



CLARK COUNTY

DESERT CONSERVATION PROGRAM

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February 29, 2008

RECEIVED FORESTRY

Mr. John Jones
Southern Regional Forester
Nevada Division of Forestry
4747 W. Vegas Drive
Las Vegas, NV 89108

FEB 29 2008

SOUTHERN REGION

RE: ADDITION OF LAS VEGAS BUCKWHEAT TO THE LIST OF FULLY PROTECTED SPECIES OF NATIVE FLORA

Dear Mr. Jones,

This letter is in response to the Nevada Division of Forestry's (NDF) request for public comment regarding the proposed addition of the Las Vegas buckwheat (*Eriogonum corymbosum* var. *nilesii*) to the "List of fully protected species of native flora" pursuant to NRS 527.270. At this time, Clark County does not believe that sufficient information exists to determine if state listing of the Las Vegas buckwheat is warranted. We also believe that the listing process needs to be revisited to ensure compliance with the provisions of the Nevada Open Meeting Law (NRS 241).

1. Lack of clarity on the need for listing.

Based on the information provided to Clark County by NDF, it is not clear that state listing of the Las Vegas buckwheat is necessary or that such a designation will provide any benefit to the species. According to the analysis prepared by the Nevada Natural Heritage Program (NNHP), approximately "68% of the estimated 1,805 acres historically occupied by the species are private lands and 32% are public."¹ What the analysis fails to clarify is that most of the populations that were historically populated on private lands have already been extirpated (or extirpation is imminent) of Las Vegas buckwheat and developed. Of the remaining *viable* populations of Las Vegas buckwheat, less than 10 percent is currently on private land and is limited to two populations (Coyote Spring Valley and White Basin). The populations on private land within Coyote Spring Valley are not within the area of development and do not appear to be at risk at this time.² The populations in White Basin are also likely to be secured through a proposed acquisition by the Bureau of Land Management (BLM) of the private parcels from U.S. Borax.³

Most of the remaining populations (roughly 89 percent) of the Las Vegas buckwheat currently reside on public land managed by the federal government, primarily the BLM. On December 6, 2007, the

¹ See Morefield, James D. "Population Status of Las Vegas buckwheat (*Eriogonum corymbosum* var. *nilesii*) based on 2006-2007 data," September 24, 2007, Nevada Natural Heritage Program.

² Mike Ford, personal communication.

³ U.S. Fish And Wildlife Service, "Species Assessment And Listing Priority Assignment Form-Las Vegas buckwheat," September, 2007 at http://ecos.fws.gov/docs/candforms_pdf/r8/Q3MG_P01.pdf

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FWS added the Las Vegas buckwheat to the list of candidate species for listing as threatened or endangered pursuant to the federal Endangered Species Act, as amended.

When considering that little of the remaining viable populations are on non-federal land, and that the FWS has elevated the plant to Candidate for listing under the federal ESA, it is not clear how state listing will benefit or provide additional protection to these species. In its listing package, the FWS used the lack of state listing as partial justification for its decision. It is possible that state listing could have an adverse impact on the ability of the federal land managers to adequately protect the remaining populations of Las Vegas buckwheat through the ESA if the Las Vegas buckwheat were to be state listed. While it is not clear how state listing would in fact contribute to the conservation of the remaining populations on federal land, the current political climate suggests that state listing may have the unintended effect of stalling future federal efforts to further protect the Las Vegas buckwheat. Given that the majority of remaining populations are on federal lands, federal protection would be the most appropriate venue to secure protection of the Las Vegas buckwheat if it is determined to be necessary to ensure the survival of the species.

2. Need for additional inventories.

Much of the current data used as the basis for state listing appears focused on potential or historical habitat in the Las Vegas Valley. Recent classifications of soil types to determine the percent of gypsum in the first five feet of soil in Clark County indicates that a much larger segment of potential habitat for the Las Vegas buckwheat exists. In an effort to fill this data gap, the Clark County Desert Conservation Program is currently funding research and inventory projects, and has contracted with a GIS/soils scientist to provide specialized expertise in the assembling and interpretation of gypsum soil GIS data sets. The inventory and research projects will survey potential habitat throughout Clark County using the soils data layers. Recent inventory and monitoring efforts have identified previously undocumented populations of Las Vegas buckwheat and Clark County anticipates finding additional populations as a result of this planned survey work.

3. General procedural concerns regarding the listing process.

Clark County believes that the current process for reviewing, analyzing and listing plant (flora) species as fully protected requires review and revision in order to comply with the open meeting and records provisions of NRS 241.

According to NAC 527.200, the NNHP is required to "establish and maintain a committee of qualified professionals...maintain data and records related thereto...provide assistance to the State Forester in the development and administration of a program for the conservation, protection, restoration and propagation of critically endangered species of native flora." As we currently understand the process, NDF receives recommendations regarding listings from the Nevada Rare Plant Workshop, which is convened by the Nevada Rare Plant Society and/or the Nevada Natural Heritage Program (NNHP) pursuant to these provisions. We believe that to the extent the Nevada Rare Plant Workshop serves as the "committee of qualified professionals" tasked with assisting in the "development and administration of a program for the conservation of native plant species," that this body is subject to the provisions of the Nevada Open Meeting Law as outlined in NRS 241.

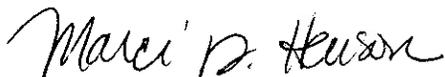
As a result, we respectfully request that the NDF, NNHP and the Director of the Department of Conservation and Natural Resources review the processes and procedures associated with the

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NNHP and the Nevada Rare Plant Workshop to ensure that the meetings are noticed, posted and conducted pursuant to NRS 241. In addition, we request that the NNHP and the Nevada Rare Plant Workshop work to comply with the public records provisions of NRS 241. This includes ensuring that all data and research used to make recommendations regarding the administration of the NNHP and the listing process be made available to the public, that minutes of the meetings of the Nevada Rare Plant Workshop are also made available to the public in a timely fashion (see NRS 241.035), and that the public be given an opportunity to comment at each meeting. Adherence to the guidelines established in NRS 241 will help improve the overall administration of the NNHP and the listing process, and result in a more open and defensible program.

Clark County is committed to the protection and conservation of native plant species in Southern Nevada and fully supports the efforts of the NNHP and NDF. Thank you for the opportunity to provide comment on this important issue.

Sincerely,



Marci D. Henson
Clark County Desert Conservation Program Manager

MDH: IK