

desert conservation  
PROGRAM

September 27, 2013

Mr. Lee Kirk  
RMP Project Director  
Bureau of Land Management  
4701 N. Torrey Pines  
Las Vegas, Nevada 89130

RE: Clark County Desert Conservation Program comments on Draft Chapter 2, Alternative, Las Vegas/Pahrump Resource Management Plan Amendment

Dear Mr. Kirk,

Clark County (County) as administrator of the Desert Conservation Program, which manages regional compliance with the Endangered Species Act (ESA) on behalf of the cities of Henderson, Las Vegas, North Las Vegas, Mesquite, Boulder City and Nevada Department of Transportation, appreciates the opportunity to be a Cooperating Agency on the Bureau of Land Management's (BLM) amendment to the Las Vegas Resource Management Plan (RMP). The Desert Conservation Program appreciates the opportunity to comment on the draft Chapter 2 Alternatives, but would have preferred to fulfill our role as a Cooperating Agency by assisting in the development of the alternatives.

The BLM and Clark County have an excellent history of working together and are inextricably linked in Southern Nevada as it pertains to land disposal, development and compliance with the National Environmental Policy Act (NEPA) and the Endangered Species Act. More than 20 years ago, the BLM and County embarked on a partnership necessary for the continued orderly development of private land and the mitigation of lands disposed of by the BLM and developed by private residents in Clark County. Our predecessors understood that because nearly nine out of ten acres in Clark County is managed by a federal agency, the only feasible way to construct a habitat conservation plan (HCP), a necessary part of an application for a Section 10(a)(1)(B) incidental take permit, was to include federal lands in the HCP. This has been an arrangement mutually beneficial to both agencies.

As you may recall, the BLM and U.S. Fish and Wildlife Service (service) significantly streamline NEPA requirements and section 7 consultations by pointing to the Multiple Species Habitat Conservation Plan (MSHCP) to mitigate for its impacts to covered species from the disposal of public land.

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The current incidental take permit falls short of being able to accommodate the acres anticipated for BLM disposal when combined with private, local development interests over the next fifty years. To that end, the County is seeking an amendment to the MSHCP, and has proposed a revised mitigation strategy of creating and managing a reserve system to mitigate for impacts.

**1. MSHCP Amendment and Ability of Clark County to Continue Mitigating for Disposal of BLM Land**

The County has on several occasions provided proposed reserve units to serve as mitigation in an amended MSHCP to the BLM for its consideration (see attached). In addition, at the suggestion of the Las Vegas Field Office, the County nominated the proposed reserve units as Areas of Critical Environmental Concern (ACEC) for the BLM's consideration in the amendment to the RMP. The proposed Reserve Units/ACECs were developed in an open, public process during an 18-month long Community Advisory Committee process and there is broad support for the Reserves/ACECs as articulated in the Committee's final report, which has also been provided to the BLM.

Subsequently, Las Vegas Field Office staff conducted a qualitative review of the proposed Reserves/ACEC nominations and concluded that approximately half of what Clark County nominated was relevant and/or important. As a result, it would appear that BLM has dropped the proposed Reserve Units/ACECs from further consideration in the RMP amendment process. There is significant new information available to the BLM in its consideration of the proposed Reserve Units/ACECs. Unfortunately, given the extremely limited amount of time provided to the Cooperating Agencies for review and comment on the draft alternatives, it is not possible to provide a detailed synthesis of this new information for BLM in these comments. **Therefore, Clark County respectfully requests that the BLM reconsider the importance and relevance of the proposed Reserve Units/ACECs in light new information, including, but not limited to:**

1. U.S. Fish and Wildlife Service. 2011. Revised recovery plan for the Mojave population of the desert tortoise (*Gopherus agassizii*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California. 222 pp.
2. Comer, P., P. Crist, M. Reid, J. Hak, H. Hamilton, D. Braun, G. Kittel, I. Varley, B. Unnasch, S. Auer, M. Creutzburg, D. Theobald, and L. Kutner. 2013. *Mojave Basin and Range Rapid Ecoregional Assessment Report*. Prepared for the U.S. Department of the Interior, Bureau of Land Management. 173 pp + Appendices
3. Bureau of Land Management Interim Policy – Draft Regional Mitigation Manual – 1794

If the Las Vegas Field Office still concludes that the proposed Reserve Units/ACES in their entirety are not relevant and/or important, **then Clark County respectfully requests that BLM identify and designate these areas, in their entirety, as "Areas of Ecological Importance" or "Priority Habitats" in accordance with the Program/Resource-Specific Decision Guidance in Appendix C of the Land Use Planning Handbook (H-1601-I).**

**Clark County also respectfully requests that the BLM revise the list of alternatives to include an alternative that contains all of the proposed Reserve Units/ACECs/Areas of Ecological Importance/Priority Habitats, in their entirety, so that the public has an opportunity to weigh in on their inclusion in a final amendment to the RMP and so that the BLM may have benefit of considering all of the proposed Reserve Units/ACECs/Areas of Ecological Importance/Priority Habitats when crafting a preferred alternative.**

During a meeting of the County, BLM and the Service in August 2011, the parties recognized that for this approach to be viable, it must be reflected in the RMP revision being prepared by the BLM.

To further the management of these proposed Reserve Units/ACECs/Areas of Ecological Importance/Priority Habitats, Section 307 (b) of the Federal Land Policy and Management Act (FLPMA) gives a broad grant of authority that "subject to the provisions of applicable law, the Secretary of Interior may enter into contracts and cooperative agreements involving the management, protection, development and sale of public lands." This provision clearly allows the BLM to enter into contracts and cooperative agreements for the management of public lands. As such, Clark County has submitted a proposal for local government management of these lands within the Reserve Units/ACECs/Areas of Ecological Importance/Priority Habitats (see attached). The draft Cooperative Management Agreement, along with a draft Framework Habitat Management Plan (see attached), contains the covered activities, conservation strategy and adaptive management to be employed in the Reserve Units/ACECs/Areas of Ecological Importance/Priority Habitats and would provide the sideboards for management of the Reserve System, such that all activities would be within the scope of what is analyzed in the Environmental Impact Statement (EIS) for the RMP and the amended MSHCP. All activities undertaken by the County within Reserve Units/ACECs would be consistent with the MSHCP and the RMP. Under this approach, permitting and NEPA compliance by BLM at the individual management action level would not be necessary.

**The County also respectfully requests that the management actions and conservation measures proposed in the draft Cooperative Management Agreement and the draft Framework Habitat Management Plan be included in the alternatives being developed, analyzed, and carried forward in the amended RMP so that this amendment option can be considered by the public and so that the BLM may have benefit of considering all of the proposed management actions when crafting a preferred alternative.**

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Including designations and management actions developed for the mutual benefit of BLM and Clark County's amended MSHCP in the amended RMP continues the partnership that has worked well for both of our agencies.

Without the BLM's full cooperation in the amendment of the MSHCP, the County may need to revisit mitigating for the disposal of BLM land and may need to request that the FWS and BLM reinstate consultation on these actions to address impacts to sensitive species and compliance by the BLM with NEPA and the ESA.

**2. General comments regarding the BLM RMP Maps and GIS datasets**

Overall, it appears there is still a need for a general "clean up" of all GIS datasets being used for the RMP analyses. Without accurate and consistent data files, cooperating agencies cannot be expected to provide meaningful comments and feedback to the BLM on such an important and impactful planning effort.

Please check all acres of all mapped features. For instance, it appears that there might be a problem with the Muddy Mountain and/or Bitter Springs shapefile. There could be double counting of acres of the Bitter Springs between ACEC Alternative 2 and 3.

The document would benefit from including a grazing allotment map showing open and closed allotments.

Table 2.16, please consider providing a list of all alternative 1 wilderness areas and acres.

**3. Comments on the Evaluation Report for ACECs**

Given the extremely limited amount of time provided to the Cooperating Agencies for review, the County could not completely discern if the comments that were sent via a letter to Mary Jo Rugwell dated June 29, 2012 on the Evaluation Report for Areas of Critical Environmental Concern for the Las Vegas/Pahrump RMP Revision dated February 2012 were considered and addressed. With regard to the Evaluation Report for Areas of Critical Environmental Concern for the Las Vegas/Pahrump RMP Revision dated October 2013, we offer the following comments:

- Page 6, The Clark County Desert Conservation Program did not nominate 425,656 acres for ACEC status. This is inaccurate and misleading and needs to be changed.
- Table 0-2 and Section 3.2.22 on p. 7 – The County did not nominate the Pahrump Valley Mesquite ACEC; the County nominated what it called the Stump Springs ACEC. Please revise as this is not an accurate reflection of what was nominated and is misleading.

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- Table 0-2 and Section 3.2.30 on p.8 – The County did not nominate the Upper Las Vegas Wash ACEC. Please revise as this is inaccurate and misleading.
- Table 0-2, Page 8 states that the County nominated 10,275 acres as ACEC. This is inaccurate as the County nominated 37,265 acres in Bird Spring Valley.
- Map 2, p. 9 does not list all of the ACECs nominated by the County. The scale of this map makes it too difficult to effectively discern the location of the nominated ACECs. In addition, nowhere does it show where the proposed ACECs nominated by the different agencies overlap. Cooperating agencies would be aided in their review by the BLM providing a map with a more clear depiction of each agency's nominations. It would also be helpful to provide a clear map of the ACECs to be included in the BLM's preferred alternative.
- The Jean Lake ACEC proposed by the BLM is listed in the Alternatives 2 and 3 as 11,605 acres and in Alternative 4 as 9,137 acres. Based on the best available data, it appears that less than 5,000 acres in the valley can reasonably be categorized as potential habitat for the white-margined penstemon. The BLM should revise this ACEC boundary to adhere more closely to known, occupied habitat as there is no biological evidence to suggest otherwise. At the very least, Alternative 4 described as the "Development Alternative" should include an ACEC that is no more than 5,000 acres large.
- It is unclear why Ivanpah Valley 2 (nominated) is being considered and analyzed in a separate EIS process for the Silver State South project and will not be considered further in the RMP/EIS at this time. There are certainly many impacted stakeholders that were unaware that this ACEC was nominated and being handled in a standalone amendment to the RMP.
- Also in the County's scoping letter from February 25, 2010, it noted that the 1998 RMP was drafted to conform to the 1994 Desert Tortoise Recovery Plan. Several significant evaluations have occurred since the adoption of the 1994 Recovery Plan including reports by the United States Geological Survey, the General Accounting Office, and the Desert Tortoise Recovery Planning Assessment Team. In addition, a Revised Desert Tortoise Recovery Plan has been released by the Service. It's not clear from the information provided how these updates factored into BLM's analysis of the existing or proposed ACECs to aid in the recovery of the desert tortoise. This new information should be discussed and incorporated more transparently in the amended RMP.
- The County's February 25, 2010 scoping letter also noted that the 1998 RMP states that monitoring and evaluation will be conducted at intervals not to exceed 5 years, for the following purposes:

- Determine effectiveness of the resource management plan in resolving issues.
- Ensure effectiveness of mitigation measures.
- Verify assumptions used in assessing impacts.
- Review whether changes have occurred in related plans of other Federal agencies, and state or local governments.
- Determine if implementation of the RMP is achieving desired results.

The current RMP also suggests that information gained through this step will be incorporated into future planning, including any amendments or revisions to the RMP. The BLM should evaluate the effectiveness of management actions and mitigation measures implemented in the 1998 RMP and demonstrate that information gained through evaluation and monitoring is incorporated into the amendment. Of particular interest is whether or not the designation and management of desert tortoise ACECs and the implementation of the RMP has in fact aided in the recovery of the desert tortoise. The RMP anticipates environmental outcomes that include: improvement in tortoise habitat, upward population trends in tortoise, and that sufficient habitat would be protected to support viable populations of tortoise and meet recovery criteria. It is not clear that any monitoring data has been collected that can be used to assess these outcomes or that the data that does exist reflects positive outcomes for the desert tortoise. The amended RMP should strive to improve the monitoring and evaluation of its implementation and make revisions that more clearly correlate to positive trends in the desert tortoise population. It's not clear from the information provided how the BLM factored monitoring data into the evaluation of existing or proposed ACEC nominations with regard to advancing the recovery of the desert tortoise.

#### **4. Disposal Areas**

Clark County respectfully requests that the BLM make no reductions to the current disposal boundaries, particularly with regard to Moapa-Glendale, Laughlin, or Apex. Clark County has planned for and anticipates future growth in these areas and any reduction in disposal boundaries would compromise these efforts. In addition, there is no rationale, justification or discussion as to why various disposal boundaries were modified or considered for reduction. Additional rationale and justification should be provided that explains why removing acres from disposal is necessary and prudent. In addition, the BLM should outline the full range of management actions necessary to implement and monitor the disposal alternatives within existing agency resources and should outline the conditional decisions that will be necessary to manage these lands removed from disposal commensurate with available financial and human resources.

