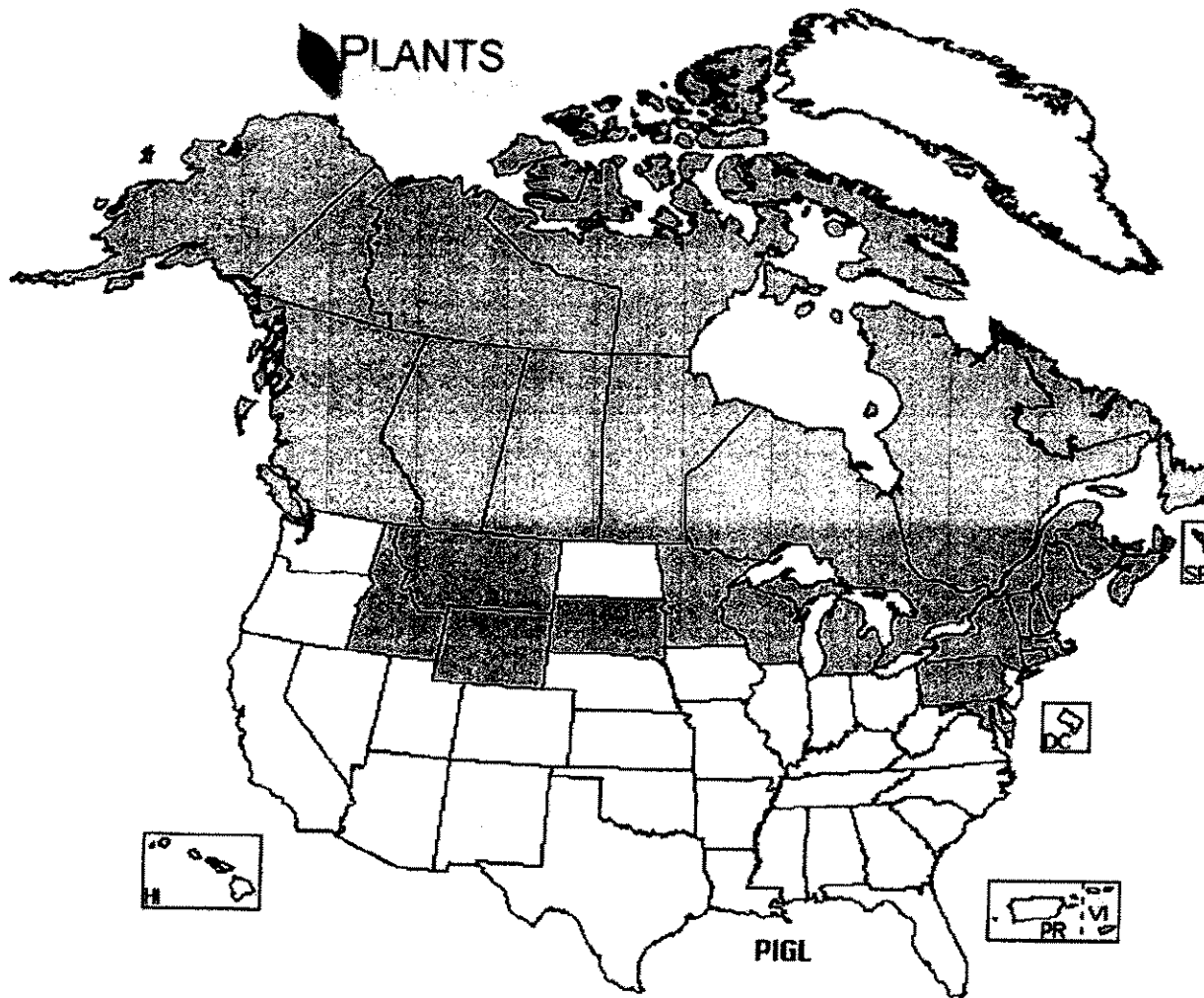
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Present Absent

Distribution:
Picea glauca (Moench) Voss

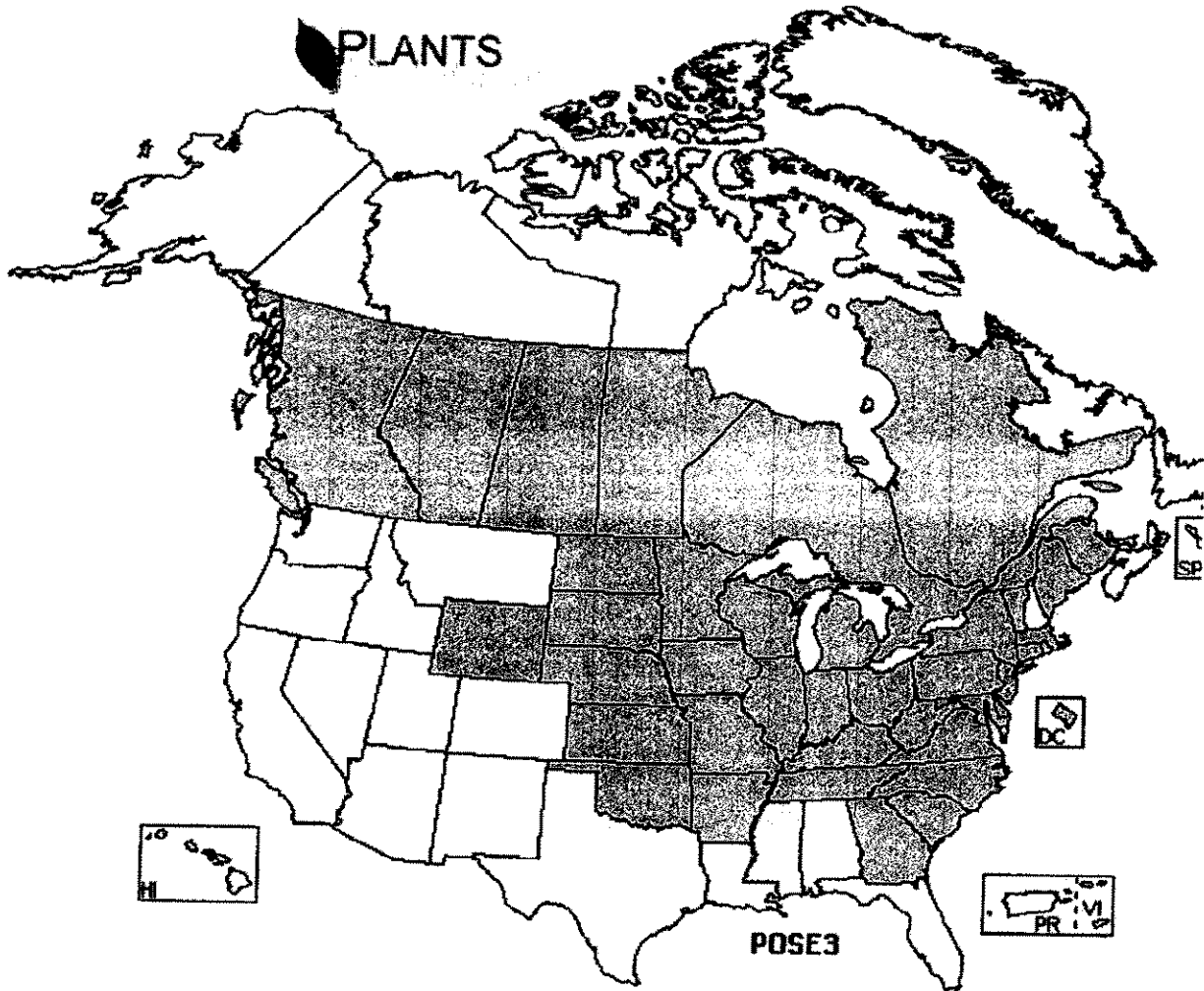


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Distribution:
Polygala senega L.

