

### Cleanup Levels for OU-12

Cleanup levels were developed for soil COCs (PAHs, PCBs, dieldrin, iron, and lead) at OU-21 on the basis of the EPA Region 9 PRGs listed for industrial and residential scenarios or on the basis of a background value for a particular parameter (iron), and therefore, the final remedy cleaned up OU-12 to residential standards suitable for UU/UE. The following are the cleanup levels for COCs at OU-12:

- PAH (as benzo(a)pyrene equivalent)—60 micrograms per kilogram ( $\mu\text{g}/\text{kg}$ ) (residential) or 210  $\mu\text{g}/\text{kg}$  (industrial);
- PCBs—220  $\mu\text{g}/\text{kg}$  (residential) or 740  $\mu\text{g}/\text{kg}$  (industrial);
- Dieldrin—30  $\mu\text{g}/\text{kg}$  (residential) or 110  $\mu\text{g}/\text{kg}$  (industrial);
- Lead—400 milligrams per kilogram ( $\text{mg}/\text{kg}$ ) (residential) or 800  $\text{mg}/\text{kg}$  (industrial); and
- Iron—66,400  $\text{mg}/\text{kg}$ .

The cleanup level for iron is the subsurface soil background value, as referenced in the OU-12 RI Report (NASA, OU-12, 2008). The iron background value was used instead of the EPA Region 9 PRG despite that the background value is one order of magnitude higher than the PRG., the EPA policy does not require CERCLA cleaning up to below background levels in soils provided the levels are protective of human health and the environment. This cleanup level was obtained at OU-12.

### Operation and Maintenance, If Applicable

Neither OU-09 nor OU-12 require any operation and maintenance (O&M) activities. All cleanup objectives in the RODs were met, and no further remedial action or O&M is required.

### Five-Year Review, If Applicable

NASA conducted a statutory Five-Year Review (FYR) of the MSFC Site in 2013 and 2018 in accordance with CERCLA Section 121(c). The 2018 FYR confirmed that soil and groundwater at OU-09 and soil (including sediment) at OU-12 met UU/UE criteria and further reviews are not required for either OU-09 and OU-12 (OU-20 or OU-21, respectively for Redstone Arsenal).

The soil media at OU-09 was recommended for NFA in the final 2000 ROD. To address the EPA and ADEM comments with respect to a residential risk evaluation, NASA collected additional soil samples at OU-09 and submitted a 2016 CCED. The FFA parties determined that the site met residential exposure levels and no further action required.

Remedial actions are complete for soil (including sediment) at OU-12 and any residual risks for that media are considered to be protective of human health and the environment for future unrestricted residential use and therefore does not require LUCs.

### Community Involvement

The EPA and ADEM satisfied public participation activities as required in CERCLA Section 113(k), 42 United States Code (U.S.C.) 9613. The EPA published notifications in *The Huntsville Times* announcing the FYR and inviting the public to comment and express their concerns about the Site at the start of the 2013 and 2018 FYRs as well as offer public comment for proposed plans for all of the EPA Site decision documents and this proposed NPL partial deletion. The Administrative Record file contains the documentation NASA considered in selecting the CERCLA response actions for both OU-09 and OU-12 in accordance with the NCP requirements.

### Determination That the Criteria for Deletion Have Been Met

OU-09 (including surface water, sediment, soil, and groundwater) and OU-12 (soil including sediment) meet all of the site completion requirements as specified in Office of Solid Waste and Emergency Response Directive 9320.2-22, *Close Out Procedures for National Priorities List Sites*. The EPA has followed NPL deletion procedures required by NCP at 40 CFR 300.425(e).

Soil and groundwater associated with OU-09 were proposed for NFA in the CERCLA 1999 OU-09 RI Report. The 2000 ROD selected NFA for OU-09. MSFC, ADEM, and the EPA concurred that additional remedial actions are not required at OU-09 to protect of human health and the environment and approved the ROD.

All cleanup actions specified in the OU-12 ROD have been implemented, and the Site has achieved the degree of cleanup or protection specified in the ROD and met ROD remedial action objectives. The soil (including sediment) area proposed for partial deletion has been cleaned up to residential risk levels for soil exposure pathways. The RAOs and associated cleanup goals are consistent with agency policy and guidance. Groundwater beneath OU-12 (OU-21 for Redstone Arsenal) is being investigated by NASA under the FFA as part of OU-3 Site-wide Groundwater and, therefore, is not included in this proposed deletion action.