#### **5. Renewable Energy**

The BLM, as a signatory to the Implementation Agreement for the MSHCP, has assisted the County in the implementation of the current MSHCP by maintaining lands in conservation

status to serve as a "reserve system", which is a critical component of the MSHCP. The MSHCP contains a biological goal aimed at no net unmitigated loss of these conservation lands.

Equally important to the MSHCP is the funding provided to the BLM for the implementation of conservation actions listed in the RMP that could not have been implemented otherwise. Some of these conservation actions were significant expenditures with an aim to protect and improve the quality of covered species' habitat through projects such as resource protection, restoration, purchase of grazing allotments, etc. These actions were required to mitigate residual impacts anticipated in the MSHCP.

Especially when reviewing analyses related to the BLM's authorization of large-scale alternative energy projects, the County is finding that these analyses are failing to account for the loss of County-funded conservation measures to mitigate impacts anticipated in the MSHCP. These analyses need to be more transparent and better describe the direct, indirect and cumulative impacts of the proposed project, and the loss of the conservation actions funded in the area of the proposed project that were offsetting impacts anticipated in the MSHCP.

Mitigation areas to be accounted for during analyses include, at a minimum:

- 1) Within grazing allotments purchased with Clark County funds or assistance;
- 2) Areas where Clark County funds have restored vegetation or habitat;
- 3) Areas where Clark County funds have provided for law enforcement activities;
- 4) Areas where Clark County funds have provided for weed monitoring and treatment activities; and
- 5) Areas where Clark County funds have been used for road designation, closure and monitoring.

This issue is also pertinent to modifications to land use designations or allowable uses that may be considered during amendment of the RMP to facilitate actions such as large-scale energy development. We are recommending that this analysis be included when developing alternatives for the RMP amendment.

The BLM should have a comprehensive list of the conservation measures funded by County to implement the MSHCP (See letter dated July 12, 2010 to Mary Jo Rugwell for additional information).

Clark County's understanding from the meeting on September 9, 2013 between the BLM and Cooperating Agencies is that it is BLM's intent to include these comments in a table to facilitate BLM's rapid responses to the Cooperating Agency comments. This approach seems to fall short in BLM's willingness to meaningfully consider our comments and allow Clark County to fulfill its role as a Cooperating Agency.

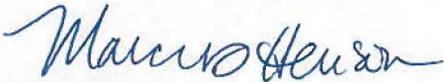
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Mr. Lee Kirk  
September 27, 2013  
Page 8

The Clark County Desert Conservation Program respectfully requests a follow up meeting with BLM to discuss these comments and to work more closely with the BLM over the coming weeks to develop the alternatives that will move forward in the RMP amendment.

Please contact me at (702) 455-3118 to schedule a meeting or if you need additional information.

Sincerely,



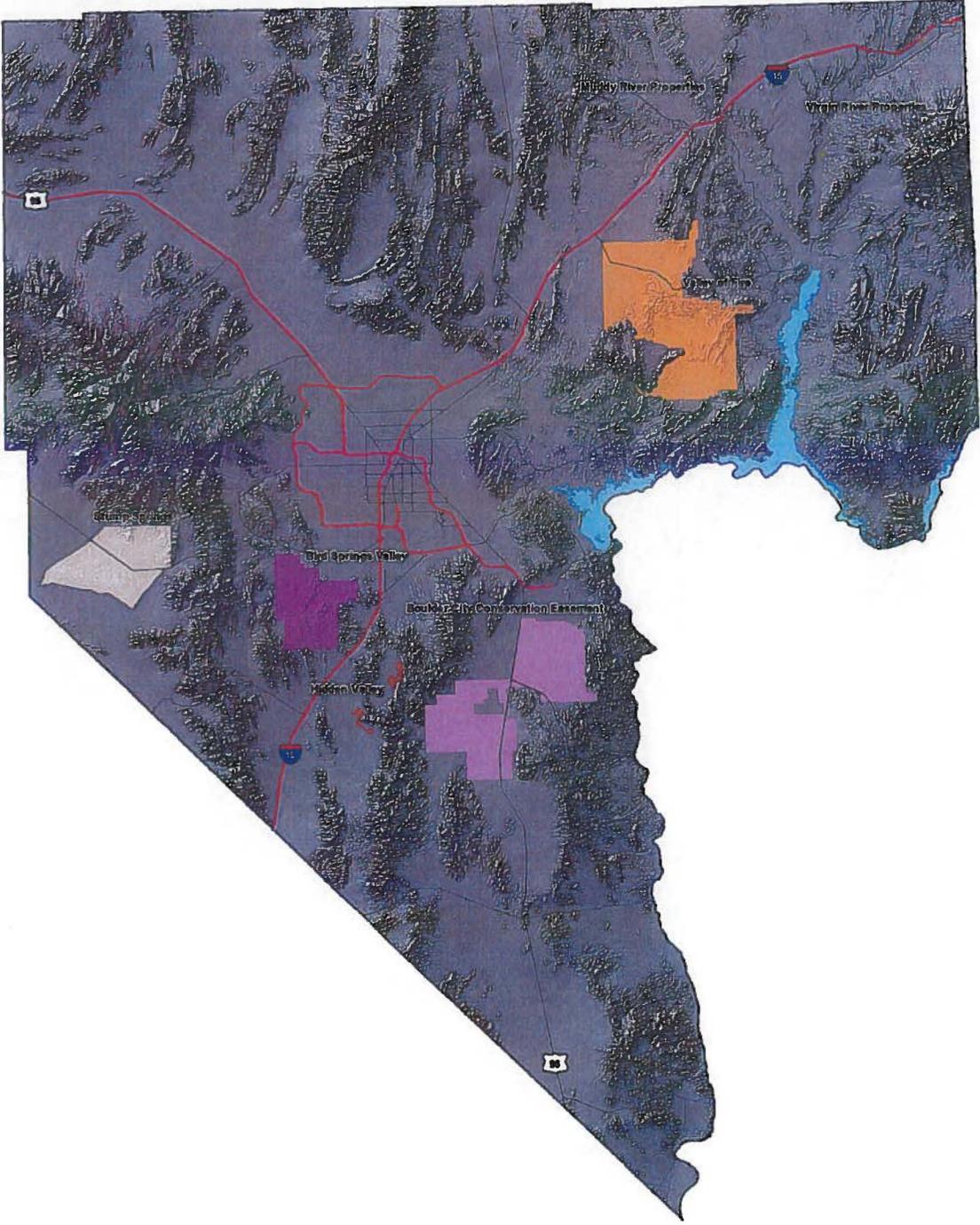
Marci D. Henson  
Planning Manager and Administrator of the MSHCP

MDH/aem

Attachments (3)

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**Legend**

Hidden Valley	Bird Springs Valley
Valley of Fire	Stump Springs
Muddy River Properties	
Virgin River Properties	
Boulder City Conservation Easement	
Freeway/Highway	
Major Roads	
Lake Mead	
Clark County	

# Clark County Proposed Reserve Units

Projection: Transverse Mercator  
 Coordinate System: UTM Zone 11  
 Datum: NAD83  
 Date: 9/24/2013  
 Name: Reserve\_phasing\_1

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**COOPERATIVE MANAGEMENT AGREEMENT  
BETWEEN**

**CLARK COUNTY,  
A POLITICAL SUBDIVISION OF THE STATE OF NEVADA, BY AND  
THROUGH ITS DEPARTMENT OF AIR QUALITY AND ENVIRONMENTAL  
MANAGEMENT, DESERT CONSERVATION PROGRAM**

**AND THE**

**BUREAU OF LAND MANAGEMENT,  
U.S. DEPARTMENT OF THE INTERIOR**

**REGARDING THE CLARK COUNTY  
MULTIPLE SPECIES HABITAT CONSERVATION PLAN  
RESERVE SYSTEM**

This Cooperative Management Agreement (hereinafter referred to as the CMA) is made and entered into by and between Clark County, Nevada by and through its Department of Air Quality and Environmental Management (hereinafter referred to as COUNTY), and the Bureau of Land Management (hereinafter referred to as BLM), acting pursuant to all applicable federal, state, or local government laws, regulations or policies, including all amendments or supplements thereto.

**I. INTRODUCTION**

On September 30, 2009, the U.S. Fish and Wildlife Service (USFWS) issued a Notice of Intent to consider an amendment of the Clark County Multiple Species Habitat Conservation Plan (MSHCP) and Incidental Take Permit (permit). The amendment proposed to increase the amount of species habitat disturbance that is authorized under the MSHCP and permit expand the conservation program to minimize and mitigate for the increased disturbance, and reduce the number of covered species. The permit term of the Amended MSHCP will be 50 years from the date the Permit is issued.

A central component of the amendment involved updating the conservation strategy based on information gathered during 10 years of implementation of the MSHCP. As part of the amendment, the cities of Boulder City, Henderson, Las Vegas, Mesquite, North Las Vegas, and Clark County (Permittees) proposed to establish a "Reserve System" to mitigate for impacts to covered species from covered activities within the Plan Area. The Reserve System would be managed and monitored by the COUNTY, on behalf of the Permittees, to provide for the conservation of covered species.

Approximately 89% of Clark County is owned and managed by the federal government, predominately through the BLM. As a result, state, local and private lands would be insufficient for the establishment of a Reserve System. The Reserve System would

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therefore need to be based primarily on public lands that would be subject to a long-term management agreement between BLM and the COUNTY.

On January 10, 2010, the BLM issued a Notice of Intent to prepare a revision to the Las Vegas Resource Management Plan (RMP). The revision to the RMP was completed on XXXX. The RMP provides guidance for the management of approximately 3.3 million acres of land administered by the BLM in Southern Nevada and identifies and analyzes alternatives for the long-term management of public lands and resources administered by the BLM.

The RMP includes the definition and justification for the creation of X "Areas of Critical Environmental Concern" (ACEC) for the specific purpose of enabling the COUNTY to implement the conservation strategy outlined in the Amended MSHCP. The ACEC's comprise the public land portion of the Reserve System for the Amended MSHCP (add reference). The Amended MSHCP describes the actions to be taken by the Permittees to minimize and mitigate the impacts of disturbance and development of habitat for covered species in Clark County. In cooperation with the BLM and USFWS, the Permittees determined that a Reserve System consisting of approximately 215,000 acres would be needed to adequately mitigate the covered activities described in the MSHCP. The ACECs that make up the proposed Reserve System are defined in the RMP and the impacts of implementing management of the Reserve System identified in the Amended MSHCP were analyzed pursuant to the National Environmental Policy Act (NEPA) by BLM in the Environmental Impact Statement prepared for the RMP (add reference).

**II. THE PARTIES.** The parties to this OMA are the BLM and COUNTY (collectively the "PARTIES").

**BLM.** BLM is responsible under the Federal Land Policy and Management Act (FLPMA) of 1976 for ensuring that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

BLM is authorized by delegation from the Secretary to conduct investigations, studies, and experiments, on its own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands and may authorize Federal personnel or appropriate local officials to carry out its law enforcement responsibilities with respect to the public lands and their resources. In addition, through the FLPMA, BLM has responsibility to consult with local governments to assure that BLM policies, plans, and programs are as consistent as practicable with the local governmental policies, plans, and programs.

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**COUNTY.** COUNTY is responsible for compliance with the federal Endangered Species Act (ESA) through Section 10(a)(1)(B) Incidental Take Permit #XXXXXXXXXX (Permit) effective XXXXXXXXXX, administration of the Amended MSHCP finalized XXXXXXXXX; and for implementing the conservation strategy outlined in the MSHCP that provides regional ESA compliance without requiring project-by-project consultation with the USFWS. COUNTY serves as the program administrator for the Amended MSHCP on behalf of Clark County and the cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas (Permittees).

**III. AUTHORITIES.**

**BLM.**

FLPMA (43 U.S.C. 1737), Sec. 307(a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands; (b) Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development and sale of public lands.

Sec. 303(c)(2) The Secretary may authorize federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources.

**COUNTY**

NRS 244.380 authorizes COUNTY by ordinance to establish, control, manage and operate or provide money for the establishment, control, management and operation of an area or zone for the preservation of species or subspecies. In addition, the Board of County Commissioners, in cooperation with the responsible state and federal agencies, may encourage in any other manner the preservation of those species or subspecies or any species or subspecies in the county which have been determined by a committee, appointed by the Board of County Commissioners, to be likely to have a significant impact upon the economy and lifestyles of the residents of the county if listed as endangered or threatened.

NRS 277.180 authorizes COUNTY to enter into contracts with other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform.