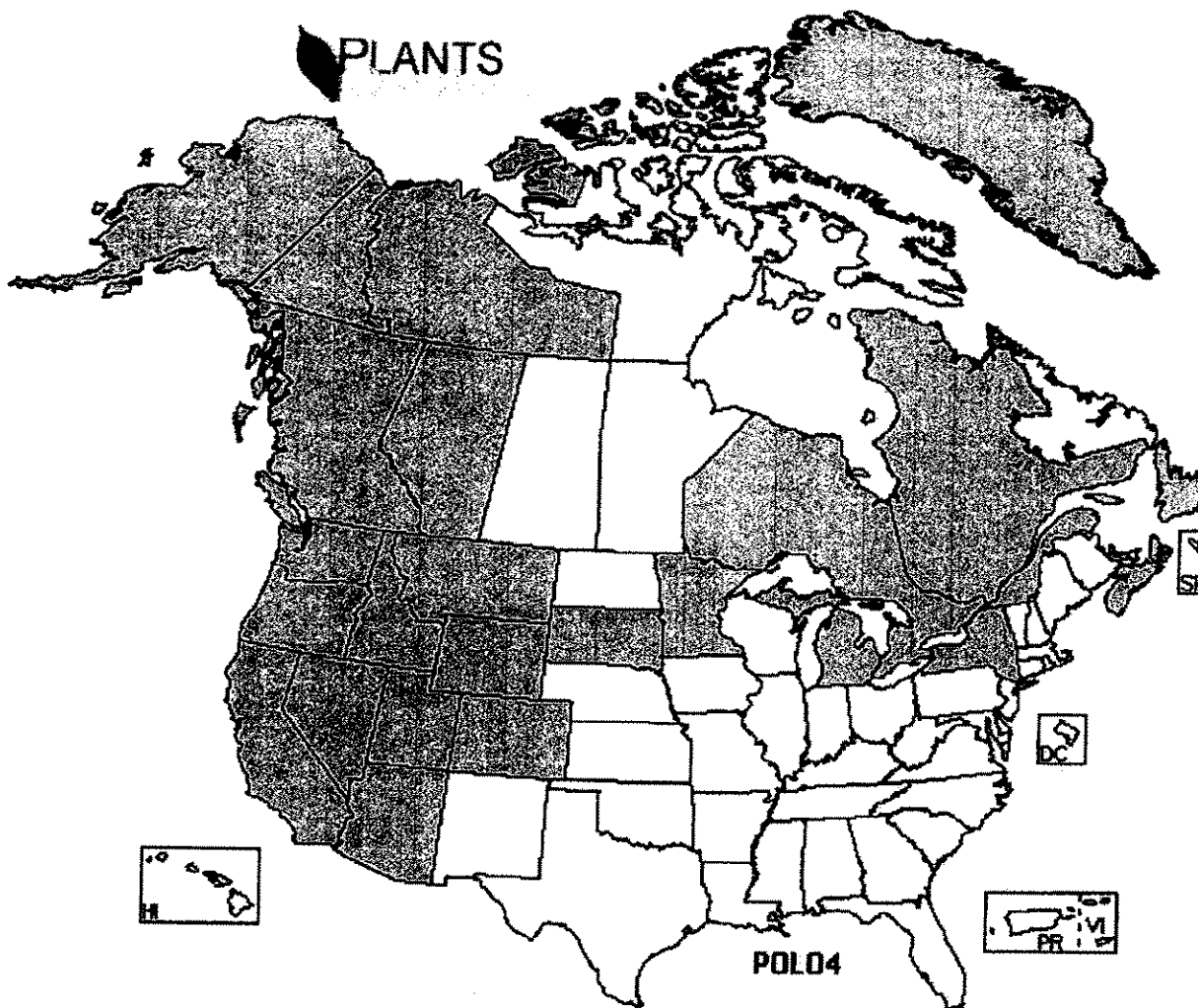


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Distribution:
Polystichum lonchitis (L.) Roth



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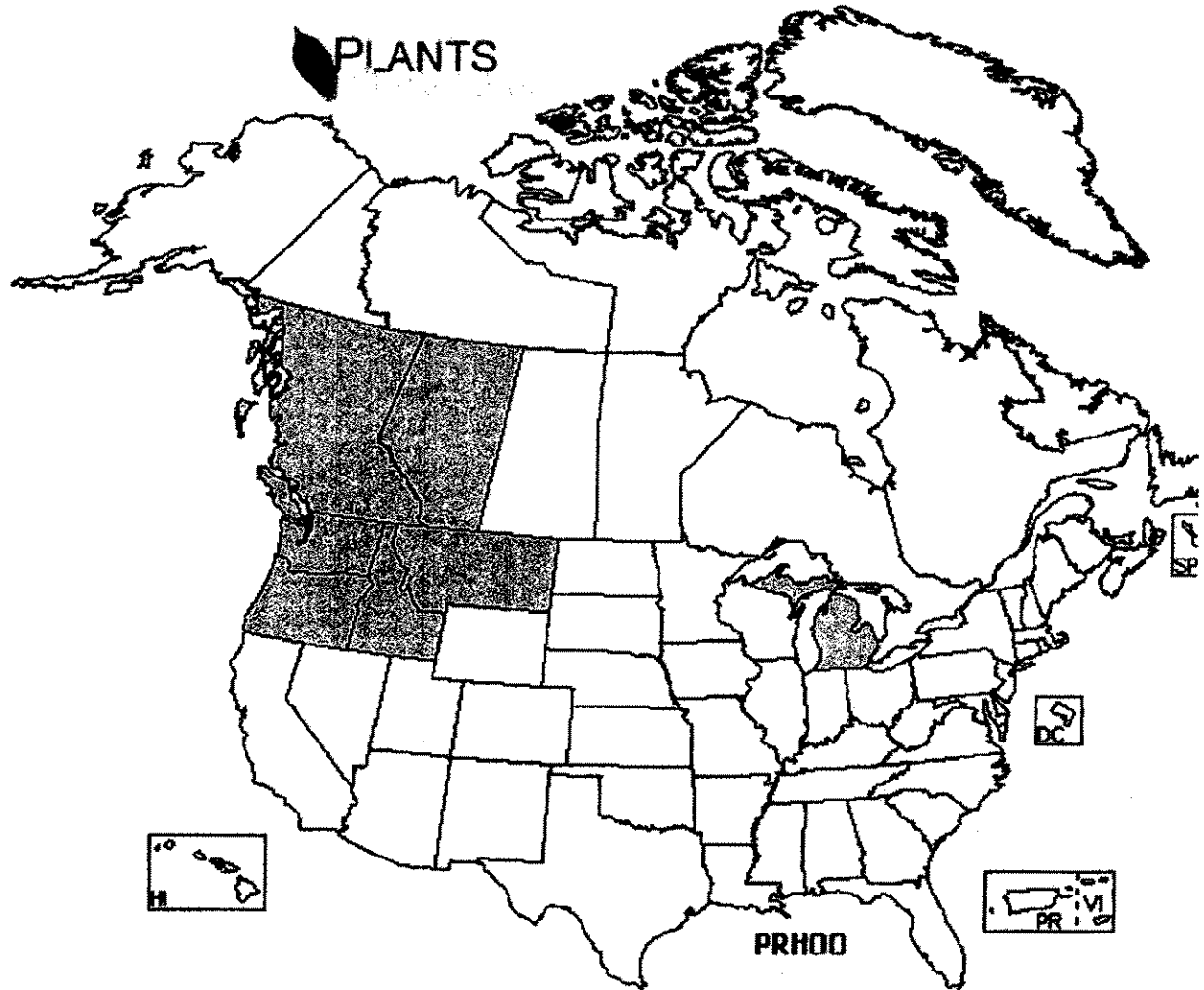
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Distribution:

Prosartes hookeri Torr. var. *oregana* (S. Watson) Kartesz



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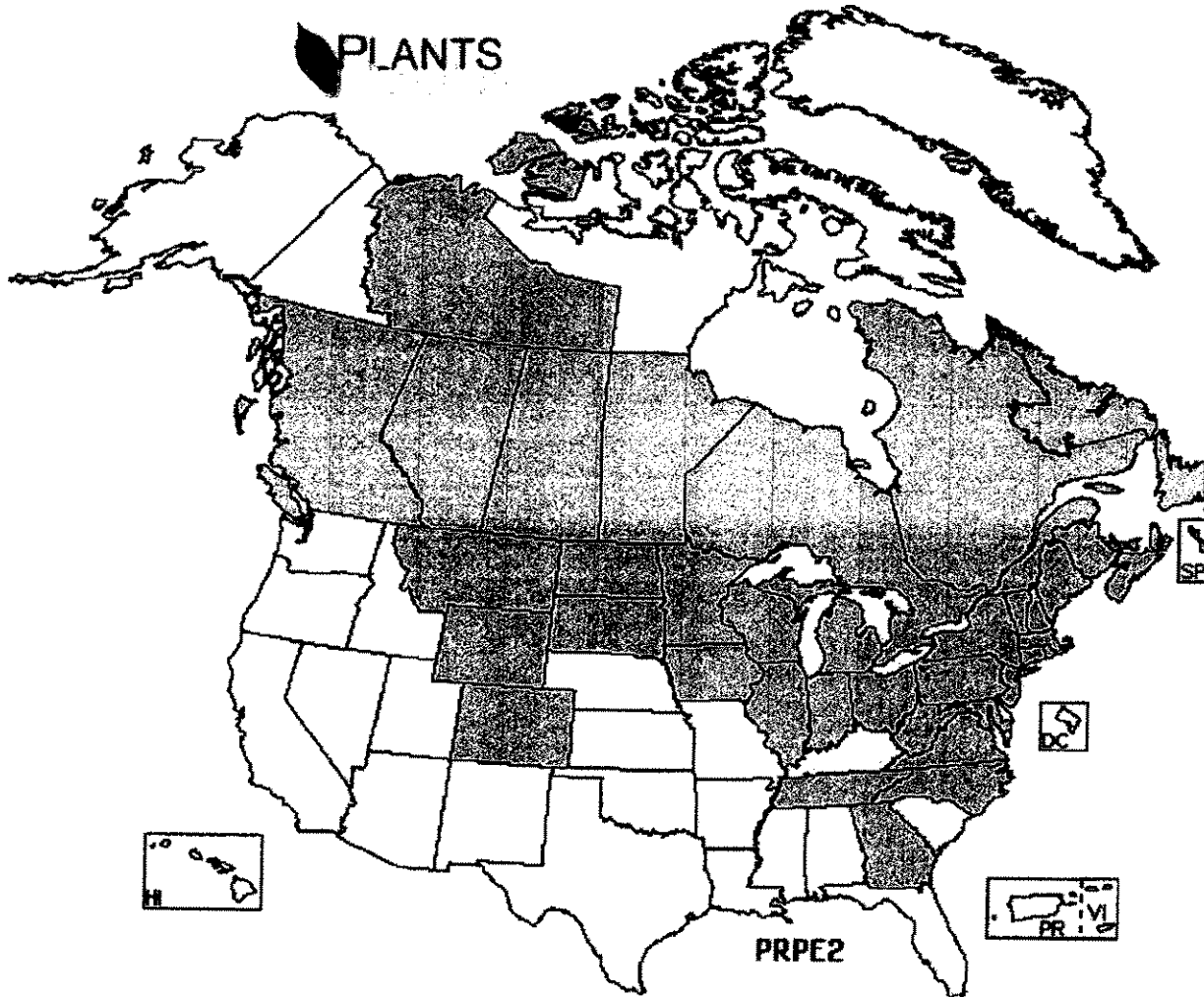
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Distribution:

Prunus pensylvanica L. f.



