

**Record of Decision and  
Final Supplemental Environmental Impact Statement  
Upper Las Vegas Wash Conservation Transfer Area  
Las Vegas, Nevada**

**U.S. Department of the Interior  
Bureau of Land Management, Las Vegas Field Office**



# RECORD OF DECISION

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The approval of this Record of Decision for the Upper Las Vegas Wash Conservation Transfer Area final Supplemental Environmental Impact Statement completes the environmental analysis process for this project. The action enables the Bureau of Land Management to continue to manage for the protection of sensitive resources in the Conservation Transfer Area study area while making lands available for disposal, and future private development.

This Record of Decision incorporates by reference the Upper Las Vegas Wash Conservation Transfer Area Final Supplemental Environmental Impact Statement and sets the final boundary for the Conservation Transfer Area.

This document meets the requirements for a Record of Decision, as provided in 40 Code of Federal Regulations (CFR) 1505.2, and follows the guidance in 40 CFR 1506.10(b)(2), which authorizes the BLM to run the 30-day availability period concurrent with the 30-day appeal period.

Appeal procedures are identified at the end of this Record of Decision.

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Field Manager, Las Vegas Field Office

10/21/11

Date



# RECORD OF DECISION

## Final Supplemental Environmental Impact Statement

### Upper Las Vegas Wash Conservation Transfer Area

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## Introduction

This document constitutes the Record of Decision (ROD) of the U.S. Department of the Interior, Bureau of Land Management (BLM), Las Vegas Field Office, Nevada, for the *Upper Las Vegas Wash Conservation Transfer Area Final Supplemental Environmental Impact Statement* (Final SEIS). During preparation of the *Las Vegas Valley Disposal Boundary Final Environmental Impact Statement* and Record of Decision (LVVDB FEIS/ROD) (BLM 2004a), sensitive biological, cultural, paleontological, and hydrological resources were identified along the Upper Las Vegas Wash (ULVW) within the Conservation Transfer Area (CTA) in the northern part of the Las Vegas Valley, and the LVVDB FEIS/ROD required a supplemental analysis of the area. Determination of the final CTA boundary is analyzed in this Final SEIS. The Final SEIS was prepared pursuant to Council of Environmental Quality (CEQ) regulations [Code of Federal Regulations (CFR) 1500–1508] implementing the procedural requirements of the National Environmental Policy Act (NEPA), U.S. Department of the Interior guidance, and the BLM NEPA Handbook, H-1790-1.

The analysis in the Final SEIS is supplemental to the analysis contained in the LVVDB FEIS/ROD. The analysis assessed the environmental impacts to the various natural and socioeconomic resources identified during the scoping process that were not sufficiently analyzed in the LVVDB FEIS/ROD and that are specific to land within the approximately 13,600-acre CTA study area. These impacts are quantified in the Final SEIS to allow the BLM to determine the final boundary of the CTA.

The BLM has issued this ROD concurrent with the Final SEIS, as allowed under 40 CFR 1506.10(b); thus, review of the Final SEIS and the time period in which to appeal this decision run concurrently. There will be no implementation actions approved during the 30-day concurrent review and appeal period of the Final SEIS and ROD.

## Background

To address issues associated with the need for developable lands and the management of public lands, Congress passed the Southern Nevada Public Land Management Act (SNPLMA) in 1998 [Public Law (PL) 105-263]. The SNPLMA authorized the United States Department of the Interior Bureau of Land Management (BLM) to dispose of federal lands in Clark County, Nevada, consistent with applicable law, population growth, and community land use plans and policies. In 2002, the Clark County Conservation of Public Land and Natural Resources Act (Clark County Act) [PL 107-282] amended the SNPLMA to expand the Las Vegas disposal boundary area to address the continuing increased growth rates in the Las Vegas region. The public lands that became available for disposal were primarily located in the northern and southern portions of the Las Vegas Valley. The northern area encompasses the ULVW and is bordered by Nellis Air Force Base to the east, the DNWR to the north, and the Red Rock Canyon National Conservation Area and Paiute Reservation to the west.

The BLM Las Vegas Field Office prepared the LVVDB FEIS in 2004 to identify the environmental consequences that could result from the disposal and use of the remaining BLM-managed lands within the disposal boundary. During preparation of the LVVDB FEIS, sensitive biological, cultural, paleontological, and hydrological resources were identified along the ULVW in the northern part of the

Las Vegas Valley. The LVVDB ROD for the LVVDB FEIS (ROD No. FES 04-048) selected the Conservation Transfer Alternative.