**IV. PURPOSE OF THE CMA.**

The purpose of this CMA is to: (1) Establish a cooperative partnership between the Parties for the management of the public land resources identified in the 2012 Las Vegas Resource Management Plan (LVRMP) and the Amended MSHCP, defined as the Reserve System [provide reference to sections of LVRMP that discuss Reserve System]; (2) enhance communication and consultation between

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COUNTY and BLM with respect to management of the Reserve System; (3) outline processes and procedures for resolving future conflicts regarding management of the Reserve System and implementation of the Amended MSHCP.

This CMA establishes the processes and procedures for the management of the Reserve System by the COUNTY as defined in the RMP and the Amended MSHCP. The PARTIES will mutually benefit from the policies and procedures set forth in this CMA.

**V. PARTIES' OBLIGATIONS.**

**A. COUNTY will:**

1. Clark County shall be responsible for on-the-ground presence and lead agency responsibility in implementing and managing the Reserve System. Clark County shall manage the Reserve System in conformance with the approved MSHCP and Reserve Management Plan(s).
2. Designate a management level representative from the COUNTY to be the contact for BLM-related issues for the Desert Conservation Program and Reserve System (hereinafter referred to as the "COUNTY representative").  
The COUNTY representative will:
  - (1) Serve as a liaison between the BLM and COUNTY;
  - (2) Have the authority to represent COUNTY in all communications with BLM regarding potential conflicts regarding the use of the Reserve System and the requirements of the Amended MSHCP and ITP, and;
  - (3) Be responsible for monitoring COUNTY compliance with the terms of the CMA.

The COUNTY representative shall be:

Name, title, address, phone, email

3. Implement conservation actions on the Reserve System including but not limited to invasive plant control, law enforcement, habitat restoration and enhancement, and monitoring and management in support of MSHCP biological goals and objectives, and other related conservation actions defined in the Amended MSHCP.
4. Provide BLM with data on research, inventory, monitoring, restoration, enhancement and law enforcement activities conducted within the Reserve System.

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**B. BLM will:**

1. Provide COUNTY with management authority over the Reserve System. COUNTY shall be entitled to use the land for purposes of implementing and complying with the Amended MSHCP and permit.
2. Designate a management level representative from within the Las Vegas Field Office to be the contact for issues relating to the Reserve System (hereinafter referred to as the "BLM representative"). The BLM representative will:
  - a) Serve as a liaison between the BLM and COUNTY;
  - b) Have the authority to represent BLM in all communications with COUNTY regarding potential conflicts between applications for use of Reserve System and the Conservation Strategy goals and objectives, and;
  - c) Be responsible for monitoring BLM compliance with the terms of this CMA.

The BLM representative shall be:

Name, title, address, phone, email

3. Withdraw the land from other uses not provided for in the RMP to the full extent allowed by law and further described in section VI.
4. Undertake the requisite analyses and findings sufficient to effectuate transfer of management of the Reserve System to the COUNTY not later than XXXXXX.
5. To the maximum extent allowed by law, eliminate subsequent NEPA review for activities covered by Reserve System management plans, and maximize the use of categorical exclusions if subsequent NEPA review is required by law.
6. Authorize local law enforcement personnel identified by COUNTY to carry out law enforcement responsibilities identified in the RMP that are necessary to implement the conservation strategy outlined in the Amended MSHCP.
7. Except as otherwise required by law, the Secretary or any of the agencies, departments, subdivisions or services of the Department of the Interior shall not oppose any application to any federal, state or local government agency for permits or other approvals necessary to conduct activities on land that is consistent with the provisions of this Agreement.

**VI. ALLOWABLE USES OF THE RESERVE SYSTEM**

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The following resource constraints will apply to the Reserve System:

**A. Lands.**

The Reserve System will remain in federal ownership and identified as rights-of-way (ROW) avoidance areas except as allowed within existing transportation and utility corridors as identified in Attachment " ".

**B. Minerals.**

The Reserve System shall be closed to all new applications for locatable minerals, salable minerals, solid leasables, fluid minerals, community pits and material site ROWs.

**C. Range.**

The Reserve System shall be closed to livestock grazing and managed for zero wild horses and burros.

**D. Roads.**

All roads in the Reserve System shall be designated as either "open" or "closed" pursuant to the road designation completed by BLM in XXXXXXXX as identified in Attachment " ". No new roads will be authorized except to provide access to private property or where no feasible alternative exists and the action is considered an allowable use pursuant to this agreement and the RMP.

**E. Wildlife.**

Commercial collection of flora and fauna shall be prohibited until such time as a scientifically credible study has been completed that determines that collection does not adversely impact affected species or their habitat.

**F. Off-highway vehicles (OHV).**

The Reserve System shall be designated as "Limited to designated Roads and Trails" for all motorized and mechanized vehicles. Speed-based and non-speed-based OHV events, mountain bike races, horse endurance rides, 4WD hill climbs, mini events, publicity rides high speed testing and similar events shall be prohibited.

**G. Hunting.**

Hunting, trapping and casual collection will be allowed as permitted by the State of Nevada.

**H. Other recreation.**

Non-consumptive recreation activities including hiking, bird watching, casual bicycling, casual horseback riding, and photography shall be allowed. Other recreation uses, including but not limited to, target shooting, camping, geocaching and activities not defined herein shall be allowed on a case-by-

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case basis as determined by COUNTY to be consistent with the purposes of the Amended MSHCP. COUNTY may adopt rules for various recreational activities as necessary in order to effectively manage recreation in the Reserve System and protect covered species and habitat.

### VII. DISPUTE RESOLUTION

- A. The parties recognize that disputes concerning implementation of, compliance with or termination of this agreement, the Amended MSHCP, and the permit may arise from time to time. The parties agree to work together in good faith to resolve such disputes, using the informal dispute resolution procedures set forth in this section, or such other procedures upon which the parties may later agree. However, if at any time any party determines that circumstances so warrant, it may seek any available remedy without waiting to complete informal dispute resolution.
- B. Informal dispute resolution process. Unless the parties agree upon another dispute resolution process, or unless an aggrieved party has initiated administrative proceedings or suit in federal court, the parties may use the following process to attempt to resolve disputes:
1. The aggrieved party will notify the other parties of the provision that may have been violated, the basis for contending that a violation has occurred, and the remedies it proposes to correct the alleged violation.
  2. The party alleged to be in violation will have 30 days, or such other time as may be agreed, to respond. During this time it may seek clarification of the information provided in the initial notice. The aggrieved party will use its best efforts to provide any information then available to it that may be responsive to such inquiries.
  3. Within 30 days after such response was provided or was due, representatives of the parties having authority to resolve the dispute will meet and negotiate in good faith toward a solution satisfactory to all parties, or will establish a specific process and timetable to seek such a solution.
  4. If any issues cannot be resolved through such negotiations, the parties will consider non-binding mediation and other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good faith efforts to resolve all remaining issues through that process.

### VIII. GENERAL PROVISIONS.

- A. **Effective Date.** This CMA shall become effective as soon as signed by the PARTIES hereto and shall continue in force unless formally terminated as

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described in Section XII.C below. This CMA shall extend for a period of fifty (50) years from the date of execution, after which the CMA will expire unless it is reauthorized by both PARTIES.

**B. Modification.** This CMA represents the entire agreement and may be modified by the PARTIES only by written agreement by both PARTIES. However, the PARTIES may unilaterally modify their respective designated contacts through written notice by the representatives designated in Section V.

**C. Withdrawal and Termination.**

1. **Termination for Cause or Material Breach.** This Agreement may be terminated by BLM only in the event that Permit No. XXXXXXXX is revoked by the USFWS. Such revocation by USFWS shall be considered cause for termination and a material breach of the CMA.
2. **Procedures for Withdrawal by COUNTY.**

IN WITNESS THEREOF, the PARTIES have caused this document to be executed between County of Clark, Nevada and the Bureau of Land Management, Nevada, on this \_\_\_ day of \_\_\_, 2011.

**CLARK COUNTY:**

By: \_\_\_\_\_  
Name

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Name

**BLM:**

By: \_\_\_\_\_  
Name

The below describes the contents of the Framework Management Plan and Reserve Unit Management Plans that will be developed for each reserve unit. Items with the (0) notation will be included in the interim Framework Management Plan for interim use in the first up-to-five years a reserve unit is acquired and/or managed by the Plan Administrator (see MSHCP section 4.3.3.3.1). Items with the (1), (2), or (3) notation will be added to a working draft of a Reserve-specific Management Plan that will be completed (see MSHCP section 4.3.3.3.2) within five years.

(1)- first priority information to gather and document

(2)- second priority information to gather and document

(3) information that relies upon priority 1 or 2 information and reserve-specific objective setting

### **Framework Management Plan for amended MSHCP Reserve Units**

#### **1 Introduction**

##### **1.1 Description of the amended MSHCP reserve system (from MSHCP section 4.3.3 and 4.3.3.3.2)**

The amended MSHCP includes a reserve system for both desert and riparian habitats and covered species. Reserve unit management plans will be prepared as soon as reasonably practicable, but not longer than five years following establishment of the reserve unit. Until reserve unit management plans are developed, reserve lands will be managed on an interim basis in accordance with the best management options available. In the event that development fees cannot fully fund management in reserve units according to the requirements and guidelines in the conservation strategy, Clark County may conduct only essential management tasks and defer non-essential management tasks for up to five years on each reserve unit, or when development fees become available, whichever comes first. Essential management tasks are defined as those tasks necessary to ensure that the reserve unit does not degrade below the existing condition at the time it was incorporated into the Reserve System in terms of natural land cover and covered species habitat.

This framework management plan describes interim management guidelines and actions that will be implemented by the Permittees upon acquisition of each reserve unit until such time as a Reserve Unit-specific Management Plan can be finalized.

##### **1.1.1 Desert Habitat Reserve System Components (from MSHCP section 4.3.3.1)**

The Desert Habitat Conservation Strategy is created mostly from land transferred to the Permittees by the BLM or on land that will continue to be administered by BLM but managed by the Permittees through a long-term management agreement. Some lands or easements currently owned by Clark County, primarily the Boulder City Conservation Easement (BCCE), are also incorporated into the Reserve System and will be managed to benefit covered species. The BCCE was purchased by Clark County in 1995 to mitigate effects on the desert tortoise. The purpose of the BCCE overlaps with that of the 2000 MSHCP and the current Amendment, so it will be managed as part of the overall Reserve System. In addition, its purpose can be expanded to provide mitigation

for other covered species. Species addressed by the desert habitat conservation strategy include:

- Desert pocket mouse
- Desert kangaroo rat
- Desert tortoise
- Banded Gila monster
- Las Vegas bearpoppy
- Las Vegas buckwheat
- Sticky buckwheat
- Threecorner milkvetch
- Western burrowing owl
- White-margined beardtongue
- Twotone beardtongue (yellow and rosy)

The desert habitat reserve units include:

- Boulder City Conservation Easement (BCCE)
- Valley of Fire
- Desert Tortoise Conservation Center-Bird Springs Valley
- Hidden Valley
- Stump Springs

See the amended MSHCP section 4.3.3.1.5 for descriptions of each desert habitat reserve unit.

#### 1.1.2 Riparian Habitat Reserve System Components (from MSHCP section 4.3.3.2)

The Riparian Habitat Conservation Strategy will protect an estimated 1,000 acres of riparian habitat that can be enhanced to improve the quality and increase the amount of habitat for riparian covered birds in the plan area. Active habitat restoration will be used to further offset the impacts from covered activities. Riparian restoration will also help to contribute to the recovery of the covered birds. For example, the recovery plan for the southwestern willow flycatcher calls for restoration of breeding habitat (USFWS 2002).

A large portion of the riparian bird habitat in Clark County is concentrated in the four riparian systems referenced above on land that is not owned by the BLM and is outside of the Reserve System designed for the desert habitat and species. A large proportion of the land in these river systems is currently privately owned and is therefore subject to development pressure. To achieve this, the riparian habitat conservation strategy employs a combination of habitat protection and restoration using mitigation ratios, as described below.

Riparian habitat reserves will be assembled over time using mitigation ratios applied to impacts resulting from covered activities. Clark County will protect and restore one acre of native riparian ecosystem for every acre of native riparian vegetation lost (1:1 protection ratio and 1:1 restoration ratio). Protection will occur prior to the impact. The restoration ratio of 1:1 ensures that all riparian stands lost by covered activities will be replaced. Riparian restoration projects take several years for planted shrubs and trees to mature and provide suitable breeding habitat for the riparian birds to replace the

habitat lost to covered activities. Regardless of the level of impact, Clark County will restore at least five acres of riparian ecosystem to increase the amount of habitat for the covered riparian birds.