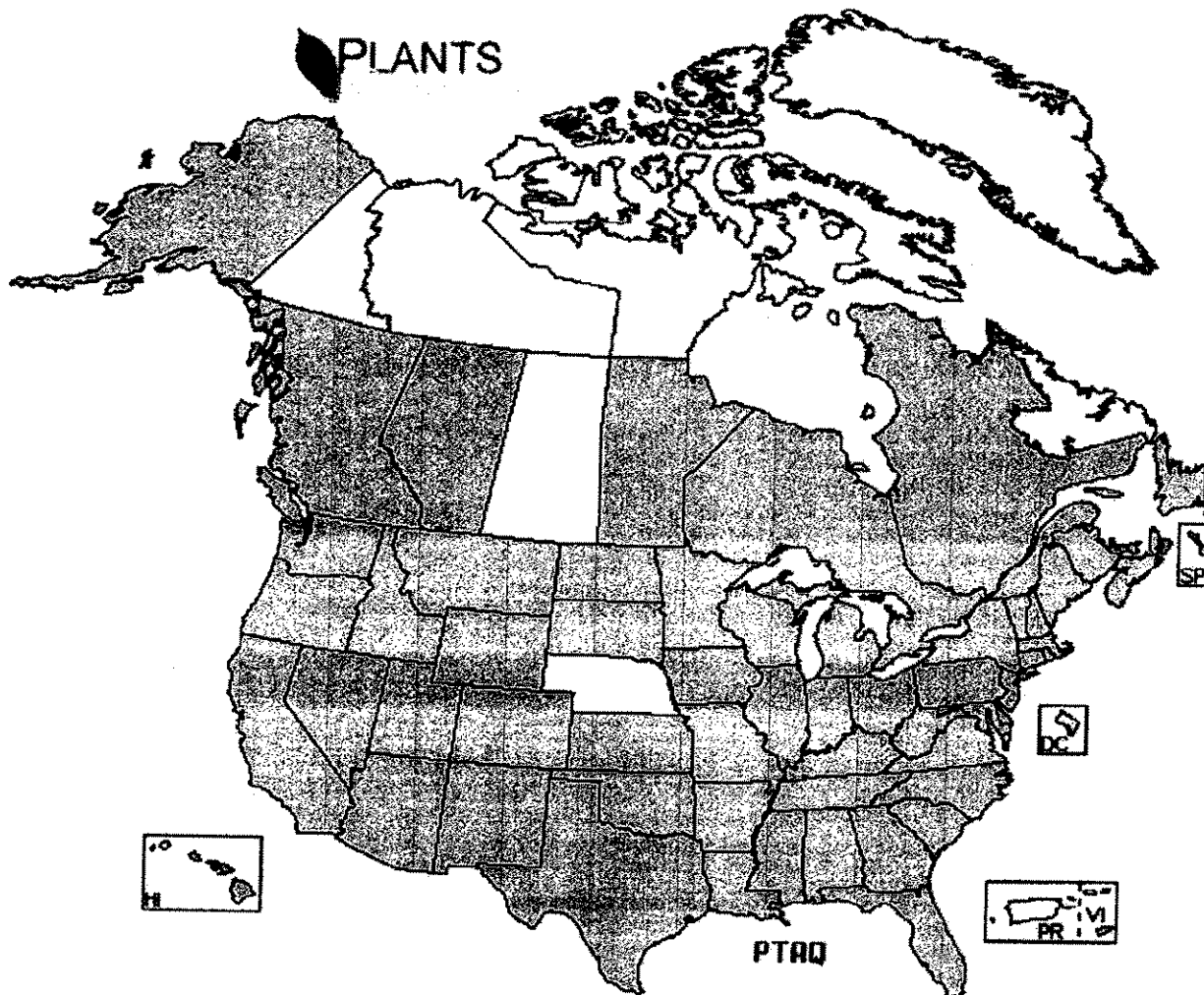
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Distribution:

Pteridium aquilinum (L.) Kuhn



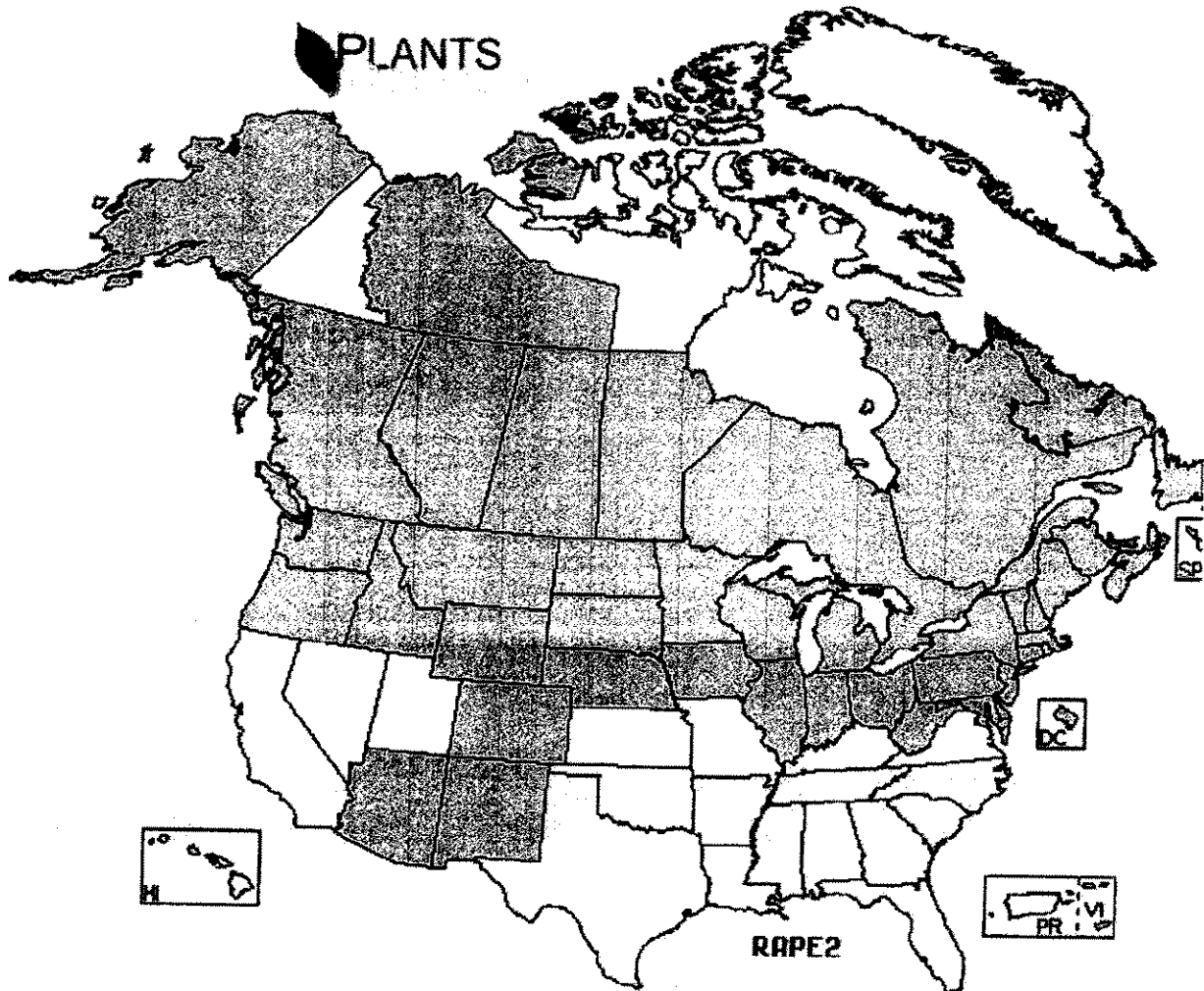
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Distribution:
Ranunculus pensylvanicus L. f.



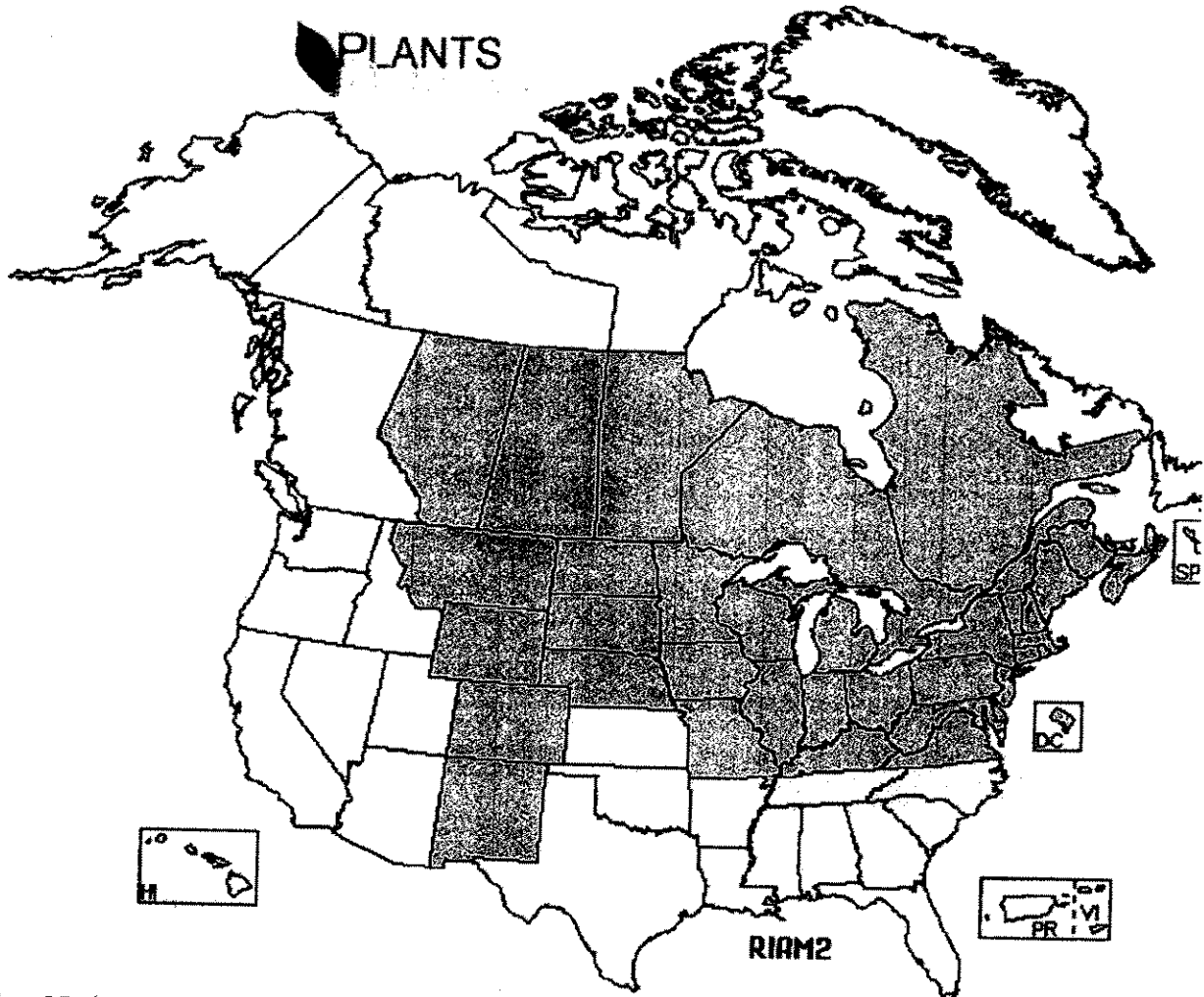
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PA, RI, SD, VT, WA, WI, WV, WY