The Conservation Transfer Alternative allows the BLM to dispose of approximately 46,700 acres of lands in the Las Vegas Valley for future growth of the cities of Las Vegas and North Las Vegas (hereafter referred to as “the Cities”). The LVVDB ROD stated that the BLM would conduct additional study, collaboration, and environmental analysis of approximately 5,000 acres that have been withheld from sale because of their high concentration of sensitive resources. Additionally, the LVVDB ROD indicated the CTA boundary should be adaptable, meaning that it could be increased or decreased in size to meet the purpose and need. During public meetings, it was evident that many members of the public were interested in protecting an area much greater than 5,000 acres, including the alluvial fan north of the wash. Therefore, in the Final SEIS the CTA study area encompasses 13,622 acres and stretches east from U.S. Highway 95 near the Paiute Reservation to approximately 4 miles west of Interstate 15. The DNWR is directly north, and the southern boundary roughly approximates the southern edge of the ULVW. This Final SEIS is a mandatory step in implementing the decision of the ROD for the LVVDB FEIS. The BLM reviewed the LVVDB FEIS/ROD, the results of the Utah State University Report, and all input and recommendations from the cooperating agencies and the various stakeholders in determining a final CTA study area boundary that would allow consideration of the various objectives of stakeholders, which ranged from maximum development opportunities to maximum conservation.

## **The Bureau of Land Management’s Decision**

The BLM selects the Alternative B boundary as the agency’s Proposed Action (see attached map). Revised from the draft SEIS, Alternative B includes the Las Vegas Formation, sensitive cultural and botanical resources, the active wash and 100-year floodplain, and the alluvial fan north of the wash to the Desert National Wildlife Refuge (DNWR) boundary. This Alternative includes the Eglington Preserve but does not include the Tule Springs state lands. Alternative B consists of 10,669 acres compared with 11,007 acres of the Alternative B (Preferred Alternative) published in the Draft SEIS. Revisions to the Alternative B boundary in the Draft SEIS are based in part on input from the City of Las Vegas and the Las Vegas Paiute Tribe. Northwest of the Las Vegas Paiute Reservation (Paiute Reservation), the boundary of the Alternative B was adjusted to be offset 700 feet from the Las Vegas Formation and run north to the edge of the disposal boundary. This 700-foot open space would allow for points of access into the wash and compatible future uses, reducing impacts to the fossil formation. After the Final SEIS was prepared for printing, the Las Vegas Paiute Tribe requested 174 acres adjacent to the northeast corner of the Paiute Reservation be included in the CTA as important open space to protect the viewshed; therefore, while acreage totals may not match those stated in the Final SEIS, the correct acreages are reflected in this Record of Decision. After these adjustments, a total of 338 acres was removed from the Alternative B boundary published in the Draft SEIS; the 338 acres would be available to the City of Las Vegas for future private development. Alternative B includes a total of 2,654 acres in the CTA study area that would be available for future private development; this acreage would not be subject to the requirements of a BLM-approved Conservation Agreement. The lands available for disposal include 2,654 acres within the jurisdiction of the City of Las Vegas and 373 acres within the jurisdiction of the City of North Las Vegas. There are no other changes to Alternative B as described in the Draft SEIS.

No decisions on allowable uses or alternative managing entities are being made by the BLM at this time.

The BLM’s decision is in conformance with the Las Vegas Resource Management Plan/Final Environmental Impact Statement (RMP/FEIS), approved on October 5, 1998. In addition, BLM’s decision is consistent with the Federal Land Management Policy Act (FLPMA), Southern Nevada Public Land Management Act (SNPLMA) as amended, and the LVVDB FEIS/ROD.

## Alternatives Considered

Six alternative boundaries, including the No-Action Alternative, were evaluated in the Final SEIS. Each alternative was developed to implement the requirements of the ROD for the LVVDB FEIS to determine a final CTA boundary. Each alternative boundary leaves different acreages of land outside the CTA available for disposal and future subsequent development consistent with SNPLMA, which provides for the disposal of public lands, in accordance with other applicable laws.