If impacts occur to stands of desert riparian woodland that are dominated by greater than or equal to 50 percent cover of nonnative species such as tamarisk as determined by the Plan Administrator, the required restoration ratio will be reduced to 0.5:1, in recognition of the lower habitat value of these nonnative stands for the covered riparian birds (Anderson and Ohmart 1984; Rosenberg et al. 1991; van Riper et al. 2004). Impacts to nonnative riparian habitats will be mitigated by restoring native stands (at 0.5:1). In recognition of the importance of enhancement efforts in addition to restoration, a 0.5:1 enhancement ratio, while not required, will be tracked to demonstrate additional efforts to reduce nonnative species in riparian habitats.

In evaluating riparian habitat for inclusion in the Reserve System, the following general guidelines will be used as criteria for prioritizing and selecting possible acquisitions.

- Restoration and enhancement potential
- Level of disturbance
- Proximity to sensitive lands and water sources
- Potential for development (or other degradation) if land is not conserved
- Ease of management (access, adjacent land owners, land use practices etc.)
- Complexity of land acquisition process (existing structures, underground storage tanks, need for an environmental assessment, need for parceling, etc.)
- Cost of management of lands

Species addressed by the riparian habitat conservation strategy include:

- Western yellow-billed cuckoo
- Southwestern willow flycatcher
- Arizona Bell's vireo
- Yuma clapper rail

1.2 (1) Previous reserve unit management planning documents, including MSHCP's Framework Management Plan if used in the interim

1.3 Implementation and Budgeting process (from MSHCP section X)

1.4 Management Plan Review Cycle and Adaptive Management process (from MSHCP section 4.3.3.3.1 and 4.3.3.6)

As described in section 4.3.3.3.4, every 5 years, the Science Advisor will use the best available data to assess the results of the MSHCP's monitoring program and describe the program's progress towards the objectives of each reserve unit's management plan and the MSHCP's biological goals and objects described in section 4.2. These analyses and progress assessments will be included in a publically available, written report that will also include science-based recommendations to improve minimization and mitigation actions on the reserve units.

## **2 Reserve Unit Description**

**2.1 Reserve maximum extent (from applicable MSHCP section 4.3.3.1.5 subsection for desert and from applicable MSHCP section 4.3.3.2.5 subsection for riparian)**

**2.2 Criteria for Additions to Reserve (Desert – not applicable? Riparian – from MSHCP section 4.3.3.2.2)**

### **2.3 Component Parcels**

**2.3.1 (1) Legal Description**

**2.3.2 (3) Recorded Survey of Property Boundaries**

**2.3.3 (2) Ownership History**

**2.3.4 (2) Land Use (see MSHCP section 4.3.3.1.5 for general description)**

**2.3.5 (1) Water Rights**

**2.3.6 (1) Encumbrance Summary (see MSHCP section 4.3.3.1.5 for general description)**

### **2.4 Geographic Setting**

**2.4.1 (1) Access Points**

**2.5 (2) Physical and Climatic Setting (see MSHCP section 4.3.3.1.5 for general description)**

**2.5.1 Geology and Soils**

**2.5.2 Climate**

**2.5.3 Hydrology**

**2.5.4 Fire History**

## **3 Biological Resources**

**3.1 (1) Target covered species and their habitat components known, anticipated or hoped for on the reserve during time frame of MSHCP**

**3.2 (2) Matrix communities or corridors that support above habitats**

**3.3 (2) Additional rare spp. or habitat values provided by the reserve for non-covered species**

**3.3 (3) Challenges or threats to the above that are known, anticipated during term of management plan**

## **4 (2) Cultural Resources**

**4.1 Summary of known past human uses**

## 4.2 Regulations

## 4.3 Survey or Inventory status and where those data reside (SHPO, BLM, ?)

# 5 Resource Management

## 5.1 Management Goals and Objectives

5.1.1 MSHCP goals and objectives will be used as guidance for those species likely or modeled to be present on each reserve system (from MSHCP species accounts (appendix of MSHCP?))

### 5.1.2 (3) Reserve-specific objectives

5.2 Property Maintenance (0 - general inspection, maintenance and installation guidance; 2 - complete a GIS inventory and reserve-specific inspection / patrol schedule)

Interim management will include maintaining baseline conditions of each reserve unit. Baseline conditions will include such things as maintaining any existing parking areas as well as existing amenities that may exist in these reserves, installing and maintaining signs throughout each reserve unit, maintaining any existing fences, etc.

### 5.2.1 Access points, parking, gates, traffic fences and tortoise guards

### 5.2.2 Recreational Use

The Reserve System shall be open to the public. Recreational use, which must be compatible with the protection and enhancement of ecosystems, covered species, and biological diversity on the reserve unit. As soon as practicable, all roads and trails in the Reserve System shall be designated as either "open" or "closed". The primary public access within the Reserve System shall be roads and trails designated as "open". Management and maintenance of public access shall be designed to avoid or reduce impacts to covered species and resources. In addition, as appropriate, these activities are subject to the avoidance and minimization measures described in the Amended MSHCP, section 4.3.3.3.3

Non-consumptive recreation activities including hiking; bird watching; casual mountain biking and casual horseback riding on designated open trails; photography; picnicking and camping in designated areas; non-speed, casual OHV and motorized vehicle use, under 25 mph on designated open roads and trails; hunting and trapping as allowed by permit by the State of Nevada; and geocaching and orienteering, limited to existing locations and designated open roads and trails may cause incidental take in the Reserve System. These activities are not expected to adversely impact covered species or their habitat within the Reserve System. Other recreation uses and activities not defined herein shall be allowed on a case-by case basis as determined by the Plan Administrator to be consistent with the purposes of the Amended MSHCP. The Plan Administrator may adopt rules for all recreational activities as necessary in order to effectively manage recreation in the Reserve System and protect covered species and their habitat. Recreational activities shall be managed to avoid or reduce impacts to covered species

and resources. In addition, as appropriate, these activities are subject to the avoidance and minimization measures described in Section 4.3.3.3.3.

#### **5.2.2.1 Road Network (status, documentation and signs)**

Casual OHV will be permitted on existing roads, trails and washes under 25 miles per hour. Clark County will work with the BLM to relocate all speed and non-speed based OHV events outside of the reserve units to reduce impacts, threats and stressors to covered species and their habitat. This will decrease unnecessary conflicts in the reserve units and will allow areas where these activities occur to be reclaimed and increase the conservation value of the reserve units. Clark County will work with the BLM during the preparation of its Comprehensive Travel and Transportation Management Program to designate the reserve units as "limited" to roads and trails designated as "open" for OHV travel and will incorporate the BLM road designations resulting from this process into the Reserve-Specific Management Plans as appropriate. This will allow closed roads, trails and washes to be reclaimed, will reduce habitat fragmentation, threats and stressors to covered species and their habitat and will increase the conservation value of the reserve unit. Maintenance and improvements to open roads and trails, and installation and maintenance of kiosks, signs, fences and barriers to manage public access is a covered activity in the Amended MSHCP. No new roads or trails will be authorized except to provide access to private property or where no feasible alternative exists and the action is considered necessary and unavoidable infrastructure as described in Chapter 3 (Section 3.3.3). The Plan Administrator may adopt rules for public access activities as necessary in order to effectively manage the Reserve System and protect covered species and their habitat.

#### **5.2.2.2 Non motorized trail (status, documentation and signs)**

Maintenance and improvements to open roads and trails, and installation and maintenance of kiosks, signs, fences and barriers to manage public access is a covered activity in the Amended MSHCP. No new roads or trails will be authorized except to provide access to private property or where no feasible alternative exists and the action is considered necessary and unavoidable infrastructure as described in Chapter 3 (Section 3.3.3). The Plan Administrator may adopt rules for public access activities as necessary in order to effectively manage the Reserve System and protect covered species and their habitat.

#### **5.2.2.3 Designated (or allowable traditional in advance of designation) Camping**

Picnicking and camping in designated areas is an allowable, non-consumptive recreational activity within the Reserve System.

#### **5.2.2.4 Designated (or allowable traditional in advance of designation) Shooting Areas**

#### **5.2.2.5 Hunting and Guzzler Access**

Hunting and trapping as allowed by permit by the State of Nevada is an allowable, non-consumptive recreational activity within the Reserve System. It is anticipated that access to wildlife guzzlers for inspection and maintenance will be addressed in the BLM's Comprehensive Travel and Transportation Management Program.

#### **5.2.3 Wildlife fencing (locations, objectives, design, inspection and maintenance info)**

#### **5.2.4 Water improvements**

In the event that grazing allotments within the reserve system are acquired with associated water rights or additional water rights are acquired after the MSHCP is amended, Clark County will work to prepare change applications for surface water rights purchased through grazing allotment acquisitions. The beneficial use will be changed from stock water to wildlife and habitat protection. In addition, Clark County will coordinate with the BLM and/or NDOW to allow use of these water rights in water developments to benefit covered species and habitat.

#### **5.2.5 Mining claims (from 4.3.3.3.1)**

Clark County will work with BLM to close the reserve units to new mining claims to the extent allowable by law. The validity of most of the existing claims remain uncertain. In the event that existing claims are valid and move forward, Clark County will work with the BLM to ensure that the Plan of Development adequately minimizes and mitigates for disturbance as allowed by law. This will allow lands that were part of invalid claims to be protected and will increase the conservation value of the reserve units.

#### **5.2.6 Rights of Way permitting and management (from MSHCP section 4.3.3.3.1)**

Clark County will work with the BLM to designate the reserve units as right-of-way avoidance areas. Existing ROWs will be monitored to ensure that any impacts associated with authorized activities are minimized and mitigated appropriately. Within the Stump Springs Unit, there are two major utility corridors that bisect the unit but are largely parallel. Clark County will request that BLM amend the RMP to combine the two corridors and limit the amount of potential disturbance to a single corridor. This will allow lands within the undesignated corridor to be reclaimed, reduce fragmentation of the habitat, and increase the conservation value of the reserve units.

#### **5.2.7 Herd Management Areas (from MSHCP section 4.3.3.3.1)**

Clark County will work with the BLM to amend the Herd Management Areas (HMAs) to be designated for zero Animal Management Level (AML) within the reserve units and will actively manage the units to prevent horses and burros from degrading habitat. This will remove unnecessary conflicts between horses, burros and covered species, will reduce threats and stressors from grazing and will increase the conservation value of the reserve units.

#### **5.2.8 Material Sites (from MSHCP section 4.3.3.3.1)**

Clark County will work with the BLM and Nevada Department of Transportation (NDOT) to close or withdraw existing community or NDOT material sites and will evaluate these

sites for restoration potential. This will allow closed material sites to be reclaimed and will increase the conservation value of the reserve units.

#### **5.2.9 MSHCP Required Minimization and Avoidance Measures (from MSHCP section 4.3.3.3.3)**

To protect habitat and occurrences of covered species, all ground disturbing activities implemented by the Permittees within the Reserve System will be confined to the minimum area necessary to complete the activity. Where disturbance of the Reserve System is unavoidable, all avoidance and minimization measures described in section 4.3.3.3.3 will apply to the reserve system.

Prior to any ground disturbing activities within the Reserve System, a project site plan with detailed maps and a restoration plan will be submitted to and evaluated by the Plan Administrator. The restoration plan will describe pre- and post-disturbance monitoring of the project site, measures to be taken to avoid and minimize impacts to covered species, and how the following required salvage and restoration activities will be implemented. Depending on the type of project activities and the resulting degree of ground disturbance, seeds; cactus, yucca and agave; vertical mulch; surface rocks; and/or soil layers will be salvaged and used to restore and camouflage the site after ground-disturbing activities are completed. As described above, additional requirements apply when a project site includes or is adjacent to covered plant habitat.

### **5.3 Conservation Actions**

#### **5.3.1 Law Enforcement (from MSHCP sections 4.3.3.3.2.2 and 4.3.3.4.2)**

Law enforcement has been shown to be an essential component of both the enforcement of recreational and other restrictions and the extension of conservation information to the public. Law enforcement within the Reserve System will be modeled on the successful approach used for the BCCE. The primary task of law enforcement is to ensure that users follow the rules of the Reserve System. In addition, as Clark County representatives that the public is most likely to meet, these officers will provide information to the public on conservation values of the Reserve System and reasons for the use restrictions and rules. Their emphasis will be on helping the public understand the mission of the Reserve System, its importance as an area for protected species, and the uses that are allowed and prohibited. Each reserve unit defined in the Desert Habitat Conservation Strategy is anticipated to have roughly one full time (40 hours/week) law enforcement agent dedicated to that area. Law enforcement on the riparian units will be managed as needed.