Present Absent

Distribution:
Ribes americanum Mill.



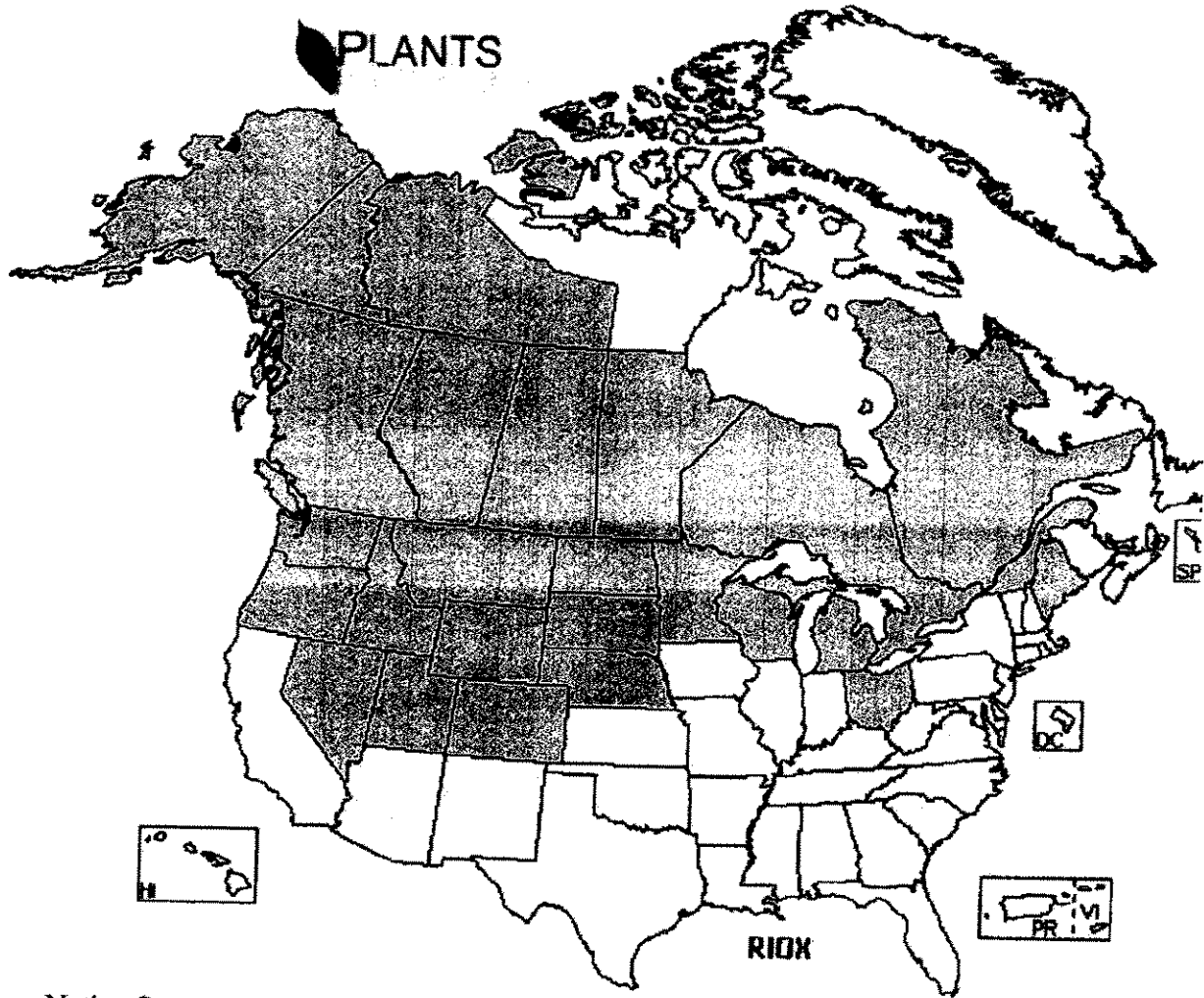
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[SD](#), [VA](#), [VT](#), [WI](#), [WV](#), [WY](#)

Present Absent

Distribution:

Ribes oxycanthoides L.



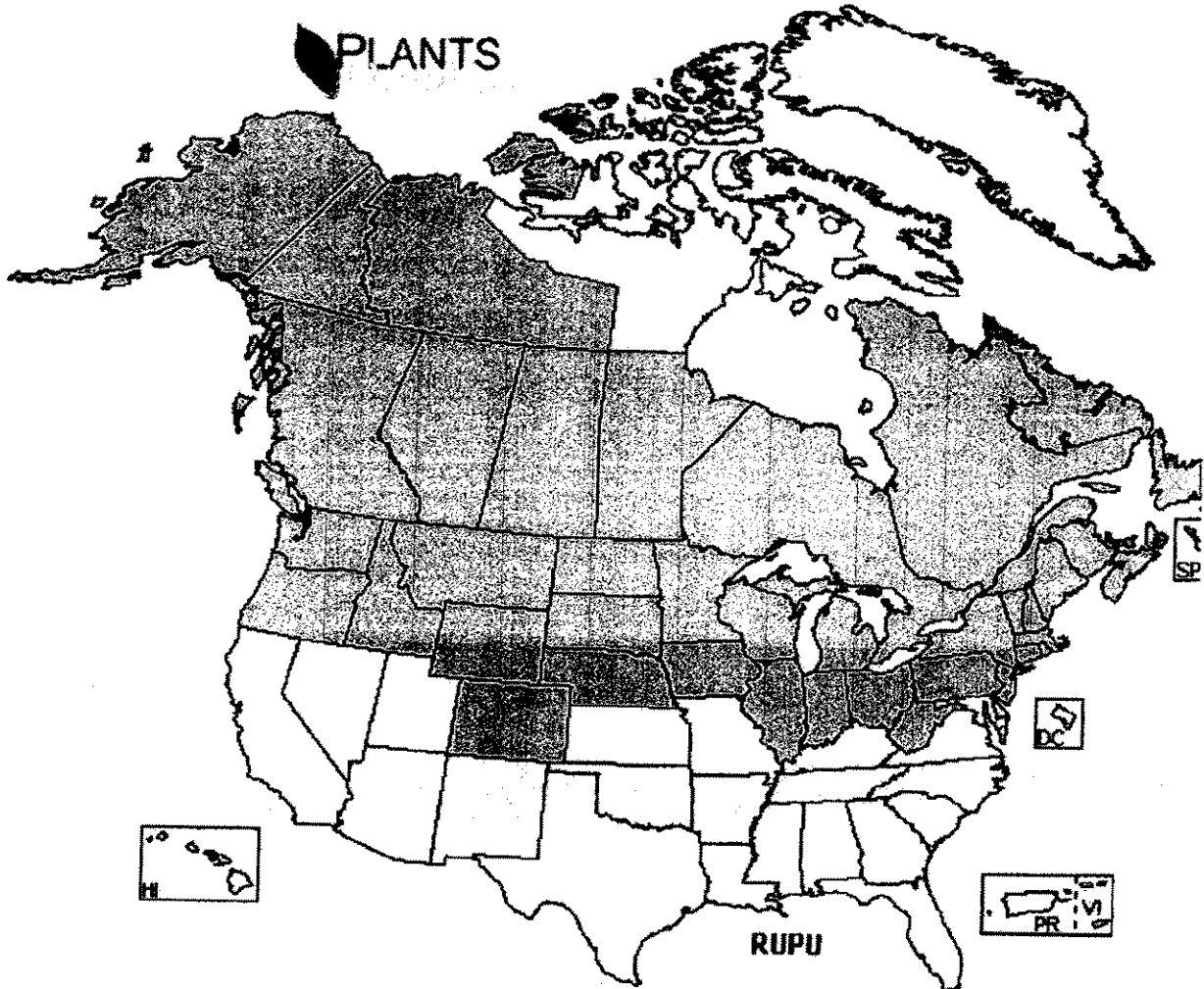
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Present Absent

Distribution:
Rubus pubescens Raf.