The EPA has determined that no further Superfund response is necessary

at OU-09 and OU-12 -to protect human health and the environment and supports the partial deletion of these operable units from the MSFC portion of the Redstone Arsenal (USARMY/NASA) Superfund Site.

The NCP (40 CFR Section 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. The EPA, in consultation with the State of Alabama, has determined that all required response actions have been implemented and no further response action by the responsible parties is appropriate for these identified OUs at the MSFC.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1251*et seq.*

Dated: June 26, 2020.

**Mary Walker,**

*Regional Administrator EPA R4.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FF09E21000 FXES11110900000201]

#### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Two Species

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

**ACTION:** Notice of petition findings and initiation of status reviews.

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**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on two petitions to add species to the List of Endangered and Threatened Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate status reviews of the Las Vegas bearpoppy (*Arctomecon californica*) and Tiehm's buckwheat (*Eriogonum tiehmii*) to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive,

we are requesting scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act.

**DATES:** These findings were made on July 22, 2020. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the species or their habitats. Any information we receive during the course of our status reviews will be considered.

**ADDRESSES:** *Supporting documents:* Summaries of the basis for the petition findings contained in this document are available on <http://www.regulations.gov> under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). In addition, this

supporting information is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

*Status reviews:* If you have new scientific or commercial data or other information concerning the status of, or threats to, the species for which we are initiating status reviews, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this

feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us.

**FOR FURTHER INFORMATION CONTACT:**

Species common name	Contact person
Las Vegas bearpoppy .....	Glen Knowles, 702–515–5230; <a href="mailto:glen_knowles@fws.gov">glen_knowles@fws.gov</a> .
Tiehm’s buckwheat .....	Lee Ann Carranza, 775–861–6300; <a href="mailto:lee_ann_carranza@fws.gov">lee_ann_carranza@fws.gov</a> .

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.*, “list” a species), remove a species from the List (*i.e.*, “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (*i.e.*, “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to “credible scientific or commercial information in

support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted” (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);
- (b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);
- (c) Disease or predation (Factor C);
- (d) The inadequacy of existing regulatory mechanisms (Factor D); and
- (e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative

effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can

determine whether the species meets the definition of an endangered species or threatened species under the Act. If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance

with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

### Summaries of Petition Findings

The petition findings contained in this document are listed in the table below, and the basis for each finding, along with supporting information, is available on <http://www.regulations.gov> under the appropriate docket number.

TABLE—STATUS REVIEWS

Common name	Docket No.	URL to docket on <a href="http://www.regulations.gov">http://www.regulations.gov</a>
Las Vegas bearpoppy .....	FWS–R8–ES–2020–0016	<a href="https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0016">https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0016</a> .
Tiehm's buckwheat .....	FWS–R8–ES–2020–0017	<a href="https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0016">https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0016</a> .

#### *Evaluation of a Petition To List the Las Vegas Bearpoppy*

##### Species and Range

Las Vegas bearpoppy (*Arctomecon californica*); Clark County, Nevada, and Mohave County, Arizona.

##### Petition History

On August 14, 2019, we received a petition from the Center for Biological Diversity requesting that the Las Vegas bearpoppy be listed as endangered and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required at 50 CFR 424.14(c). This finding addresses the petition.

##### Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Las Vegas bearpoppy due to potential threats associated with the following: Urbanization, mining, grazing, and recreation (Factor A); and nonnative bees (including Africanized) and climate change (Factor E). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R8–ES–2020–0016 under the Supporting Documents section.

#### *Evaluation of a Petition To List Tiehm's Buckwheat*

##### Species and Range

Tiehm's buckwheat (*Eriogonum tiehmii*); Esmeralda County, Nevada.

##### Petition History

On October 7, 2019, we received a petition from the Center for Biological Diversity, requesting that Tiehm's buckwheat be emergency listed as threatened or endangered and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required at 50 CFR 424.14(c). The Act does not provide for a process to petition emergency listing; therefore, we are evaluating this petition under the normal process of determining if it presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This finding addresses the petition.

##### Finding

Based on our review of the petition and sources cited in the petition, and other readily available information, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for Tiehm's buckwheat due to the potential destruction of habitat from mining (Factor A). The petitioners also presented information suggesting invasive species, off-road vehicles, wildfires, climate change, and grazing may be threats to Tiehm's buckwheat. We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to consider the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of this petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R8–ES–2020–0017 under the Supporting Documents section.

### Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for the Las Vegas bearpoppy and Tiehm's buckwheat present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

### Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

### Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

### Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

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