#### **5.3.2 Invasive Plant Species Control (from MSHCP section 4.3.3.3.2.3)**

##### **5.3.2.1 Weed Sentry Survey and Incipient Infestation Control (from MSHCP section 4.3.3.3.4 also)**

##### **5.3.2.2 (2) Weed Control for widespread species**

**5.3.3 (3) Restoration activities that may take place during term of (reserve unit management plan) plan- details will be in each specific restoration plan/design (from MSHCP section 4.3.3.3.2.1)**

**5.3.4 (2) Public Education and Outreach (from MSHCP section 4.3.3.4.1 and 4.3.3.4.3)**

**5.3.5 (2) Grazing Allotments and Water Rights Acquisition and/or Management (from MSHCP 4.3.3.3.2.5)**

#### **5.4 Monitoring (from MSHCP section 4.3.3.3.4)**

**Initial, interim monitoring efforts prior to completion of a reserve-specific management plan will focus on the weed survey monitoring program. The reserve-specific management plans will describe for each reserve unit a tailored monitoring program designed to address the covered species, threats and management actions found in that unit. The general types of monitoring are described further in section 4.3.3.3.4. The reserve unit monitoring data, as well as results from third party, regional monitoring programs and other available data, will be used to provide context to the results of effectiveness monitoring as well as regional trends data to inform the adaptive management process, described in section 4.3.3.6.**

##### **5.4.1 (1) Initial threats survey with aerial photography at first opportunity**

**The County periodically procures a aerial imagery layer that the monitoring program will use to delineate disturbances and other threats on the reserve system. Purchasing aerial imagery in conjunction with the periodic County purchase results in cost savings to the program.**

##### **5.4.2 (2) Initial covered plant species surveys to document initial population distribution**

**Documenting initial distributions of covered plant species is essential to the reserve-specific design of long-term reserve-specific covered plant monitoring, and will take place prior to completion of the reserve-specific management plan.**

##### **5.4.3 (3) Long-term Reserve-specific Species, Threats and Effectiveness Monitoring**

**5.4.3.1 Refer to documents that describe each monitoring protocol in detail**

**5.4.3.2 Describe which protocols, geographic extent of reserve to be sampled, frequency of sampling**

**5.4.3.3 Describe extramural monitoring data that will take place by third parties or with our contribution**

#### **5.5 Public Use**

**5.5.1 Allowable uses (from MSHCP section 4.3.3.3.1)**

**5.5.2 Permit request process**

#### **5.6 Fire Response, Firefighting Resources (H2O) and Fuels Management**

5.6.1 (1) Fire and Emergency Contacts (911 is in Framework Management Plan)

5.6.2 First Responders/Incident Commander Process

Don't we already have language somewhere from Christina on this topic? Where is it stored?

5.6.3 (1) Resources for Fire Responders (available water sources, staging areas)

5.6.4 Fuels Management (reduction and fuel breaks) (flesh out information mentioned in MSHCP section 4.3.3.3.2.4 into some clear guidelines for initial fuels management)

## **6 Neighbor Relations**

6.1 (1) Fire and Emergency contacts

see also section 7.1 is one of these subsections redundant?

6.2 (1) Public, Tribal Neighbor contacts

6.3 (2) Refer to Appendix for private neighbor contacts

6.4 (1) Refer to Appendix for utility contacts

6.5 (2) Local jurisdictions, voting districts, Town Advisory Board contact information

6.6 (2) Wildlife and Resource Committees and Teams

## **7 Safety**

7.1 Contact information (list general first responder contacts, emergency numbers)

In all portions of the County, 911 Emergency Service is accessible (is this true and how do we find out?) and should be the first call for assistance. For portions of the reserve system that are part of the Bureau of Land Management's land base, or for emergencies that may occur on adjacent federal lands, the interagency central dispatch number may also be called after 911 is attempted. The interagency central dispatch number is XXXXXXXXXXXX.

7.2 Highlight applicable portions of County's/Department's safety plan

**1.0 HAZARD IDENTIFICATION, ANALYSIS, AND CONTROL**

**1.1 HAZARD IDENTIFICATION**

**1.2 HAZARD ANALYSIS**

**1.3 HAZARD CONTROL**

## **1.4 HEAT STRESS**

**1.4.1 Risk or Hazard: Heat Cramps**

**1.4.2 Risk or Hazard: Heat Exhaustion**

**1.4.3 Risk or Hazard: Heat Stroke**

## **1.5 ANIMAL HAZARDS**

**1.5.1 Risk or Hazard: Poisonous or Dangerous Animals**

**1.5.2 Site Visit Safety**

**1.5.3 Risk or Hazard: Getting Lost/Stranded Outside the Las Vegas Urban Area**

## **2.0 VEHICLE SAFETY**

### **2.1 DRIVING HAZARDS**

**2.1.1 Risk or Hazard: Vehicle Breakdown**

**2.1.2 Risk or Hazard: Loose Items in Vehicle**

**2.1.3 Risk or Hazard: Driving an Unsafe Vehicle**

### **2.2 WEATHER HAZARDS**

**2.2.1 Risk or Hazard: Wind**

### **2.3 GOING TO REMOTE AREAS**

**Appendix 1 (ongoing) Species, Weeds and Habitat Inventory**

**Appendix 2 (1) Property-specific Agreements, MOA, MOU**

**Appendix 3 (2) Encumbrances (ROWs, Mine claims, RS2477, road designation or inventory, etc.)**

**Appendix 4 (1) Private Neighbors Contacts**

**Appendix 5 (1) Utilities Contacts, Accounts and Passcodes**

**Attachment No. 1**  
**Desert Conservation Program Comment Form**  
**BLM-SNDO RMP/EIS Administrative Draft 12/23/13 Version**

The BLM requested the following information from Clark County: 1) for each unit provide the management goals and objectives and a complete list of land use allocations needed to meet resource objectives; 2) demonstrate the resource values of each proposed unit and why the area is important to protect; 3) identify what resources Clark County will provide to ensure the resource objectives are met; 4) demonstrate that there is full support that each area is viable as a reserve unit and would likely be approved; 5) demonstrate why the existing and proposed ACECs cannot meet reserve unit requirements and/or that other actions cannot be utilized to support the permit amendment; and 6) provide a timeline for approval of the section 10(a) permit amendment.

**1. For each unit provide the management goals and objectives and a complete list of land use allocations needed to meet resource objectives.**

The goals and objectives listed below are organized by covered species. In some cases, covered species are grouped (e.g., riparian birds). These goals and objectives were developed to meet the mitigation needs of each covered species and to help conserve the species in Clark County.

Goal 1: Maintain or improve desert tortoise habitat quality and quantity and maintain stable or increasing desert tortoise populations within the Reserve System and minimize impacts to the desert tortoise from covered activities.

Objective 1.1: Protect approximately 200,000 acres of desert tortoise habitat in the Reserve System for the benefit of the species.

Objective 1.2: Manage and/or enhance 200,000 acres of desert tortoise habitat within the Reserve System.

Objective 1.3: Improve management on 86,000 acres of desert tortoise habitat in the Boulder City Conservation Easement for the benefit of the species.

Objective 1.4: Minimize effects of covered activities on desert tortoise and their habitat.

Goal 2: Maintain banded Gila monster populations in the Reserve System.

Objective 2.1. Protect and enhance approximately 28,000 acres of modeled habitat for banded Gila monster in the Reserve System.

Goal 4: Improve the quality and increase the amount of habitat for riparian covered birds in the plan area and minimize impacts to these species from covered activities.

Objective 4.1: Preserve approximately 7,000 acres of the desert riparian/aquatic ecosystem within the Reserve System to support breeding habitat for covered riparian birds.

Objective 4.2: Mitigate for losses of desert riparian vegetation by preserving additional native desert riparian stands at a ratio of 1:1 and restoring native stands at a ratio of either 1:1 (for loss of native stands) or 0.5:1 (for loss of nonnative stands) to ensure no net loss of this habitat type.

Objective 4.3: Enhance existing stands of desert riparian vegetation within the Reserve System for the benefit of covered riparian birds.

Objective 4.4: Minimize effects of covered activities to stands of desert riparian vegetation and to active nests of riparian covered birds through establishment of 250-foot no-disturbance buffers during the breeding season.

Goal 5: Maintain populations of desert kangaroo rat and desert pocket mouse in the Reserve System.

Objective 5.1: Preserve and/or enhance approximately 70,000 acres of modeled habitat for desert kangaroo rat and desert pocket mouse in the Reserve System, including lands on the Boulder City Conservation Easement.

Goal 6: Maintain populations of covered bats (Townsend's big-eared bat and spotted bat) in the Reserve System and minimize impacts to these species from covered activities.

Objective 6.1: Preserve and/or enhance foraging habitat and roost sites for covered bats in the Reserve System.

Objective 6.2: Minimize impacts to breeding sites for covered bats through pre-construction surveys, avoidance, and construction monitoring in caves, mine shafts, or bridges with potential bat habitat throughout Clark County and in abandoned buildings in the Reserve System.

Goal 7: Maintain stable or increasing populations of the covered plants (Las Vegas bearpoppy, Las Vegas buckwheat, forked [Pahrump Valley] buckwheat, sticky buckwheat, threecorner milkvetch, white-margined beardtongue, yellow twotone beardtongue) in and outside the Reserve System.

Objective 7.1: Preserve and/or enhance habitat and protect occurrences of covered plants in the Reserve System.

Objective 7.2: Implement conservation measures on public land in partnership with landowners to maintain and/or enhance populations of covered plants not found in the Reserve System (white-margined beardtongue and yellow twotone beardtongue).

Objective 7.3: Minimize impacts of covered activities on covered plants through translocation and by collecting seeds from willing landowners in areas expected to be lost to covered activities and utilizing them for restoration projects in the Reserve System.

### ***Land Use Allocations***

The County, and presumably the US Fish and Wildlife Service (FWS), requires the proposed reserve units be allocated as an Area of Critical Environmental Concern (ACEC) or some other protective land use allocation that will provide beneficial, or at the very least neutral, impacts to covered species and their habitat. Of particular interest is that the land use allocation provides sufficient protection and durability for at least the term of the amended MSHCP and permit, if not in perpetuity. It is of critical importance that conservation measures and mitigation actions funded with limited Section 10 mitigation fees are not later negatively impacted or negated by BLM land use decisions.

Specifically, the County requests the following land use allocations in each proposed Reserve Unit:

### ***Lands & Realty***

- ACEC 01 - Retain all reserves in federal ownership and designated as a reserve unit for the life of the amended permit.
- ACEC-02
- ACEC-03
- ACEC-04
- ACEC-06
- ACEC-07 as stated in Alternative 1; possibly Alternatives 2-4 with additional explanation and description. As currently written it appears too subjective to be reliable.
- ACEC-08
- ACEC-09 as proposed in Alternatives 2 and 3
- ACEC 10 as proposed from Alternatives 2-4

- Linear ROWs: Avoid except in designated corridors and consolidate designated corridors to reduce fragmentation wherever possible.
- Site-type ROWs/Leases: Exclude site type ROWs/leases less than 5 acres except within designated corridors and limit site type ROWs less than 5 acres to those that are necessary for the operation of linear ROWs. Exclude site-type ROWs/leases greater than 5 acres.
- Material site ROWs: Allow within one quarter mile of the edge of a federal highway ROW.
- FHWA and NDOT mineral material site ROWs: Allow within one quarter mile of the edge of a federal highway.
- Exclude landfills
- Exclude military maneuvers
- Exclude commercial activities

***Special Status Species***

- ACEC-11

***Integrated Vegetation***

- ACEC-13 as proposed in Alternatives 2-4
- ACEC-14 as proposed in Alternatives 2-4
- ACEC-15 as proposed in Alternatives 2-4

***Minerals***

- Fluid leasable: Closed
- Locatable: Withdraw
- Saleable: Closed

***Livestock grazing:*** Closed

***Wild Horse and Burro:*** Manage wild horses and burros for an AML of zero

***Recreation***

- Camping: Allowed in designated areas
- Target shooting: Allowed in designated areas
- Speed events: Excluded
- Non-speed events: Allowed on a case by case basis
- Commercial: Allowed on a case by case basis if not in conflict with the protection and conservation of covered species and their habitat.

***Travel Management:*** Limited to designated roads and trails

***Fish and Wildlife and Sensitive Species***

- Manage the Reserve Unit specifically for the protection and conservation of the covered species and their habitats.
- Allow commercial collection only upon completion of a credible study or investigation that demonstrates commercial collection does not adversely impact affected species or their habitat as determined by Clark County, BLM, FWS and NDOW.
- Implementation protection, conservation, mitigation and recovery actions dealing with management of the reserve units.
- Support the installation of tortoise fencing and culverts where necessary to protect tortoises and allow tortoises to cross under highways and other heavily used roads.

- Trenching, grading, grubbing, and other similar mechanical ground-disturbing activities would be prohibited during April, May, September and October.
- 1% cumulative disturbance cap for all federal actions (percentage of reserve unit including designated corridors).
- 160 acre cumulative disturbance cap for site type ROWs for all reserve units combined.