Alternative A, at 12,953 acres, is the environmentally preferable alternative and includes the Las Vegas Formation, sensitive cultural and plant resources, the active wash and 100-year floodplain, the adjacent upper alluvial fan, and a 1-mile resource protection zone around the northern and eastern boundaries of the Paiute Reservation. Alternative A includes the Eglington Preserve but does not include the Tule Springs state lands. Stakeholders interested in protecting the maximum number of acres possible assisted in the development of Alternative A during early public meetings.

Alternative B, BLM's Preferred Alternative, was revised from the 11,007-acre boundary published in the Draft SEIS to 10,669 acres based on input from cooperating agencies. The revised Alternative B includes the Las Vegas Formation, sensitive cultural and botanical resources, the active wash and 100-year floodplain, and the alluvial fan north of the wash to the boundary of the DNWR. The revised Alternative B includes the Eglington Preserve but does not include the Tule Springs state lands. Northwest of the Paiute Reservation, the boundary is offset 700 feet from the Las Vegas Formation and runs north to the edge of the disposal boundary. The revised Alternative B includes 174 acres adjacent to the northeast corner of the reservation. BLM's revised Preferred Alternative results in 338 acres being removed from Alternative B published in the Draft SEIS and a total of 2,654 acres is available for future development.

Alternative C, at 6,362 acres, includes the Las Vegas Formation, sensitive cultural and botanical resources, the active wash and 100-year floodplain, and a portion of the adjacent upper alluvial fan. Alternative C includes the Eglington Preserve but does not include the Tule Springs state lands.

Alternative D, at 5,301 acres, includes most of the Las Vegas Formation, the sensitive cultural and rare plant resources, and the active wash. Alternative D does not include the Eglington Preserve but does include the Tule Springs state lands. Alternative D was the CTA boundary published in the LVDDB FEIS/ROD.

Alternative E, at 3,314 acres, includes some of the Las Vegas Formation, the sensitive cultural and rare plant resources, and part of the active wash. Alternative E does not include the Eglington Preserve but does include the Tule Springs state lands. The Cities of Las Vegas and North Las Vegas (Cities) assisted in the development of Alternative E during early public meetings.

The No-Action Alternative is 1,448 acres and only includes the BLM portion of the Tule Springs National Register Site and the Eglington Preserve. Under the No-Action Alternative, the remaining lands in the CTA study area would be available for disposal, in accordance with SNPLMA, FLPMA, other applicable laws, subject to valid existing rights and stipulations established by the Conservation Agreement.

During the public comment period, the Cities proposed an additional alternative, Alternative D2, which at 5,800 acres was between the range of existing alternatives analyzed in the Draft SEIS. Because D2 was between two alternatives previously analyzed, it was not further analyzed in the Final SEIS.

## Management Considerations

Management goals and objectives for the CTA were defined in the LVVDB FEIS/ROD and refined during numerous public meetings for the SEIS. Based on management goals and objectives, the BLM developed the following vision for the CTA:

*The CTA preserves the natural functioning of the Upper Las Vegas Wash, protects the sensitive resources within, and supports education, research, and low-impact recreational use. The CTA is ecologically functional to the maximum extent possible and managed to ensure the long-term integrity of the Las Vegas Formation and associated fossil beds, the rare plant habitat for the Las Vegas bearpoppy, Merriam's bearpoppy, and Las Vegas buckwheat, as well as natural flood water capacity for present and future generations.*

Alternative B achieves the BLM's goals and objectives and the BLM vision for the CTA, to protect sensitive resources, while meeting the purpose of and need for action to define a final CTA boundary. Additionally, Alternative B allows for disposal of up to 2,654 acres for future private development as authorized within the CTA study area. All practicable methods to reduce environmental harm have been incorporated into this decision.

The BLM would continue to manage resources within the CTA until such time as a local government entity, non-governmental organization, or private party enters into a Conservation Agreement with the BLM. Such an agreement would stipulate mitigation measures and other requirements to provide for the long-term protection of sensitive resources in the CTA. The BLM would be able to dispose of lands within the CTA once such an agreement is developed and signed.

The primary management considerations as defined in the purpose and need of the Final SEIS that will factor into this decision and the development of the Conservation Agreement for the CTA are described below.