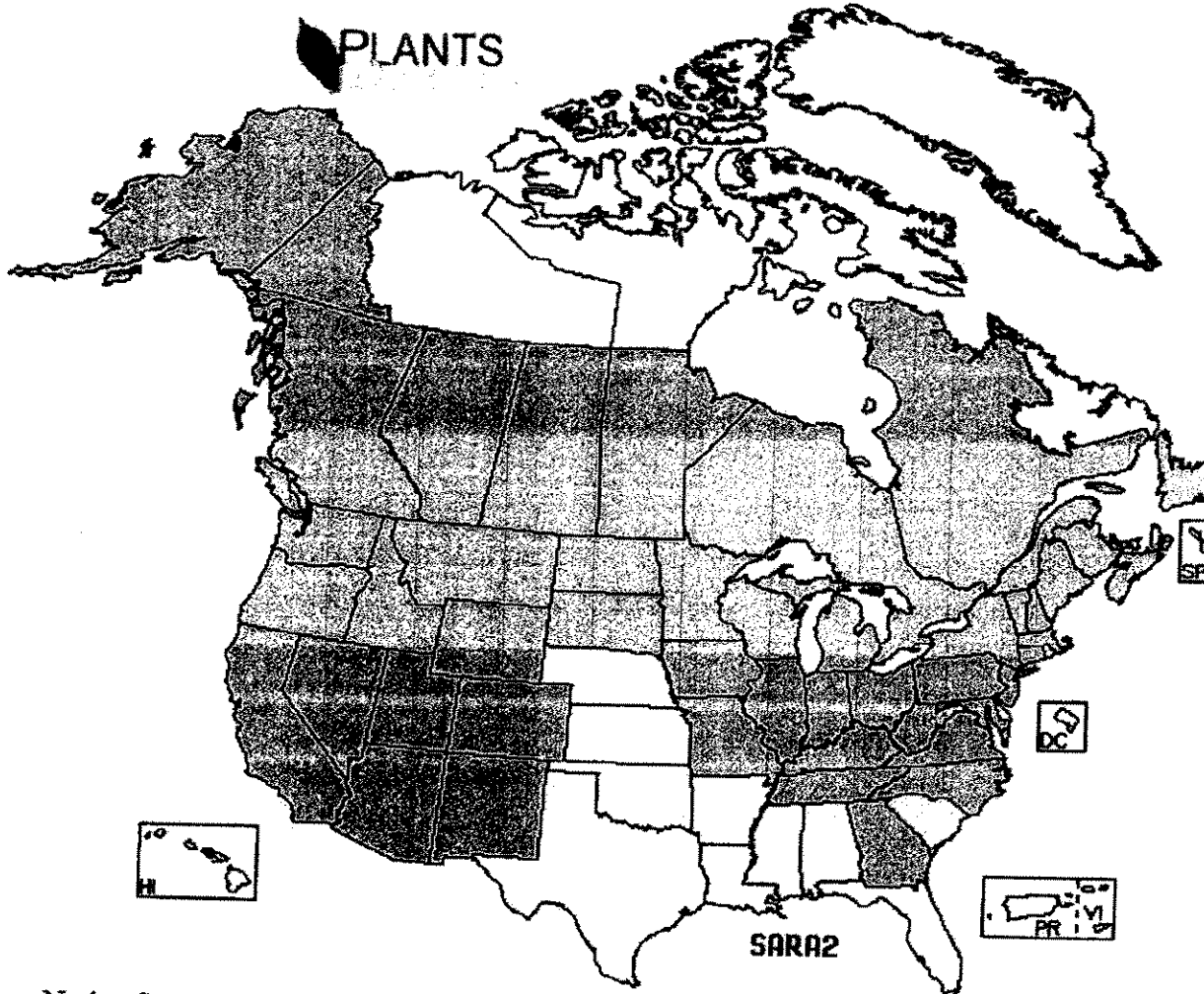
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WI, WV, WY

Present Absent

Distribution:
Sambucus racemosa L.



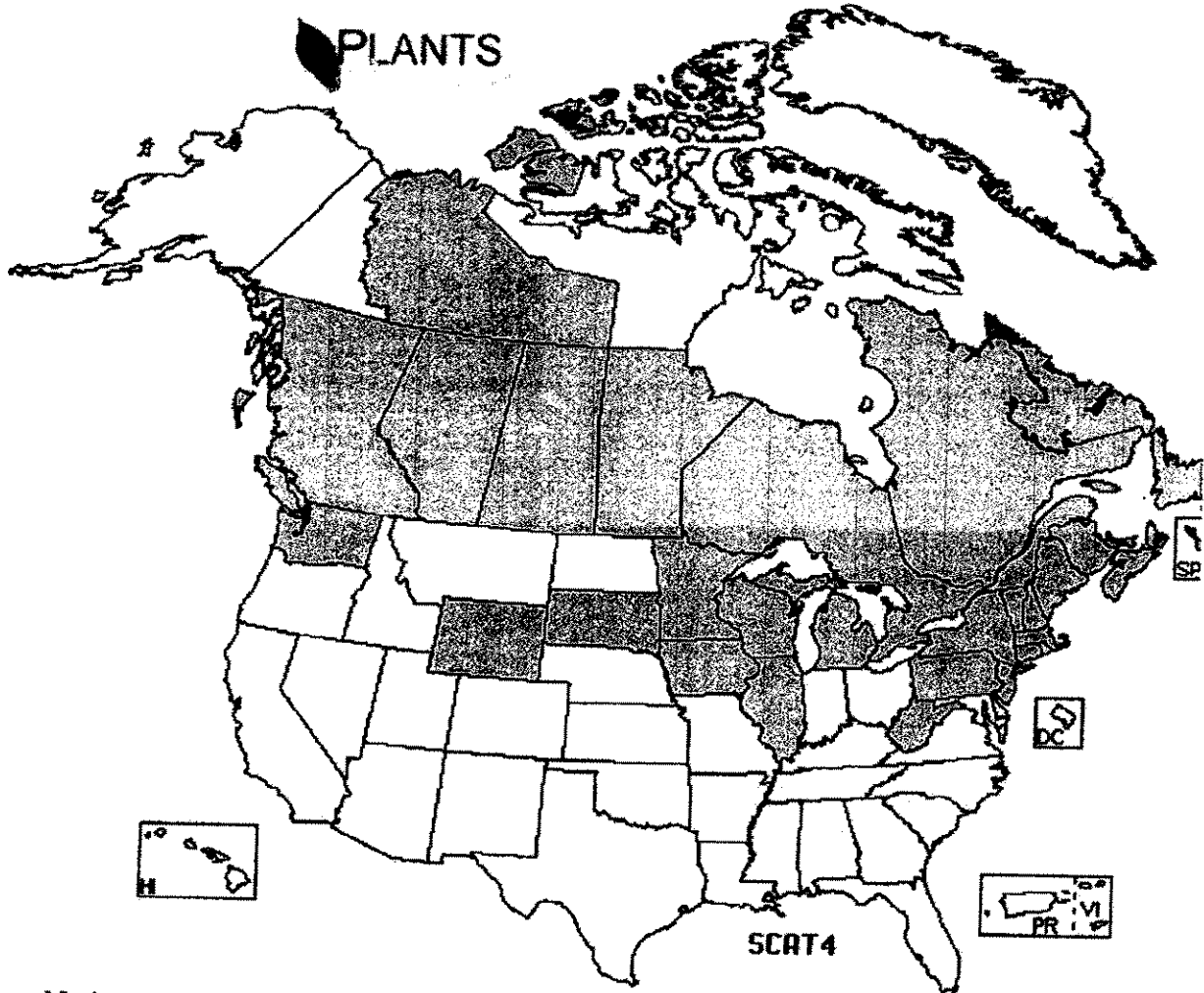
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Present Absent