**Fire**

- Minimize impacts to tortoise habitat during response to wildland fire. Give priority to keeping the wildfire size to an absolute minimum.
- Allow prescribed fire to meet resource objectives and habitat enhancement purposes in appropriate areas to support habitat recovery objectives.

**Vegetation**

- Allow the use of approved herbicides following ground-disturbing activities to implement invasive species control and support habitat restoration and recovery.
- Activities that result in the loss or degradation of covered species habitat would require reclamation to pre-disturbance condition within a reasonable time frame.

**2. Demonstrate the resource values of each proposed unit and why the area is important to protect.**

Respectfully, this information has been provided to BLM on numerous occasions most notably in Clark County's nominations of each unit as an Area of Critical Environmental Concern (ACEC) dated March 18, 2011. Additional information was provided to the BLM on June 9, 2011 and June 29, 2012. At this point, it would be most helpful to the County if the BLM identified the specific information it is missing and is necessary to compel the BLM to recognize the reserve areas as important to protect.

**3. Identify what resources Clark County will provide to ensure the resource objectives are met.**

Should the BLM, County and FWS agree on a mitigation strategy and the County is issued an amended MSHCP and permit, the County will be required to ensure that adequate funding for the amended MSHCP will be provided. In addition, the FWS must ensure that funding sources and levels proposed by the County are reliable and will meet the purposes of the amended MSHCP, and that measures to deal with unforeseen circumstances are adequately addressed.

The County currently carries a fund balance of approximately \$47 million and will generate approximately \$33 million in mitigation fees on the remaining 60,000 acres on the current permit. In addition, the fund balance will generate approximately \$17 million in interest income from 2014 – 2031 (the end of the current permit term). Once the acres remaining on the current permit are exhausted, it is the County's intent to adopt a new per acre mitigation fee in an amount that will cover the costs of the amended permit. This will be assured by the County or the FWS will not issue the amended permit. The amended permit can be terminated by the FWS upon the County's failure to ensure resources are available for implementation.

**4. Demonstrate that there is full support that each area is viable as a reserve unit and would likely be approved.**

The County intends to take a resolution to the Board of County Commissioners on March 5, 2014 reaffirming staff direction to negotiate an amended MSHCP and permit which includes the establishment and management of a reserve system.

The County and FWS signed a Point of Tentative Agreement dated April 6, 2010 to establish a reserve system from BLM multiple use lands. Since then, the County has engaged the FWS in continuous discussions about the proposed reserve system and it has no reason to believe the FWS would not support the proposed units as reserves for an amended MSHCP and permit.

**5. *Demonstrate why the existing and proposed ACECs cannot meet reserve unit requirements and/or that other actions cannot be utilized to support the permit amendment.***

The existing ACECs have been used to offset Section 7 and Section 10 impacts for nearly two decades. The existing ACECs already serve as conserved lands in the current MSHCP. The County is requesting an additional 200,000 acres of take. To mitigate the impacts of an additional 200,000 acres of take, the County has proposed to establish a reserve system based on a 1:1 ratio of disturbed lands to reserve lands. In order to clearly and transparently demonstrate the conservation benefit of the mitigation strategy, the County, as advised by FWS, identified lands currently managed as multiple use to become reserve units and managed for the conservation of covered species and their habitat. In addition, during discussions with the Community Advisory Committee, environmental stakeholders and the FWS, it became clear that a desirable objective of the amendment process was to ensure the County's mitigation is additive to current land management efforts rather than to essentially "double dip" and rely on existing ACECs. The County believes moving forward and relying on existing ACECs as the reserve system would subject the County, permittees and FWS to unnecessary legal risk and challenge.

Out of an abundance of caution and for administrative ease, the County prepared a draft impacts analysis for the proposed amendment that essentially characterized all lands under 4,500 feet in elevation as suitable habitat for the desert tortoise and other low elevation covered species. For the amendment effort, this resulted in a draft impacts analysis of approximately 200,000 acres. Subsequent to this analysis, the USGS has published, and the FWS has refined, a habitat model for the desert tortoise that predicts potential habitat for tortoise throughout its range and also characterizes habitat from its highest to lowest potential for tortoise. The County now has an opportunity to refine the impacts analysis and look at potential impacts at a much finer scale. The County has an opportunity to put the USGS/FWS tortoise habitat models to use in a manner that is consistent with other regional scale impacts analyses currently underway elsewhere.

Therefore, it is possible that the proposed additional ACECs meet the County's reserve unit requirements. However, in many instances, the configuration of the proposed ACECs does not meet reserve unit design criteria. As just one example, in Alternative 2, if the Old Spanish Trail, California Wash, Muddy Mountains, and Milkvetch proposed ACECs were all adopted, the County's proposed Valley of Fire reserve unit would largely be intact, with one notable exception of a large linear swath between California Wash and Bitter Springs/Muddy Mountains proposed ACECs that is left unprotected. This hole makes the Old Spanish Trail and California Wash proposed ACECs too small to support viable populations, increases edge effects and effectively disconnects these ACECs from the Bitter Springs and Muddy Mountains proposed ACECs. It is important that the proposed additional ACECs be configured in a way that meets basic reserve design criteria:

- Provide high quality habitat for covered species.
- Be large enough to support viable populations of covered species.
- Provide connectivity to other high priority conservation lands
- Provide a diversity of environmental gradients to accommodate shifts in species distributions.
- Provide opportunities for habitat enhancement and restoration for the benefit of covered species
- Minimize the length of edges that are detrimental to the reserve system and more difficult and costly to manage

**The County, as a Cooperating Agency, continues to strongly urge that the BLM include in at least one alternative the County's proposed reserve units in their entirety. To date, the BLM has not provided any explanation as to why this request cannot or will not be accommodated in the range of alternatives.**

**6. Provide a timeline for approval of the section 10(a) permit amendment.**

The timeline for approval of the amended MSHCP and permit are dependent on negotiations among the County, BLM and FWS. The County stands ready to work with the BLM to meet its timeline for RMP amendment, especially as it relates to land use allocations in the RMP.



# Nye County

## **Nuclear Waste Repository Project Office**

**2101 E. Calvada Blvd., Ste. #100 • Pahrump, Nevada 89048  
(775) 727-7727 • Fax (775) 727-7919**

13-023 (LK) L

April 26, 2013

Bureau of Land Management  
Southern Nevada District Office  
Pahrump Field Office  
Deborah MacNeill, Field Manager  
4701 North Torrey Pines Drive  
Las Vegas, Nevada 89130

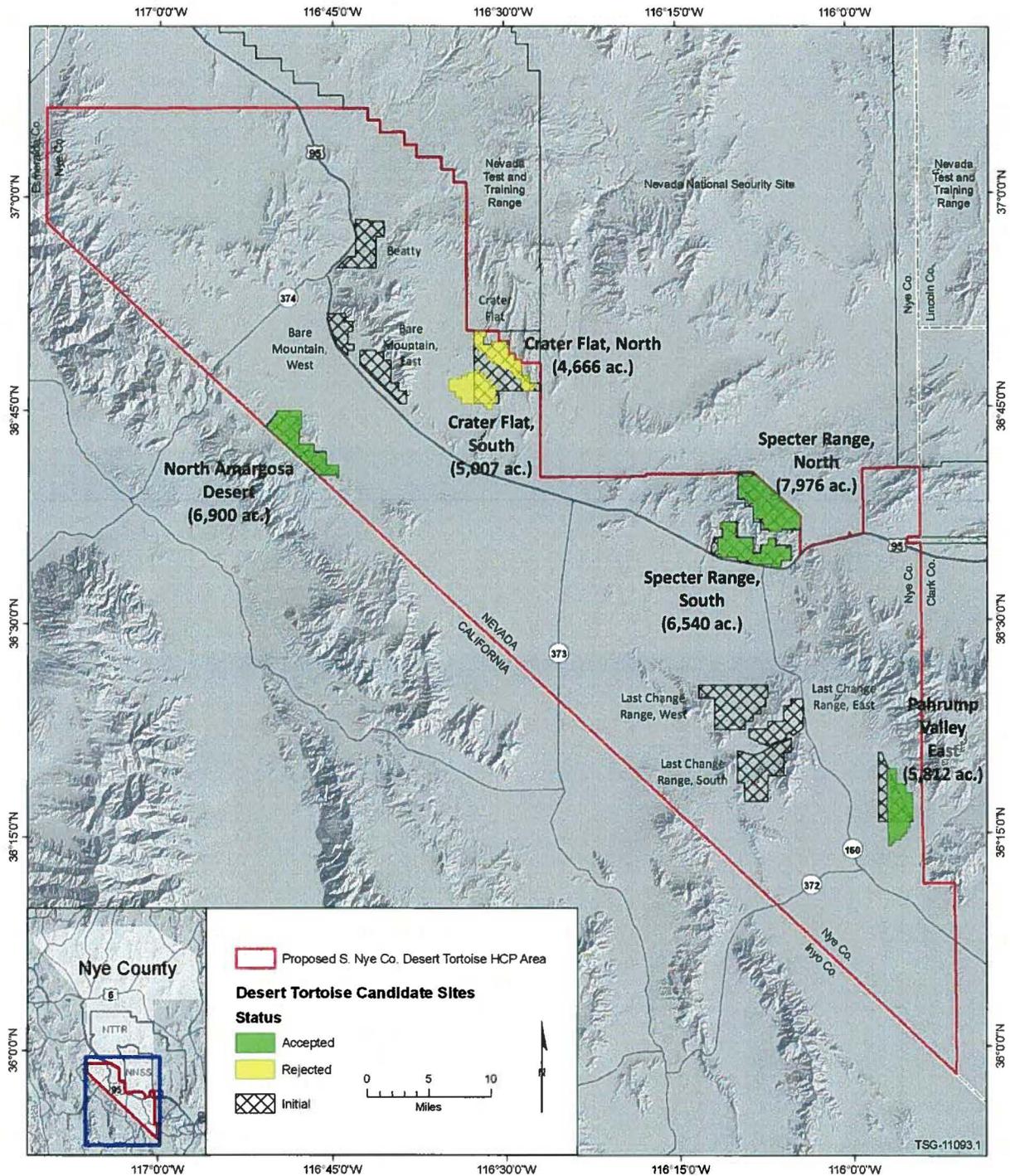
### **Mitigation Areas for Southern Nye County Habitat Conservation Plan for the Mojave Desert Tortoise (*Gopherus agassizii*)**

Dear Ms. MacNeill and Ms. Ronning:

Thank you for continuing to work with Nye County, Nevada as we proceed with the Habitat Conservation Planning process pursuant to Section 10 of the Endangered Species Act.

This letter is to document our desire to partner with your office to establish one or more desert tortoise conservation areas on public lands administered by the Bureau of Land Management (BLM). In a previous correspondence to you, dated May 24, 2011, we nominated four sites to be further evaluated by the BLM as locations for establishing a Nye County Desert Tortoise Mitigation Conservation Area. The four candidate sites, shown in green in Figures 1, 2 and 3 are herein referred to as *Specter Range North*, *Specter Range South*, *North Amargosa Desert*, and *Pahrump Valley East* candidate sites.

Nye County requests that the BLM consider these four candidate sites for further evaluation in its ongoing Resource Management Planning (RMP) effort and Environmental Impact Statement.



**Figure 1. Southern Nye County Desert Tortoise (*Gopherus agassizii*) Habitat Conservation Plan Study Area (red outline) with accepted candidate sites in green. Sites shown in yellow will not be considered further. Sites shown with cross hatch pattern were the initially considered, but eliminated during subsequent review, based on additional exclusionary criteria.**

Because the Southern Nye County Desert Tortoise Habitat Conservation Plan Study Area encompasses such a large area, Nye County requests that each of the four candidate sites be considered in the RMP analysis individually as single conservation areas of 5,000 acres total, as well as portions (approximately 2,500 acres each) of any two geographically separate areas that together total 5,000 acres. This approach ensures flexibility in establishing the final conservation area or areas, as may be appropriate, for tortoises that may require relocation from within the large geographic area that encompasses the Towns of Pahrump, Amargosa Valley and Beatty, Nevada.

As background, in 2011, Nye County Board of Commissioners adopted a Comprehensive Master Plan. The relevant section for purposes of the proposed tortoise mitigation is:

*3.3.1 Goals, Objectives, and Policies:*

**HABITAT AND WILDLIFE CONSERVATION GOAL-1: To work with appropriate federal, state and local agencies to identify wildlife resources and habitat areas that exist within the county.**

Objective 1 - Coordinate with other government entities and agencies in regards to habitats and wildlife in a timely fashion.

*Policy A. The county may determine it necessary to protect and preserve desert flora and fauna to the extent practicable.*

*Policy B. Develop and implement HCP planning that balances the need for growth with protection of threatened and endangered species.*

Objective 2 - Sensitive species of native plants and animals will receive special management emphasis to ensure their viability and to preclude the need for federal listing.