The final CTA boundary includes habitat for the Las Vegas bearpoppy, Merriam's bearpoppy, and the Las Vegas buckwheat. The Las Vegas bearpoppy is a State of Nevada Critically Endangered plant species. Merriam's bearpoppy is a BLM special status species. The Las Vegas buckwheat is a candidate for listing under the Endangered Species Act of 1974, as amended. Any loss of habitat would affect the long-term viability of the species. The conservation of lands in the final CTA boundary will minimize fragmentation of available habitat for all species. Additionally, mitigation actions will be required for any activity or project that could impact habitat for these species.

Paleontological resources in the CTA are regionally significant. The Las Vegas Formation contains locally abundant and highly diverse assemblages of fossil vertebrates, mollusks, and fishes that represent both extinct and extant taxa.

Lands within the CTA and the ULVW represent a significant cultural landscape to the Southern Paiute people. The Las Vegas Paiute Tribe considers the ULVW an important part of their cultural and spiritual identity as it served as a migration corridor and was used for burials.

The ULVW serves as a natural flood control feature. Any urban development occurring north of the wash would require major flood control structures to control stormwaters. Although facilities could be designed that would capture water from smaller (2-5 year) flood events, facilities to control larger but less frequent events (like the 100-year storms) would alter the natural functioning of the wash removing or altering flow patterns, changing erosional patterns, water infiltration, and alter ephemeral wash plant communities. Protecting the alluvial fan north of the ULVW from development will reduce the demand for flood control infrastructure. Urban development would also require access roads, utilities, and

associated flood control structures that would directly impact fossil, plant, and cultural resources. Development would also concentrate public access in areas that now are inaccessible and increase indirect impacts to sensitive resources. Without urban development on the alluvial fans, the ULVW has sufficient natural flood control capacity.

Although not a cooperating agency, the Nellis Air Force Base (AFB) complex, including Nellis AFB, Creech AFB, Tonopah Test Range Airfield, and Nevada Test and Training Range (NTTR) was strongly supportive of a CTA boundary alternative that would protect critical airspace between Las Vegas and the NTTR for low-level military flight arrival, departure, and training routes. Alternative B is consistent with the mission operations of the Nellis AFB complex because the alluvial fan north of the wash is included in the CTA boundary and would not be disposed for urban development.

## Mitigation and Monitoring

The BLM will require mitigation and monitoring measures to minimize impacts to resources caused by future allowable uses in the CTA as determined on a case-by-case basis and through revisions to the Southern Nevada District Resource Management Plan. The following measures will be incorporated into the Conservation Agreement for the CTA.

### **Soil Resources**

- Use specialized low-surface impact equipment (e.g., vehicles with balloon tires) for off-road access, where travel on foot is not feasible, in order to protect fragile soils and other resource values.
- Salvage and reapply topsoil from construction activities as appropriate during reclamation.
- Comply with county, state, and federal standards for implementation of erosion controls. Apply appropriate erosion control practices, such as silt fences and check dams, near disturbed areas where appropriate.
- Identify areas that need to be avoided in the CTA to protect the Las Vegas Formation, sensitive plant habitat, and wash resources.
- Restore human-caused disturbances to soils in order to prevent habitat fragmentation, soil erosion, and loss of nutrients.
- Use native species in restoration to stabilize surfaces.
- Avoid soil disturbance in Las Vegas buckwheat, Las Vegas bearpoppy, and Merriam's bearpoppy habitat in order to manage for sustainable natural populations.

### **Water Resources**

- Design land uses to minimize disturbance to the ULVW.
- Design approved roadways to allow natural floodwaters from the alluvial fan between the Sheep Mountain and Las Vegas ranges and the ULVW to flow in a natural fashion; this could include elevating roads, creating appropriate dissipation structures with outflow phalanges, and installing porous pavement.
- Avoid modifying the ULVW, such as armoring (e.g., rip rap), channeling, diversion structures, detention basins, etc., in the design and construction of new projects and land uses.
- Maintain natural ecosystem processes, including surface flows, wind/water erosion and deposition, and nutrient cycling, when designing projects.
- Protect natural drainages when considering land use authorizations. Land use authorizations, including recreational permits, should be designed to minimize impacts to wash resources.