Distribution:
Scirpus atrocinctus Fernald



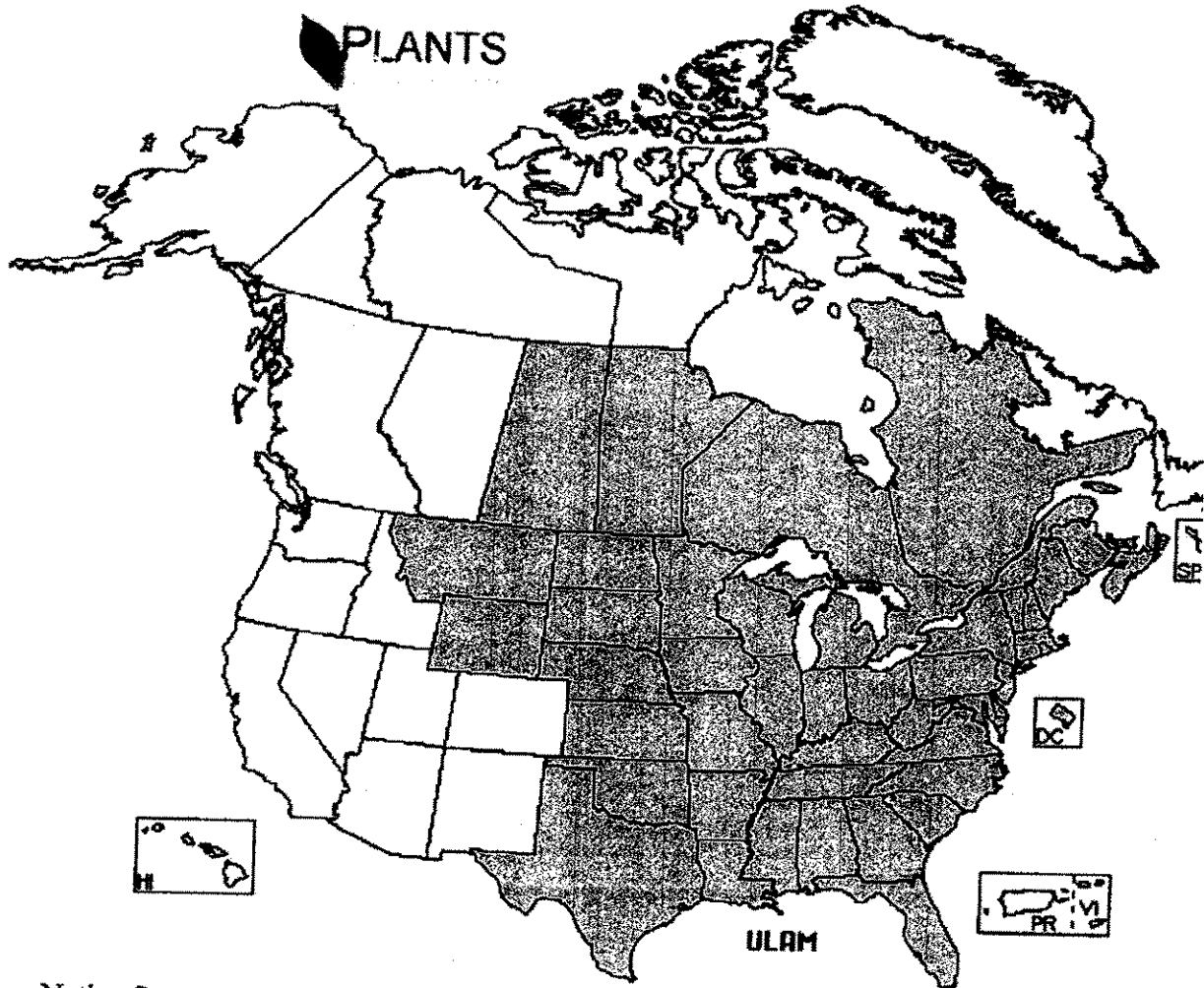
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Present Absent

Distribution:
Ulmus americana L.



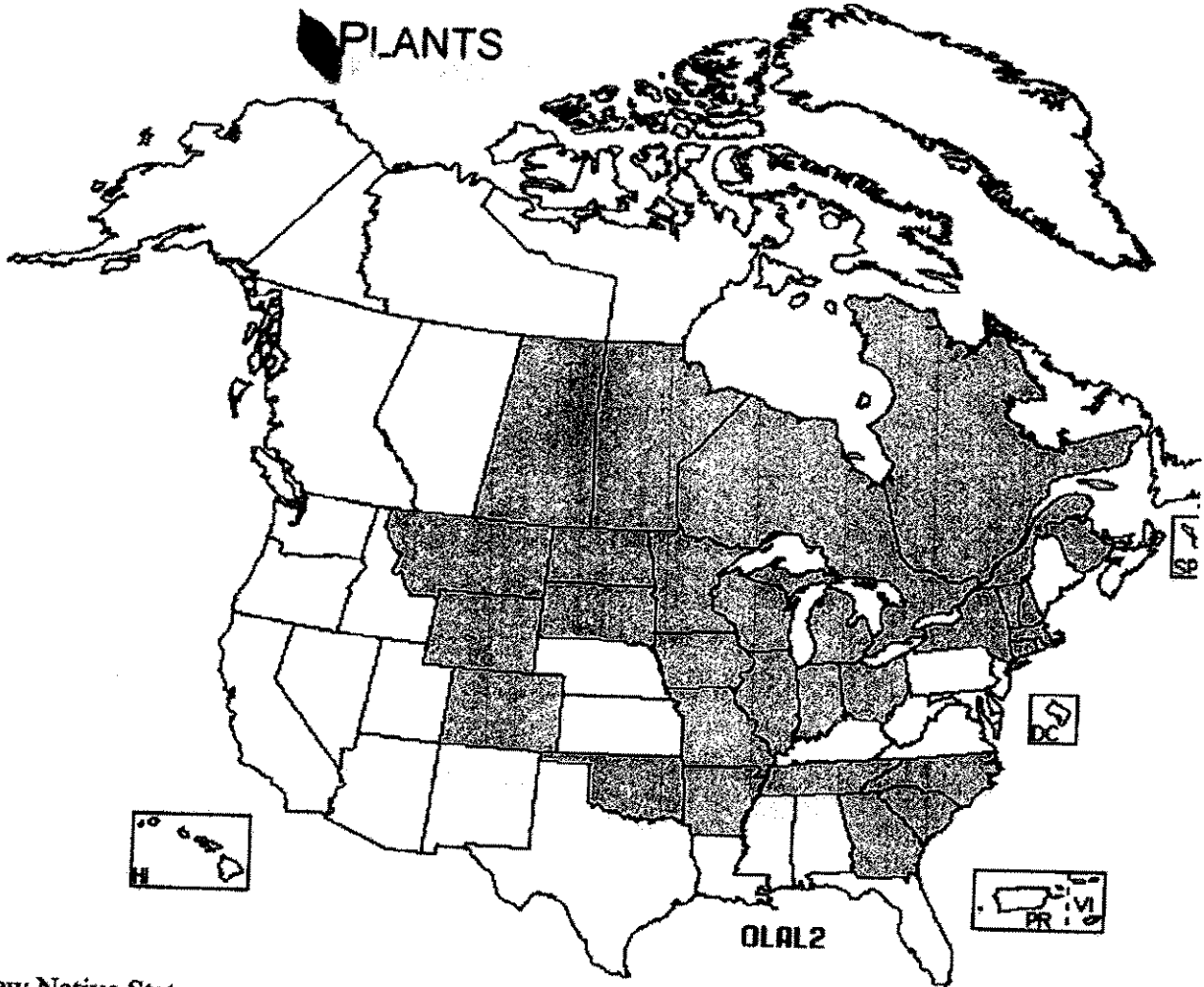
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ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, WY

Present Absent

Distribution:
Oligoneuron album (Nutt.) G.L. Nesom



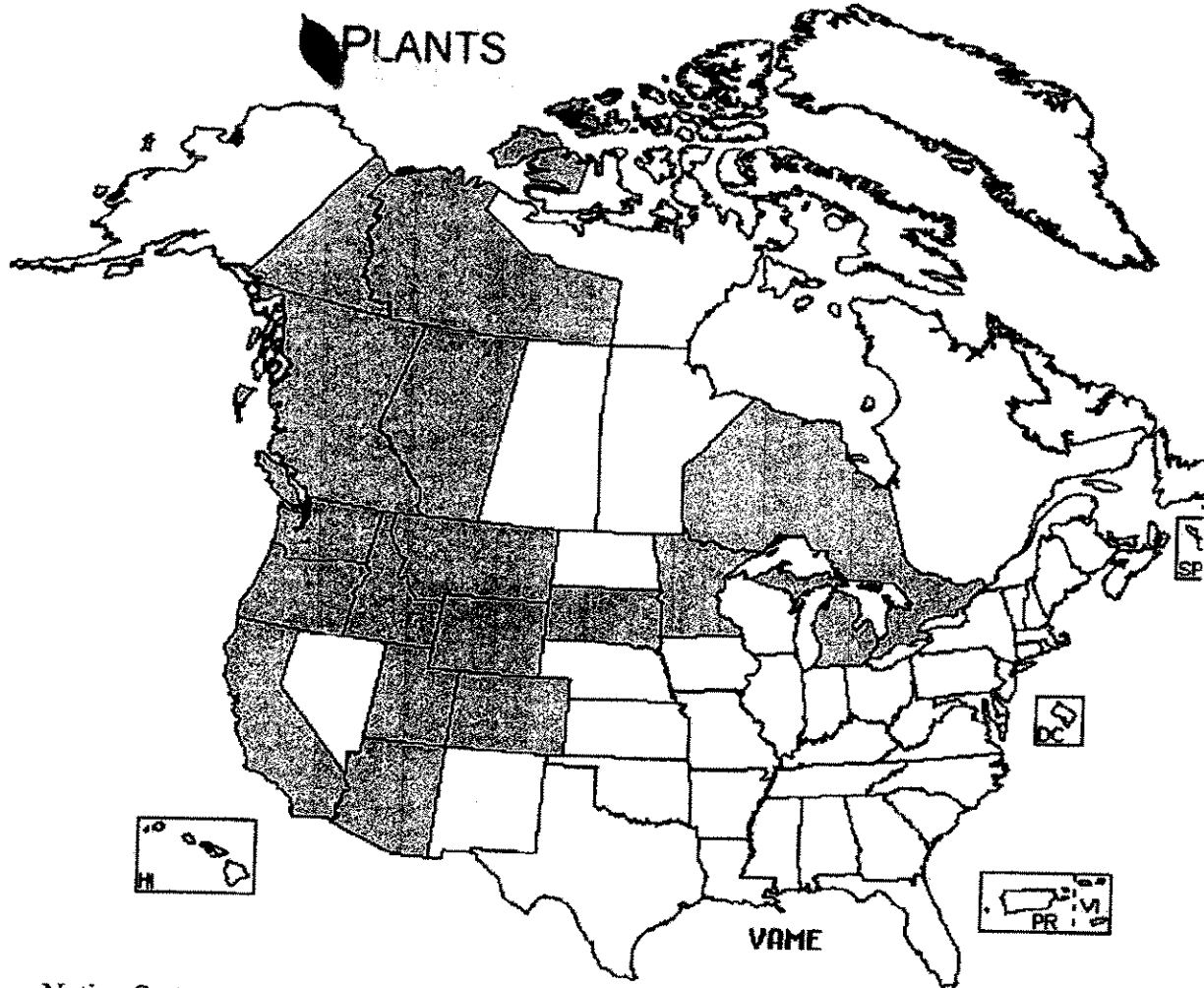
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Distribution:

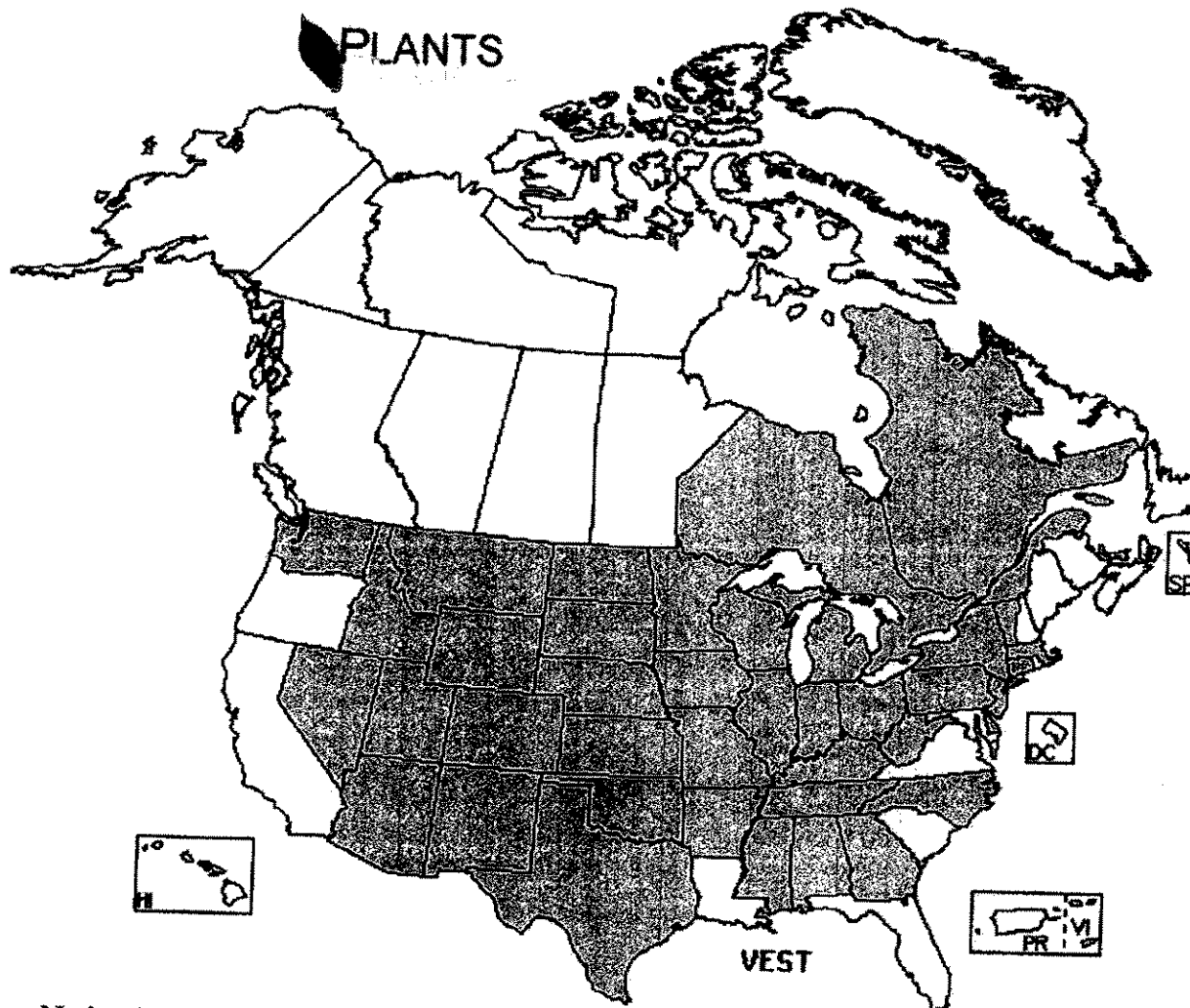
Vaccinium membranaceum Douglas ex Torr.



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Distribution:
Verbena stricta Vent.

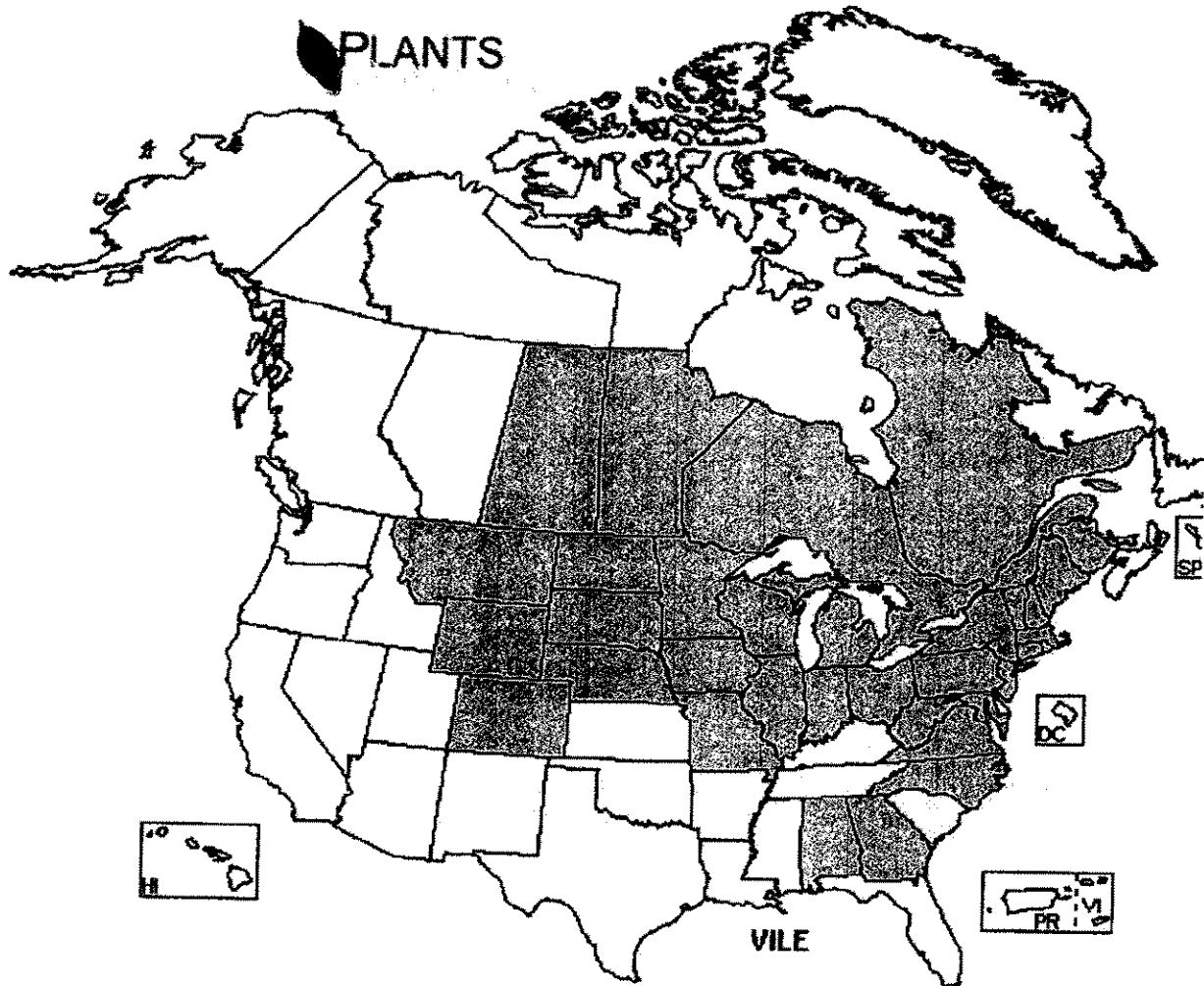


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Distribution:
Viburnum lentago L.