*Policy A. The county will promote long-term conservation of species and habitats through education and management strategies.*

Public Benefits of Conservation

We analyzed and documented some of the public benefits that can occur by designating the proposed Desert Tortoise Habitat Conservation Areas including the following:

- Economic Benefit - Only about 2 percent of the land area in Nye County is privately owned (Nye County Comprehensive Master Plan 2011). There is an economic benefit to allowing landowners full use of the small amount of private land that is available for development in Nye County. Having conservation lands set up in advance will assist landowners and reduce the burden on the federal government to manage federal compliance issues on a case by case basis.

- Historical, Scenic, Ecological, Environmental, Water and Archeological Benefits - Resource values will be preserved and protected within the proposed conservation areas. These areas provide food and habitat for wildlife and domestic animals and provide for outdoor recreational opportunities including outdoor education, hiking, mountain bicycling, hunting, off-road vehicle use and camping.
- The social benefits of managing these few relatively small areas as multiple use with an emphasis on tortoise habitat protection and tortoise population enhancement outweigh the negative impact to the public that any land use restrictions will impose.
- Designation of the lands as Desert Tortoise Conservation Areas allows existing uses to continue and provides certainty to the BLM, the County and the public regarding future uses.

#### Specter Range, North and South Desert Tortoise Conservation Area

Within the Specter Range, North and South, we recommend that existing roads and Right of Way (ROW) permits remain unaffected. We recommend future land management planning place emphasis on the area as desert tortoise habitat, limiting ROW applications and other permits to the point necessary to assure compatibility with objectives related to tortoise habitat conservation.

#### North Amargosa Desert Tortoise Conservation Area

This Conservation Area is at the north end of the HCP for facilitation of tortoise transplants close to their original habitat. We recommend that existing roads and ROW permits remain unaffected. We recommend future land management planning place emphasis on the area as desert tortoise habitat, limiting ROW applications and other permits to the point necessary to assure compatibility with objectives related to tortoise habitat conservation.

#### Pahrump Valley East Desert Tortoise Conservation Area

Adjacent to the Pahrump Valley East Desert Tortoise Conservation Area we recommend corridors be set to accommodate the proposed Pahrump Valley Beltway Road and the proposed transmission lines already in planning. We recommend against additional roads and transmission lines within the Conservation Area once established. Future Right of Way (ROW) permits should be limited in size to approximately 5 acres or less and spaced appropriately to assure genetic corridors remain viable for desert tortoise population expansions and contractions over time.

#### General Guidelines Within Conservation Areas

- In all four Conservation Areas we recommend analyzing impacts from a biological perspective.
- Assess impacts and determine whether they can be mitigated offsite.
- Identify tortoise habitat corridors on a map and maintain or improve habitat within important corridors for tortoise population growth and linkages between continuous functioning habitats.

- Determine proper allocations for transportation and energy corridors from a biological perspective.
- Consider working with the County to jointly establish speed limits within the Conservation Areas. Allow County law enforcement personnel to enforce speed limits.
- Exclude large projects (i.e., large substations) within Conservation Areas.

In summary, we request partnership on the above items and look forward to working with you. If you have questions, please feel free to contact me at (775) 727-7727.

Sincerely,



Levi Kryder  
Geoscience Manager; Acting Natural Resources Manager  
Nye County NWRPO

CC: John Evans, Planning & Environmental Coordinator, BLM, Las Vegas Field Office  
Mike Senn, US Fish and Wildlife Service  
Jeri Krueger, US Fish and Wildlife Service  
Butch Borasky, Nye County Commissioner  
Pam Webster, Nye County Manager  
Darrell Lacy, Director, NWRPO



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14-004 (LK) L

February 7, 2014

Bureau of Land Management  
Southern Nevada District Office  
Gayle Marrs-Smith, Acting Field Manager  
4701 North Torrey Pines Drive  
Las Vegas, Nevada 89130

Lee Kirk, RMP Project Manager  
Bureau of Land Management  
Southern Nevada District Office  
4701 North Torrey Pines Drive  
Las Vegas, Nevada 89130

**Information Requested by BLM in Further Consideration of Nye County-Proposed Desert Tortoise Reserve Unit Lands in the SNDO RMP**

Dear Ms. Marrs-Smith:

In response to Nye County's comments on BLM's Cooperating Agency draft Resource Management Plan (RMP) and Environmental Impact Statement (EIS), BLM six times noted the following:

*The BLM requires additional information from Nye County in order to consider your proposed Desert Tortoise Mitigation Areas, which will support requirements of a Habitat Conservation Plan section 10(a) permit issued by the U.S. Fish and Wildlife Service. Please provide the following information to BLM by February 7, 2014: (1) For each mitigation area, provide management goals and objectives and a complete list of land use allocations needed to meet resource objectives. (2) Demonstrate the resource values of each proposed mitigation area and why the area is important to protect. (3) Identify what resources Nye County will provide to ensure the resource objectives are met. (4) Demonstrate that there is full support (i.e. letters from the U.S. Fish and Wildlife Service and Nye County Commission) that each mitigation area is viable as a Reserve Unit and would likely be approved. (5) Demonstrate why the existing and proposed ACECs cannot meet Reserve Unit Requirements and/or that other conservation actions cannot be utilized to support the permit. (6) Provide a timeline for the completing the Habitat Conservation Plan and permit approval.*

As BLM is aware, the Nye County Tortoise HCP is being developed by staff as directed by the Nye County Board of County Commissioners (BOCC). The County proposes to use a regional approach to mitigation, which includes the use of public land rather than the very limited inventory of affected private land. The only lands present in the HCP Area that are suitable for mitigation activities at a regional scale are BLM-managed public lands. Nye County met with BLM and USFWS several times between 2010 and 2011 to develop criteria to identify, define, and select the four final candidate sites proposed for consideration in the RMP. The criteria, analyses and conclusions are listed along with mitigation/management proscriptions in this letter.

Since May 24, 2011, Nye County has coordinated with BLM and USFWS and submitted much of the requested Habitat Conservation Plan including related data, analyses, proposed management proscriptions, and other updates to both agencies as part of the ongoing HCP coordination process. The County has continued to engage BLM as recommended by former BLM HCP Coordinator Carrie Ronning, who provided the County with technical and policy insight and discussion.

Ms. Ronning recently left BLM after considerable HCP coordination had been completed. Nye County realizes that BLM will need to delegate the duties Ms. Ronning was performing to another employee. We are happy to assist that employee in becoming familiar with the County's HCP and where the County left off in their coordination with BLM. Our concern is that without Ms. Ronning, we suddenly have a situation wherein we have lost over three years of coordination. We find ourselves in a situation where negotiations appear to be back to square one and we do not have a liaison to engage the agency in a discussion of using public lands for tortoise conservation. For this reason, we request your help in including the County tortoise reserves into the current RMP update, without further backtracking.

Nye County is very willing to provide BLM the requested information. However, due to time constraints imposed by your office with the February 7, 2014 due date, the following is our best effort. Please let us know if you need additional information in order to meaningfully incorporate the tortoise reserve units into the BLM preferred alternative.

In that regard, if you determine more information is needed than what is provided below, we suggest promptly scheduling a coordination meeting between the County, BLM and USFWS staff to discuss the questions raised, achieve consensus, and find solutions. Such an approach would be more beneficial to desert tortoise conservation and recovery efforts than each agency creating its land management and species conservation plans without benefit of coordination.

The exclusion of the conservation units from the RMP is not an option the citizens of Nye County can afford. With only 2% private land, we have a legitimate case for continuing to work on forging a partnership with BLM and USFWS to restore habitat for the tortoise in areas where it will benefit the species, to offset the impacts of private land development within the County.

To date our offer to work with BLM was of interest to the agency. We believe it is in best interest of all parties to continue to work together to achieve tortoise recovery, including BLMs approval of Nye County's tortoise reserve area nomination/requests.

Nye County is at a critical point in its HCP and planning processes. It is imperative that we achieve consensus and continue working through the issues to achieve a positive outcome. Nye County would appreciate a cooperative and flexible approach from BLM regarding the compilation, analysis, and evaluation of data and information requested during the internal document review period.

BLM initially received Nye County's proposal for desert tortoise reserve units in May of 2011. That proposal was revised to add significant rationale to the analysis and the final proposal was sent to your office in April 2013. We understand that your office is busy and has had a turnover of several key personnel. However, we need overall agency continuity and the ability to complete coordination work with Nye County despite the loss of your HCP coordinator.

The time frame imposed on Nye County to complete the list of items being responded to in this letter was too short to provide more than general answers to questions. We hope you will appreciate our efforts to provide as much depth as possible under the circumstances.

Thus, in the spirit of cooperation, Nye County offers the following draft discussions for consideration:

**1. For each mitigation area, provide management goals and objectives and a complete list of land use allocations needed to meet resource objectives.**

In a letter previously provided to BLM on April 26, 2013, Nye County listed the Habitat and Wildlife Conservation Goals in the adopted 2011 County Comprehensive Master Plan which addresses endangered species conservation and includes the following:

Goals, Objectives, and Policies:

**HABITAT AND WILDLIFE CONSERVATION GOAL-1:**

To work with appropriate federal, state and local agencies to identify wildlife resources and habitat areas that exist within the county.

Objective 1: - Coordinate with other government entities and agencies in regards to habitats and wildlife in a timely fashion.

*Policy A. The county may determine it necessary to protect and preserve desert flora and fauna to the extent practicable.*

*Policy B. Develop and implement HCP planning that balances the need for growth with protection of threatened and endangered species.*

Objective 2. -Sensitive species of native plants and animals will receive special management emphasis to ensure their viability and to preclude the need for federal listing.

*Policy A. The county will promote long-term conservation of species and habitats through education and management strategies.*

Nye County has developed these preliminary goals and objectives that will be discussed with the USFWS and the Nye County BOCC. Additional objectives of the County that relate specifically to the proposed tortoise reserve units include land use allocations needed to meet the resource objectives for those units. They are: prohibition of large scale solar facilities, major transportation corridors, and landfills within the tortoise reserve units to assure that the number of acres of conservation areas is at least the 5,000 acres of land required by USFWS for 1:1 mitigation in the County HCP.

Due to the fact that four (4) large areas totally approximately 20,000 acres are under consideration and will be reduced after the final tortoise reserve selection process, site-specific

management proscriptions are premature. Such proscriptions will vary greatly depending on the final reserve configuration.

However, in the April 2013 letter provided to BLM, Nye County identified general guidelines for all reserve units.

#### General Guidelines for Conservation Areas

- In all four Conservation Areas we recommend analyzing impacts from a biological perspective.
- Assess impacts and determine whether they can be mitigated offsite.
- Identify tortoise habitat corridors on a map and maintain or improve habitat within important corridors for tortoise population growth and linkages between continuous functioning habitats.
- Determine proper allocations for transportation and energy corridors from a biological perspective.
- Consider working with the County to jointly establish speed limits within the Conservation Areas. Allow County law enforcement personnel to enforce speed limits.
- Exclude large projects (i.e. large substations) within Conservation Areas.

The April 2013 letter also recommended preliminary management proscriptions the County would propose for each conservation area:

#### Specter Range, North and South Desert Tortoise Conservation Area

Within the Specter Range, North and South, we recommend that existing roads and Right-of-Way (ROW) permits remain unaffected. We recommend future land management planning place emphasis on the area as desert tortoise habitat, limiting ROW applications and other permits to the point necessary to assure compatibility with objectives related to tortoise habitat conservation.

#### North Amargosa Desert Tortoise Conservation Area

This Conservation Area is at the north end of the HCP for facilitation of tortoise transplants close to their original habitat. We recommend that existing roads and ROW permits remain unaffected. We recommend future land management planning place emphasis on the area as desert tortoise habitat, limiting ROW applications and other permits to the point necessary to assure compatibility with objectives related to tortoise habitat conservation.

#### Pahrump Valley East Desert Tortoise Conservation Area

Adjacent to the Pahrump Valley East Desert Tortoise Conservation Area we recommend corridors be set to accommodate the proposed Pahrump Valley Beltway Road and the proposed transmission lines already in planning. We recommend against additional roads and transmission lines within the Conservation Area once established. Future ROW permits should be limited in size to approximately 5 acres or less and spaced appropriately to assure genetic corridors remain viable for desert tortoise population expansions and contractions over time.

All goals, objectives and land use allocations which are currently being formulated in the draft HCP are preliminary and subject to Nye County BOCC, BLM and USFWS discussion and approval.