- Develop an In Lieu Fee Mitigation Program under the Clean Water Act that defines protection, enhancement, restoration, and monitoring actions for identified jurisdictional waters. Work with non-government organizations and the U.S. Army Corps of Engineers to establish the program.
- Engineer land use authorizations to protect the washes and provide for the hydrologic and biological functioning of the system.
  - Design roads to span washes and/or leave wash bottoms undisturbed.
  - Construct gabions, water bars, and other low-impact flood control structures outside the ULVW, or in less sensitive areas within the CTA, only if necessary, to reduce human-caused impacts to sensitive resources.
  - Coordinate with the Clark County Regional Flood Control District to establish an erosion monitoring program in key areas to track changes in erosion patterns that could negatively impact plant and paleontological resources as part of the conservation strategy agreement.

### **Vegetation**

- Develop procedures to reduce or eliminate impacts to special-status plant species. Measures could include relocating project facilities outside plant habitat, collecting seeds, salvaging topsoil, and propagating and planting native material.
- Identify areas that should be avoided for activities or land uses to protect sensitive plant resources.
- Land uses should be designed to the smallest footprint necessary.
- Restore disturbed habitat. Develop and implement habitat restoration protocols to restore and minimize negative impacts of authorized projects to sensitive plant species. Include actions that will identify revegetation, soil stabilization, and erosion reduction measures to ensure successful restoration of temporary construction areas. Require that restoration occur as soon as possible after completion of activities to speed up recovery of natural habitats.
- Control noxious weeds and invasive species. Develop actions that address weed inventory and monitoring, as well as education of personnel on weed identification, the manner in which weeds spread, and methods for treating infestations. Establish and implement weed protocols for reducing weed introductions from construction vehicles and equipment that are arriving from locations with known invasive vegetation problems. Protocols include establishing a controlled inspection and cleaning area, visually inspecting construction equipment arriving at the construction area, and ensuring that invasive propagules and seeds are removed from tires and other equipment surfaces.
- Protect natural ecological processes, such as pollinator movement, natural wind flow patterns, surface water flows, etc., that maintain sustainable populations by providing connectivity between populations in evaluating land uses.
- Maintain open spaces and corridors between populations when considering land uses.
- Establish long-term monitoring studies for the Las Vegas bearpoppy, Merriam's bearpoppy, and Las Vegas buckwheat to track recruitment, population viability, and life history. Establish thresholds to detect declining populations and trigger additional conservation actions to be implemented when these ecological thresholds are hit as part of the conservation strategy agreement.
- Ensure that developments and land uses are compatible with the long-term protection of the sensitive plant species, including avoidance of habitat or application of meaningful mitigation.
- Restore existing and new land disturbances in sensitive plant habitat.

- Use stockpiled native soils and salvaged native plant material.
- Use native species in approved developments within the CTA.
- Provide protection to sensitive plant habitat from activities such as illegal motorized use, dumping, trespassing, and other invasive uses through fencing, cleanup, or education.
- Provide ecological connectivity between the Eglington Preserve and the CTA to the extent possible.

### ***Educational and Recreational Opportunities***

- Provide compatible educational, recreational, and interpretive opportunities in order for the public to enjoy and appreciate the unique resources of the CTA.
- Design uses, including recreational permits, to minimize impacts to sensitive resources.
- Appropriately interpret the Tule Springs site while protecting the historical and paleontological resources.
- Support studies and interpretation of the fossil resources in the CTA.
- Develop environmental education and interpretive programs for paleontological, cultural, and rare plant resources when such actions are consistent with the protection of the ULVW.
  - Locate uses in areas that reduce impacts to sensitive resources.
  - Develop ongoing public information and interpretation of the Las Vegas bearpoppy, Merriam's bearpoppy, Las Vegas buckwheat, cultural, and paleontological resources.
- Establish a non-motorized trail system, compatible with the protection of sensitive resources, for the enjoyment of the public. Provide interpretation to recreational users.
  - Locate trails and structures (kiosks, staging areas, restrooms, parking facilities, etc.) such that they do not conflict with the management of sensitive resources.
  - Uses, including recreational permits that are compatible with sensitive resource management goals, should be designed to minimize impacts.