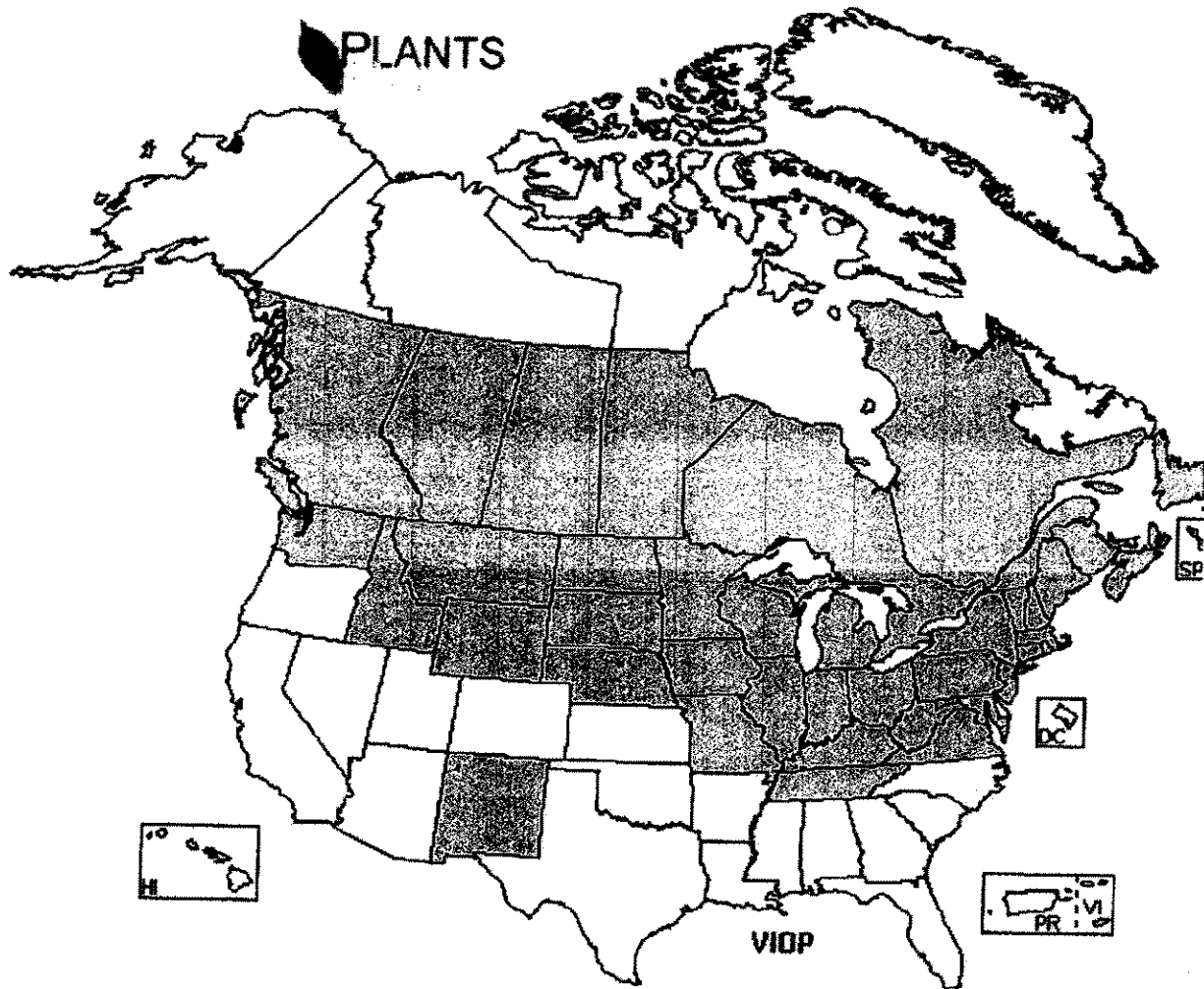


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Distribution:
Viburnum opulus L.

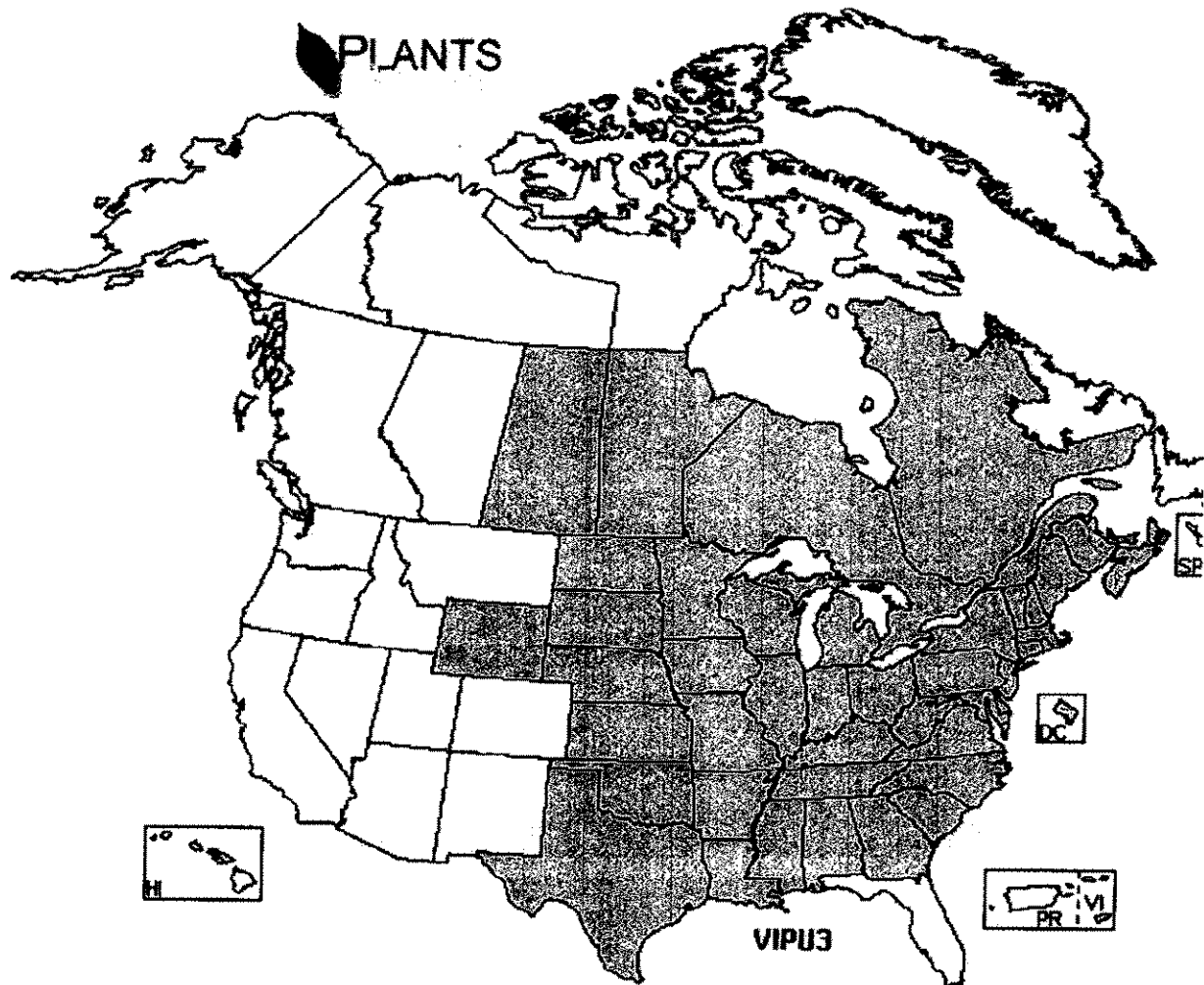


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 Present  Absent

Distribution:
Viola pubescens Aiton



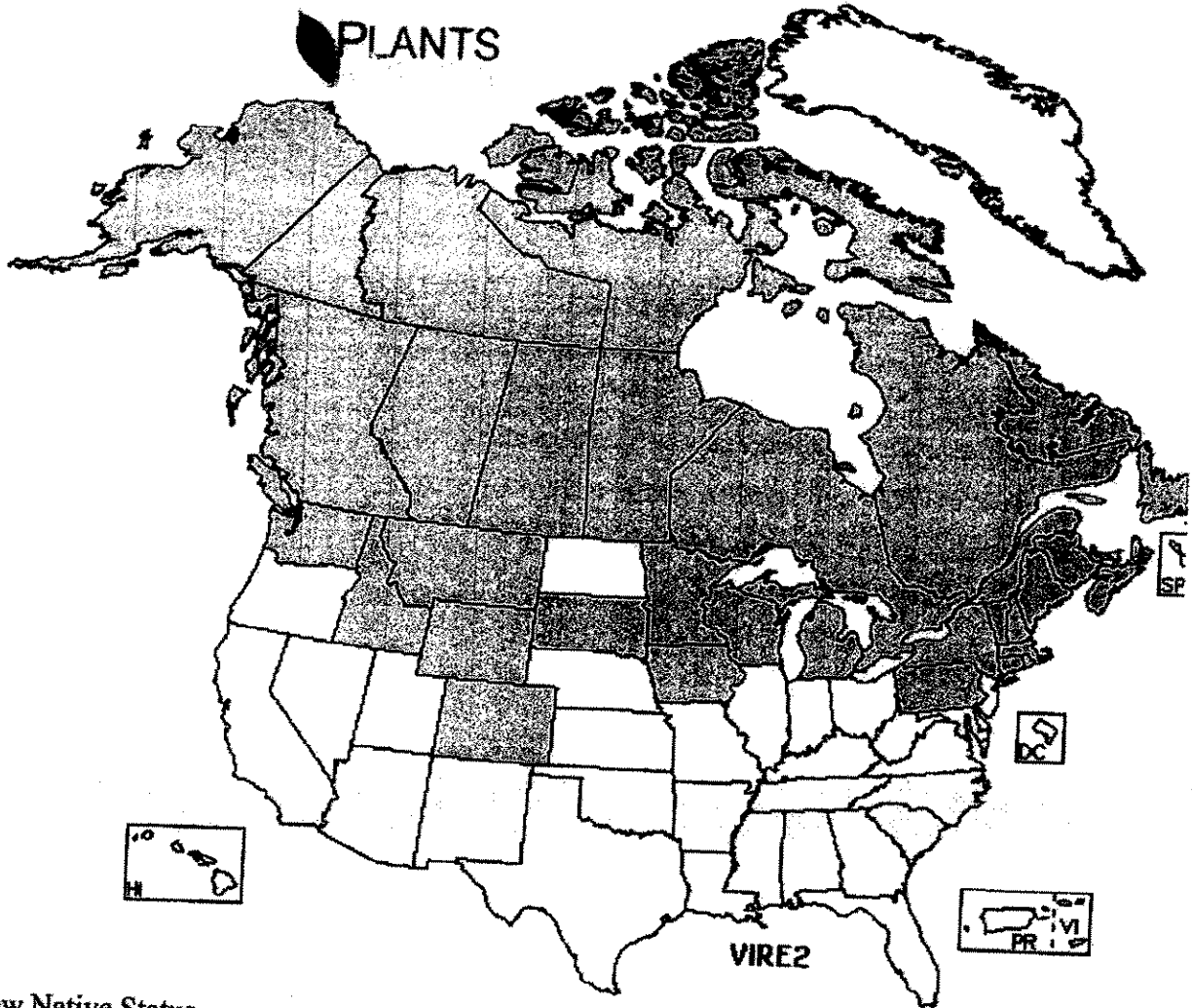
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Distribution:
Viola renifolia A. Gray



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Present Absent