**2. Demonstrate the resource values of each proposed mitigation area and why the area is important to protect.**

In a letter sent to BLM (attached) on May 24, 2011, Nye County presented resource values, a description of the analysis used to identify and screen desert tortoise candidate mitigation areas, and requested the final candidate sites be included in BLM's RMP update. The evaluations considered, but were not limited to: land use, encumbrances, modeling results, and habitat quality. The process used to identify and screen candidate sites consisted of three steps:

- A. GIS-based spatial analysis to model suitable potential desert tortoise habitat in the Study Area;
- B. Staff and Technical review to identify other potential land use conflicts; and
- C. Field reconnaissance and survey of the six remaining candidate sites to assess desert tortoise habitat quality, ease of access, and other scientific and educational values.

The GIS-based spatial evaluation used the desert tortoise habitat potential map created by the modeling efforts of Nussear et al. (2009) as the basis against which Nye County's planning criteria were applied. This modeling predicted desert tortoise habitat potential using ten (10) environmental variables based upon landscape, climate, soil, and biotic parameters, and is widely considered to be the best and most current model for habitat potential.

The predicted habitat potential index map ranks habitat potential using values ranging from the lowest potential at 0.0 to the highest potential at 1.0. Nussear et al. (2009) indicated that the range of habitat potential from 0.7 to 1.0 accounted for 95 percent of desert tortoise signs. Therefore, Nye County's screening effort reduced habitat potential to a binary map of high and low habitat potential, with high potential was represented by the index range of 0.7 to 1.0, and low potential represented by the range of 0.0 to 0.7. Using this binary map, eleven (11) candidate sites were identified.

The following criteria were evaluated against the binary map, and six (6) candidate sites were eliminated and one (1) site bisected.

- High potential for desert tortoise habitat;
- At least 4,600 acres (more than 5,000 acres preferred) that were contiguous and compact in shape;
- Minimized intersection with known roads of any type (US Census Bureau 2010 TIGER line shapefiles);
- Low potential for encroachment of development (e.g. areas bordering communities, mining, recreation, and other development); and
- Suitable non-excluded BLM administered lands, based on BLM's land status and ownership data sets:
  - Excluded authorized or pending approval areas for permitted renewable energy development (Geocommunicator, November 1, 2010):

- Geothermal Parcels (Authorized; no pending parcels present).
- Solar Energy Development Facilities (Pending and Authorized).
- Solar PEIS Amargosa Solar Energy Study Area.
- Wind Energy Test Sites (Pending and Authorized).
- Excluded mining activity areas:
  - Active, authorized, and pending locatable, leasable, and saleable (mineral materials) minerals (Geocommunicator and LR2000, February, 2011).
  - Nye County parcel and tax assessor's database land identified as mining or sand and gravel (February 3, 2011).
  - Nevada Bureau of Mines and Geology active mines (2009).
  - Mapped mines using photo-interpretation of 2006 and 2010 National Agriculture Imagery Program (NAIP) imagery as required.
- Yucca Mountain Project:
  - BLM land withdrawal area (NV BLM)
- Excluded Transportation Initiatives
  - Department of Energy's 1-mile buffer of the proposed Yucca Mountain Project railway route (US DOE/NV BLM).
  - Pahrump Bypass (proposed beltway) corridor (2003 Pahrump Master Plan).

Field reconnaissance of the remaining sites was conducted during the period of April 5 through April 7, 2011. The purpose of this reconnaissance was to establish the character and suitability of the desert tortoise habitat, assess the ease of access and egress, and to determine relative educational and scientific values associated with the landscape in each of the candidate sites.

The following parameters were used by Darling and Giampaoli during April 2011 field surveys for the Nye County Desert Tortoise HCP Mitigation Site Alternatives Analysis:

- Visible signs indicating the presence of desert tortoises including active or inactive tortoise burrows, scat, carcasses, and other sign;
- Habitat Suitability;
- Topography;
- Aspect;
- Elevation;
- Slope;
- Average surface roughness;
- Percent smoothness;
- Depth to bedrock;
- Average percentage of rocks;
- Site Access;
- Type and quality of road access;
- Proximity to southern Nye County towns;

- Proximity to southern Nye County schools;
- Vegetation;
- Perennial plant cover; and
- Annual plant cover.

Of the remaining sites, only four (4) met the resource and environmental values listed above. The attached map, TSG11166\_HCP\_DT\_Hab\_Exclusion\_Sum\_11x17.pdf, shows Nussear et al. (2009) habitat potential with the sum of all excluded lands used as a black mask. A summary of the site screening process, list of candidate sites, and request for inclusion of those sites in BLM's RMP update were submitted in the May 24, 2011 letter.

**3. Identify what resources Nye County will provide to ensure the resource objectives are met.**

The County would provide the financial and man-power resources to manage and protect the Reserve Units. The resources would include law enforcement, technical staff and personnel from the Nye County's Natural Resources Office, Nye County Water District, Nye County Planning Department, and Nye County's Emergency Management Services, consultants, and the Public Works Department's heavy equipment and materials. The County also proposes to use the Reserve Units as educational opportunities for Nye County and Clark County School Districts.

**4. Demonstrate that there is full support (i.e. letters from the U.S. Fish and Wildlife Service and Nye County Commission) that each mitigation area is viable as a Reserve Unit and would likely be approved.**

In reply to the BLM comment response document dated, 12/23/13, Nye County staff requested and received a letter of support from the BOCC (attached) for Reserve Unit Sites that were determined to be suitable for desert tortoise conservation activities, and were previously nominated by Nye County for review and analysis in the SNDO RMP for use as mitigation areas as proposed in the (internal) draft HCP. On January 29, 2014, the Nye County BOCC approved a letter to the BLM supporting Nye County's efforts to use public lands for mitigation in the Nye County Tortoise HCP, and endorsed the four identified mitigation areas as likely viable Reserve Units.

The USFWS initially declined to provide a letter of support until the BLM's information request of 12/23/13 has been answered. As the County was unable to provide the complete response and technical analyses in the short time allotted, no letter of support for the specific lands will be forthcoming. Nye County has since received a letter of support for the regional concept of mitigating on public lands from Mike Senn, Assistant Field Supervisor (Nevada) for USFWS; this letter is included as an attachment. Additionally, a meeting has been scheduled for February 18, 2014, between USFWS and agencies interested in mitigating for desert tortoise on public lands to discuss a path forward.

**5. Demonstrate why the existing and proposed ACECs cannot meet Reserve Unit requirements and/or that other conservation actions cannot be utilized to support the permit.**

### ***5.1 Are the Existing Alternative 1 ACECs Inadequate to Meet Reserve Unit Requirements?***

The rigorous process and resource and environmental values used by Nye County to identify candidate mitigation sites are described in Item 2 in this letter. The Specter Range sites, North and South, lie within least cost corridors suitable for desert tortoise population linkage.

For a comparison of Alternative 1 and 3 ACECs to the major criteria used in the 2011 screening process, refer to the attached set of maps. Map-1 and Map-2 show ACEC Alternatives 1 and 3, respectively, relative to Nussear et al. (2009) Habitat Potential and the SNDO RMP Desert Tortoise Corridor from RMP Map 3-12. Map-3 shows active mining claims relative to ACEC Alternatives 1 and 3. Note these mining claims are currently active (LR2000) and predate Nye County's 2011 analysis (LR2000 Location date). Map-4 shows Nye County developed Solar Suitability and the Pahrump Bypass corridor relative to ACEC Alternatives 1 and 3.

The Ash Meadows, Big Dune, and Amargosa Mesquite ACECs were excluded due to our understanding from the US Fish & Wildlife service that Nye County was required to identify lands under no current special protection.

However, if these same criteria were applied, minus the exclusion of ACECs, using the same data from the 2011 analysis, the same selection of candidate sites would likely have resulted. Refer to the attached map, Map-5 in ACECs\_as\_Reserve\_Units.pdf, showing the BLM ACECs in 2011 and Nye County's selected mitigation areas. The Big Dune ACEC would have been eliminated on its small size of ~1,600 acres and its low mean habitat potential of 0.67. The Amargosa Mesquite ACEC was large enough at ~6,800 acres but was split into three distinct areas, wherein the central poor habitat split apart two areas of high habitat potential ( $\geq 0.7$ ), resulting in a mean habitat potential of 0.66. The Ash Meadows ACEC at ~37,400 acres had a highly fragmented habitat potential with a mean of 0.58. By comparison the Nye County candidate mitigation sites selected in 2011 are large, compact, and contiguous areas with very high habitat potential.

### ***5.2 Are the Alternative 3 Proposed ACECs Inadequate to Meet Reserve Unit Requirements?***

The SNDO RMP Alternative 3 ACECs (modified and new) were evaluated against a similar set of siting criteria:

1. High potential ( $\geq 0.7$ ) for desert tortoise habitat
2. At least 4,600 acres (more than 5,000 acres preferred) that were contiguous and compact in shape
3. Preference for within a desert tortoise corridor
4. No active mining claims
5. Low suitability for solar energy development
6. No intersection with Pahrump Bypass corridor

These criteria, minus the exclusion of ACECs, were evaluated against each ACEC in whole. Refer to the attached map, Map-6 in ACECs\_as\_Reserve\_Units.pdf, showing the Alternative 3 ACECs evaluated relative to Nye County's candidate mitigation areas. As shown in the embedded table each ACEC would have been rejected on these criteria.

An alternative analysis was also investigated. Each Alternative 3 ACEC was reviewed for subdivisions that were of high desert tortoise habitat potential. These subdivisions were mapped and reviewed against the following criteria:

1. High potential ( $\geq 0.7$ ) for desert tortoise habitat
2. At least 2,500 acres of contiguous and compact shape
3. Preference for within a desert tortoise corridor
4. No active mining claims
5. Low suitability for solar energy development
6. No intersection with Pahrump Bypass corridor

Areas with active mining claims were used to split the initially mapped polygons, resulting in the potential optimized Alternative 3 ACEC Reserve Units Map-7 in ACECs\_as\_Reserve\_Units.pdf. Each area was reviewed against the above criteria. The results are listed in the embedded table. Four potential optimized Alternative 3 ACEC Reserve Units meet these criteria when using the smaller acreage ( $\geq 2,500$  acres) than used in the previous analyses ( $\geq 4,600$  acres). Three are located in the Ash Meadows ACEC and one in the Amargosa Mesquite ACEC. Three of these (Ash Meadows Northwest and Northeast along with Amargosa Mesquite South) would have been rejected on high solar suitability if they had not been also Alternative 1 ACECs that presumably exclude solar energy development. Note that these units have not been field inspected.

Map-8 in ACECs\_as\_Reserve\_Units.pdf shows Nye County's 2011 selected Candidate Mitigation Areas along with a criteria table. Note that these sites have a habitat potential of 0.72 or greater, two are partially or wholly within a desert tortoise corridor, and do not impact mining activity, high solar potential areas, transportation development in Pahrump Valley.

### ***5.3 Demonstrate that other conservation actions cannot be utilized to support the permit.***

In our April 2013 letter Nye County identified the public benefits that would result from designating the proposed Desert Tortoise Habitat Conservation Units (Reserve Units) on public lands.

**Economic Benefit** - Only about 2 percent of the land area in Nye County is privately owned (Nye County Comprehensive Master Plan 2011). There is an economic benefit to allowing landowners full use of the small amount of private land that is available for development in Nye County. Having conservation lands set up in advance will assist landowners and reduce the burden on the federal government to manage federal compliance issues on a case by case basis.

**Historical, Scenic, Ecological, Environmental, Water and Archeological Benefits** - Resource values will be preserved and protected within the proposed conservation areas. These areas provide food and habitat for wildlife and provide for outdoor recreational opportunities including outdoor education, hiking, mountain bicycling, hunting, off-road vehicle use and camping.

The social benefits of managing these few relatively small areas as multiple use with an emphasis on tortoise habitat protection and tortoise population and habitat enhancement outweigh the negative impact to the public that the land use restrictions will impose. Additionally, designation of the lands as Desert Tortoise Conservation Areas allows existing uses to continue and provides certainty to the BLM, the County and the public regarding future uses.

## **6. Provide a timeline for completing the Habitat Conservation Plan and permit approval.**

Nye County will require an additional 12 to 24 months to complete the Habitat Conservation Plan process.

Sincerely,



Levi Kryder  
Acting Natural Resources Manager

Cc: Deborah MacNeill  
Dan Schinhofen  
Brian Kunzi  
Tim Sutton  
Pam Webster  
David Fanning  
Robert Lewis  
Darrell Lacy

Enclosures:

1. 2011 letter to BLM regarding mitigation areas (Ronning)
2. 2013 letter to BLM regarding mitigation areas (MacNeill)
3. Nye BOCC letter of support for mitigation areas
4. USFWS letter of support for regional mitigation on public lands
5. TSG11166\_HCP\_DT\_Hab\_Exclusion\_Sum\_11x17 map
6. Maps 1-8 – ACECs as reserve units