

Small Business Impact Statement

Proposed regulation: Addition of Las Vegas buckwheat (*Eriogonum corymbosum* var. *nilesii*) to the list of critically endangered species (NAC 527.010)

Pursuant to NRS 233.B.0608, the Nevada Division of Forestry must determine whether the proposed regulation (listing of *Eriogonum corymbosum* var. *nilesii* as an endangered species), is likely to: (a) Impose a direct and significant economic burden upon a small business; or (b) Directly restrict the formation, operation or expansion of a small business. NDF must also prepare a statement identifying the methods used in determining the impact of the proposed regulation on a small business.

Method

The Nevada Division of Forestry reviewed known plant locations and land ownership, and determined 21 sites contained *Eriogonum corymbosum* var. *nilesii*. Of those 21 sites, 5 sites with extant populations were identified as privately owned lands with the potential for utilization by or impact to small businesses. On December 12, 2007 letters were sent to the landowners of those 5 parcels asking for comments, potential impacts and concerns regarding the possible listing of the above mentioned species. From those 5 landowners, the Nevada Division of Forestry received comments through phone calls and letters.

Phone comments were received regarding two parcels. Both parcel owners advised they are currently under construction at the site, but would allow seed collection or plant collection before final blading occurs. Three private landowners sent written comments. All landowners voiced concerns that each parcel is slated for heavy development, and some construction and blading has already occurred on these parcels. One also offered seed collection and/or transplanting as a mitigation.

The City Manager of North Las Vegas also commented in written form on the proposed listing and its economic impact. The letter states "all known occurrences of this plant within the City are on properties that are under a management agreement for the protection of this plant as approved by the NDF... It is the intent of the City that the remaining plants on private land that will be lost to development have already been fully mitigated through the establishment of the Eglinton Preserve, and that this would satisfy any conservation requirements upon the possible State listing of the buckwheat." The letter also describes potential economic impacts to landowners with known or currently unknown (potential) buckwheat occurrences, including: "the cost of preparing the NDF permit application; the cost of delays and lost business opportunities during the processing of the NDF permit; the loss in property value should the permit be denied; and the cost of any additional required mitigation measures."

Coyote Springs Investment also submitted a letter stating it "has agreed to protect a population of the buckwheat on its Clark County property. Any additional requirements above what we have already agreed to in Clark County would have a negative impact on our business." (There are no buckwheat populations on their Lincoln County property.)

Determination

If the Las Vegas buckwheat is listed as a critically endangered species, it would become protected by State law, and no such plants may be disturbed or destroyed without a permit issued by NDF. Permits for the purpose of property development may be approved, usually subject to conditions and/or mitigations (such as avoidance to limit plants lost, transplanting, collecting seeds), if NDF determines that such a permit would not further endanger the species. The denial of a permit, or the requirement to apply for a permit and to comply with any required mitigations may have some economic impact to small businesses wanting to develop sites containing buckwheat habitat.

Only a few of the known populations of Las Vegas buckwheat are on privately owned lands subject to development or utilization by small businesses. Some of those are already under development, and the plants may be extirpated before listing occurs. It is possible that currently unknown populations of buckwheat may be discovered on other private lands in the future. It is also possible that federal lands containing Las Vegas buckwheat may be nominated for disposal and may be subsequently sold for development. If the buckwheat is listed as endangered, a permit would be required before any buckwheat plants or habitat on these lands are disturbed or destroyed.

Where Las Vegas buckwheat occur on federal lands, they are already being managed as a sensitive species. A large area of such federal land near the Upper Las Vegas Wash has been nominated for disposal, which would lead to the lands being sold to developers. However, the Bureau of Land Management has decided to reserve a portion of these lands as a Conservation Transfer Area, including the known populations of Las Vegas buckwheat and Las Vegas bearpoppy (another listed endangered species). Since no lands containing buckwheat would be disposed of, there would be no effect to developers or small businesses in this area if the buckwheat is listed.

Possible Mitigations of Impact to Small Business

The two parcels previously mentioned as under construction are not contiguous with other Buckwheat populations, and the sites are already severely disturbed. These parcels would not be suitable for conservation efforts. If the Las Vegas buckwheat is listed before these plants are extirpated, the owners or developers can apply for permits from NDF to disturb the habitat on these sites. NDF would work with these owners/developers to agree on reasonable mitigations as appropriate.

A Conservation Agreement has been implemented between NDF, U.S. Fish & Wildlife Service, Bureau of Land Management, and the City of North Las Vegas providing for the preservation of an area of BLM land containing Las Vegas buckwheat (and Las Vegas bearpoppy), allowing for disposal and subsequent development of nearby lands also containing less pristine populations of the plants. If the buckwheat is listed, the loss of these populations will be considered already mitigated and no permit will be required by landowners or developers to disturb the habitat on these parcels.