### ***Cultural Resources***

- The cultural sites that were identified in the CTA for the LVVDB FEIS/ROD have been mitigated as recommended by the BLM and approved by the State Historic Preservation Office. Additional protection for undocumented cultural resources and cultural landscapes throughout the CTA is necessary. The BLM will work with the Southern Paiute and other entities to develop mitigation measures, including educational programs, for inclusion in the Conservation Agreement to ensure successful continued protection.
- Consult with Indian Tribal Governments early in the process to identify issues regarding any proposed developments, including issues related to the presence of cultural properties, access rights, disruption to traditional cultural practices, and impacts to visual resources important to the tribes.
- Address the education of workers and the public to make them aware of the consequences of unauthorized collection of artifacts and destruction of property on public land.
- Protect the Las Vegas Formation, including the paleontological, geological, and cultural resources.
- Protect cultural resource sites and paleontological areas so that they are kept undisturbed and unfragmented.
- Provide mitigation and treatment for all paleontological and cultural resource sites that cannot be preserved in situ.

- Protect the 1,125-acre Tule Springs site, as defined in the National Register of Historic Places (NRHP) nomination form.<sup>1</sup> The Tule Springs site has national significance in our country's history and should be protected from destruction or impairment. Ensure that actions on BLM land do not conflict with the preservation of historic resources within Tule Springs.
- Cooperate with the Nevada Division of State Parks on the Tule Springs state lands, an inholding within the 1,125-acre Tule Springs site, to ensure consistency with management actions on BLM lands through a cooperative management agreement.
- Provide mitigation and treatment for all paleontological sites, cultural resource sites, and rare plants that cannot be preserved in situ.
- Protect Native American traditional use areas.
- Evaluate and, if significant, nominate a Traditional Cultural Property for the ULVW, working closely with the tribes.
- Appropriately manage areas that have been identified as being sensitive to the Southern Paiute tribes, including the Las Vegas Paiute Tribe.
- If cultural resources are present at the site, or if areas with a high potential to contain cultural material have been identified, a Cultural Resources Management Plan shall be developed. The plan shall do the following:
  - Establish a cultural resources monitoring program; and
  - Identify measures to prevent potential looting/vandalism or erosion impacts.

### ***Paleontological Resources***

- Require a Discovery Plan for any authorized action that would cause disturbance in the Las Vegas Formation; a qualified paleontologist would be on-site during construction activities in case fossils are found.
- Protect the Las Vegas Formation, including the paleontological and geological resources.
- Manage the paleontological assemblages within the Las Vegas Formation.
  - Protect the CTA boundary and in situ fossil localities.
  - Work within BLM's statutes to protect the Las Vegas Formation within all approved Recreation and Public Purposes Act leases.
- Establish appropriate in situ preservation areas for paleontological areas that are kept undisturbed and unfragmented for future research and interpretation.
- Maintain appropriate in situ key paleontological localities that are essential to understanding paleoecology within the Las Vegas Formation.
- Provide mitigation and treatment for all paleontological localities sites that cannot be preserved in situ.
- Conduct regular paleontological prospecting to ensure that new surface fossil sites eroding from the Las Vegas Formation are identified and protected.
- Continue a paleontological stewardship program to educate and train volunteers to monitor and assist in protecting the CTA.

Final mitigation and monitoring measures will be determined during the collaborative development of the Conservation Agreement. Depending on the specific project and types of anticipated disturbances, mitigations may not be appropriate to apply in all cases. The measures identified above and in Appendix

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<sup>1</sup> The NRHP lists the site as 980 acres. There has been no change to the boundary; rather, modern technology has allowed the acreage to be calculated with greater accuracy.

B of the Final SEIS will be used to guide the development of the Conservation Agreement, revisions to the Southern Nevada District Resource Management Plan, and individual land use authorizations to provide for long-term protection of sensitive resources within the CTA.

## Public Involvement

As defined by CEQ regulations, a cooperating agency is one that has special expertise with respect to an environmental issue and/or has jurisdiction by law. The BLM invited 10 federal, state, and local governments to be cooperating agencies for the preparation of the CTA SEIS. The following agencies accepted the invitation and signed a Memorandum of Understanding with the BLM as cooperating agencies throughout the NEPA process: the U.S. Fish and Wildlife Service, Federal Highway Administration, Las Vegas Paiute Tribe, Clark County, City of Las Vegas, and City of North Las Vegas.

A Notice of Intent (NOI) was published in the *Federal Register* (Vol. 72, No. 129) by the BLM on July 6, 2007, announcing the intent to prepare a SEIS to the LVVDB EIS. The scoping period for the SEIS was July 6, 2007, through September 4, 2007. Three public scoping meetings were held in August 2007.

## Public Comment on the Draft SEIS

A 60-day comment period on the Draft SEIS began on January 22, 2010. A Notice of Availability (NOA) was published in the *Federal Register* (Vol. 75, No. 14) by the BLM on January 22, 2010, announcing the availability of the Draft SEIS for public review and comment. The initial close of the comment period was March 22, 2010.

The BLM Las Vegas Field Office hosted three public hearings throughout the LVV on February 22, 23, and 24, 2010, to provide the public with an opportunity to comment on the potential environmental impacts described for the alternatives in the Draft SEIS. Meetings included a brief presentation describing the purpose of and need for determining a final CTA boundary, the alternatives, and the next steps. A court reporter was in attendance to record comments received from members of the public.

The comment period was extended for an additional 60 days for the cooperating agencies and for other interested parties who required additional time to comment. A second NOA was published in the *Federal Register* (Vol. 75, No. 54) by the BLM on March 22, 2010, announcing that the public would have an additional 60 days to provide comments to the BLM on the Draft SEIS. No additional public hearings were scheduled. The comment period closed on May 24, 2010.

## Summary of Major Issues

The Cities questioned BLM's goal to manage for natural hydrologic function of the ULVW and why BLM included the alluvial fan north of the ULVW in the CTA boundary, since flood control structures can be built to control erosion from flood events. The BLM's stated goal is to maintain natural processes in the ULVW, not just eliminate erosion. To the extent practicable, BLM wants to maintain a dynamic wash system that requires the input of sheet flow and other run-off from the alluvial fan north of the ULVW to maintain the natural characteristics of its hydrologic condition. Development on this alluvial fan will permanently alter the hydrologic conditions/water resources (surface and ground), watershed function, hydrologic function, and natural function of the wash. In addition, development on this alluvial fan will require the construction of flood control structures, utilities, roads and other infrastructure in the wash. This will directly impact sensitive resources even with mitigation measures in place.

The Cities also questioned the underlying assumptions used in BLM's ULVW hydrologic model and why BLM did not use the Cities' ULVW hydrologic model to analyze water resources. BLM maintains that

the ULVW hydrologic model developed by the Cities, while valid, serves a different purpose than the model developed by BLM. In order to compare one alternative with another, BLM used a modeling approach that focused specifically on the area within the disposal boundary even though the watershed that feeds the ULVW is much larger than that used for analysis. BLM modeled localized flows coming from the Sheep and Las Vegas Ranges north of the ULVW and analyzed the effects of these flows on surface run-off and sedimentation. BLM then compared changes under the various development scenarios to a baseline. The Final SEIS emphasizes that the flows and erosion results are relative to each alternative and not absolute.

In contrast, the Cities' hydrologic model used the entire watershed in modeling approach, which is essential for general in-stream flow volume to determine sizes and needs for flood control structures. However, this approach is not useful for determining flows in small local washes, sheet flows and sedimentation. Changes to a small area are proportionately "smaller" when the modeled area is considerably larger. While both modeling efforts (BLM's and Cities') are valid, the respective models have two entirely different purposes. The modeling effort conducted by the Cities does not address impacts to the resources of concern within the CTA. The BLM recognizes that other alluvial fans in southern Nevada have been developed and have flood control structures in place to control storm waters; however, the alluvial fan north of the ULVW is special for its proximity to unique resources, not just because it is an alluvial fan.

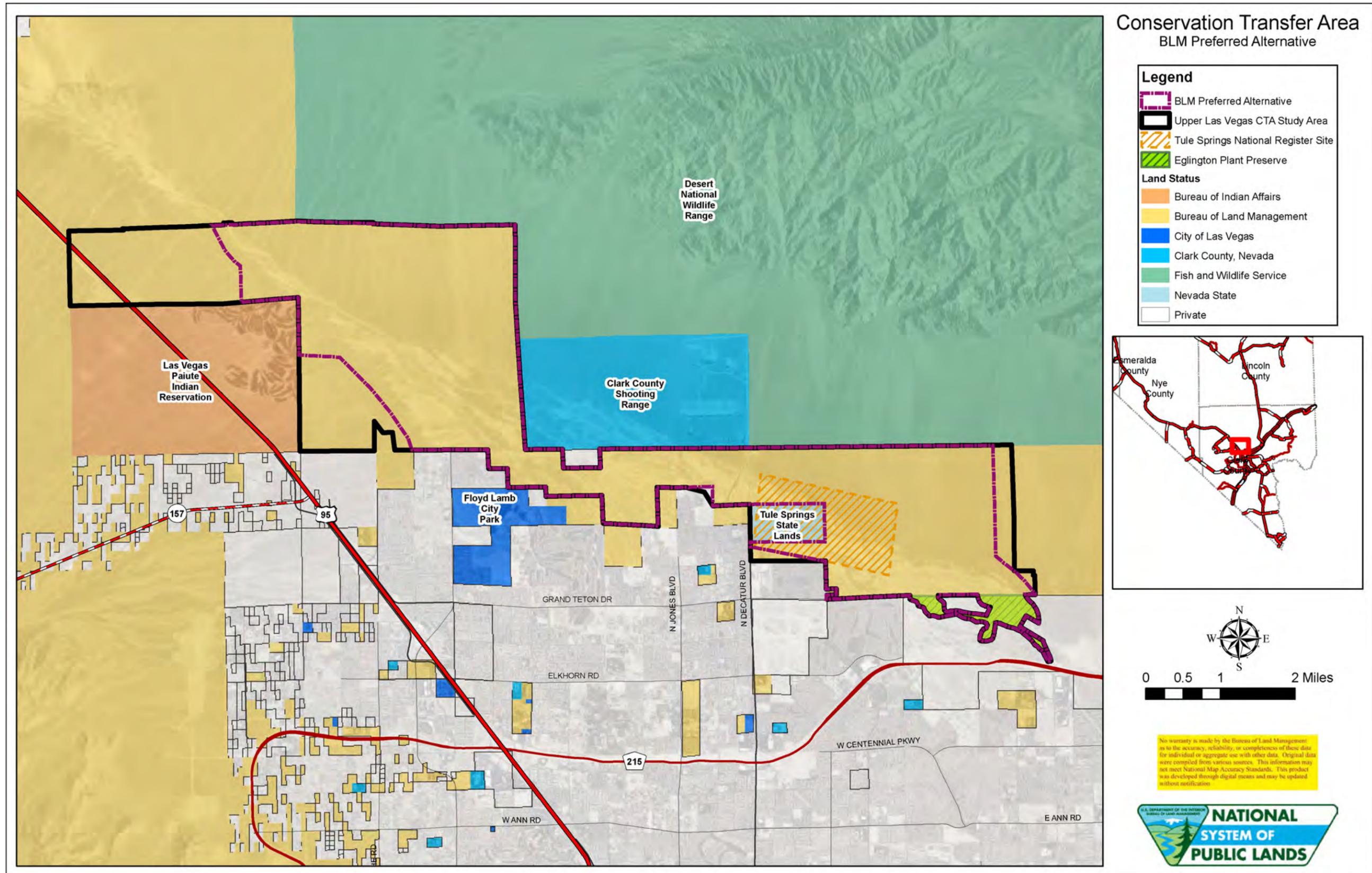
The identification of allowable uses in the CTA was an important issue to the cooperating agencies and other stakeholders. The purpose and need for this SEIS is to set the final boundary for the CTA as identified in the LVVDB FEIS ROD. Identifying allowable uses is outside of the scope of this SEIS and record of decision. Once the boundary is determined through this record of decision, allowable uses in the CTA will be addressed in a subsequent planning effort that will involve all stakeholders. Subsequent planning for this area will include a range of alternatives for allowable uses in the CTA ranging from limited uses to a greater level of uses. Uses may include, but are not limited to, roads, utilities, fences, recreational trails, and other infrastructure.

## Appeal Rights

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. If an appeal is filed, the following procedures must be followed:

- The Notice of Appeal must be in writing and filed (postmarked) within 30 days of the date of the publication of the U.S. Environmental Protection Agency's Notice of Availability in the *Federal Register*.
- You must fully state your reasons for appealing the decision.
- The Notice of Appeal must be addressed to the Field Manager, with a copy to the Regional Solicitor and the Interior Board of Land Appeal.

The appellant has the burden of showing that the decision appealed is in error. If you wish to file a petition, pursuant to 43 CFR §4.21, for a stay of the effectiveness of the approved ROD pending review of your appeal by the Board, the petition for a stay must accompany your Notice of Appeal. A petition must show sufficient justification based on relative harm, likelihood of success on the merits, immediate irreparable harm if the stay is not granted, and whether the public interest favors granting the stay. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.



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