

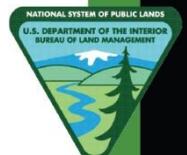
**U.S. Department of the Interior
Bureau of Land Management**

**Finding of No Significant Impact and Decision Record
DOI-BLM-NV-L030-2011-0044-EA
April 2012**

**Alamo Sewer and Water District
Amendment and Renewal to Right of Way**

**Location:
Alamo, Nevada**

U.S. Department of the Interior
Bureau of Land Management
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**UNITED STATE
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
CALIENTE FIELD OFFICE**

FINDING OF NO SIGNIFICANT IMPACT AND DECISION RECORD

INTRODUCTION

I have reviewed Environmental Assessment (EA) DOI-BLM-NV-L030-2011-0044-EA, for the Alamo Sewer and Water District, December 2011. After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the Proposed Action with the project design features, including mitigation measures identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required to be prepared.

This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 Code Federal Regulation 1508.27), both with regard to the context and the intensity of impacts described in the EA.

MITIGATION MEASURES / TERMS AND CONDITIONS:

1. The project contractor would be required to have and comply with a dust control program.

Under Land Use Authorizations in the Ely RMP:

1. A speed limit of 25 miles per hour will be required for all vehicles on the project site and unposted dirt access roads.
2. If possible, overnight parking and storage of equipment and materials, including stockpiling, will occur in previously-disturbed areas or areas to be disturbed that have been cleared by a qualified tortoise biologist. If not possible, areas for overnight parking and storage of equipment will be designated by the BLM authorized officer based on recommendations of a qualified tortoise biologist.
3. All vehicular traffic will be restricted to existing access roads, or those roads approved by the BLM authorized officer in consultation with the Service.
4. Project activity areas will be clearly marked or flagged at the outer boundaries before the onset of construction. All activities will be confined to designated areas. Blading of vegetation will occur only to the extent necessary and will be limited to areas designated for that purpose by the BLM authorized officer based on recommendations from a qualified tortoise biologist.

5. Projects resulting in residual impacts will require the submission of a BLM- and Service-approved reclamation plan, unless determined by the BLM authorized office and Service that reclamation or rehabilitation is not necessary. The reclamation/rehabilitation plan will describe objectives and methods to be used, species of plants and/or seed mixture to be used, time of planting, success standards, and follow-up monitoring. Depending upon the size and location of the project, reclamation could range from re-contouring, to rehabilitation and restriction of access points, to intensive reclamation over the entire area of surface disturbance. The plan will be prepared within 60 days following completion of the surface disturbance phase of the project. Reclamation will be addressed on a case-by-case basis.
6. If trenches or holes are to remain open overnight, they will be checked for tortoises at the end and beginning of each workday. The trenches or holes will be checked immediately prior to backfilling.
7. The project proponent will notify the BLM's authorized officer at least 10 days before initiation of any project. Notification will be made to the BLM's wildlife staff in Caliente or Ely.
8. BLM's wildlife staff in Caliente or Ely and the Service's Nevada Fish and Wildlife Office in Las Vegas must be notified of any desert tortoise death or injury due to project implementation by close of business on the following workday.
9. All appropriate Nevada Department of Wildlife permits or letters of authorization will be acquired prior to handling desert tortoises and their parts, and prior to initiation of any activity that may require handling tortoises.
10. The project proponent must submit a document to BLM within 30 days of completion of the project, showing the number of acres disturbed; remuneration fees paid, and the number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities.

From the PBO - 2a, 2b, 2c, 2d, 2e:

Terms and Conditions:

- 2.a. Prior to initiation of an activity within desert tortoise habitat, a desert tortoise awareness program shall be presented to all personnel who will be onsite, including but not limited to contractors, contractors' employees, supervisors, inspectors, and subcontractors. This program will contain information concerning the biology and distribution of the desert tortoise and other sensitive species, their legal status and occurrence in the project area; the definition of "take" and associated penalties; speed limits; the terms and conditions of this biological opinion including speed limits; the means by which employees can help facilitate this process; responsibilities of workers, monitors, biologists, etc.; and reporting procedures to be implemented in case of desert tortoise encounters or non-compliance with this biological opinion.

- 2.b. Tortoises discovered to be in imminent danger during projects or activities covered under this biological opinion, may be moved out of harm's way.
- 2.c. Desert tortoises shall be treated in a manner to ensure that they do not overheat, exhibit signs of overheating (*e.g.*, gaping, foaming at the mouth, *etc.*), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises will be kept shaded at all times until it is safe to release them. No desert tortoise will be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F. Ambient air temperature will be measured in the shade, protected from wind, at a height of 2 inches above the ground surface. No desert tortoise will be captured if the ambient air temperature is anticipated to exceed 95°F before handling and relocation can be completed. If the ambient air temperature exceeds 95°F during handling or processing, desert tortoises will be kept shaded in an environment that does not exceed 95°F and the animals will not be released until ambient air temperature declines to below 95°F.
- 2.d. Desert tortoises shall be handled by qualified individuals following recognized protocol (Desert Tortoise Council 1999, Service 2009). An authorized desert tortoise biologist will be onsite during project activities during the active desert tortoise season (March 1 – October 31). A biological monitor will be onsite during project activities during the rest of the year (November 1 – February 28/29). Biologists, monitors, or anyone responsible for conducting monitoring or desert tortoise field activities associated with the project will complete the Qualifications Form (see Appendix D in the PBO) and submit it to the Service for review and approval as appropriate. The Service should be allowed 30 days for review and response.
- 2.e. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and the proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program will apply to all actions. A litter-control program will be implemented by the responsible Federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.

From the PBO - 3b, 3d, 3e
Terms and Conditions:

- 3.b. Prior to vehicle and equipment travel on a ROW or project area, an authorized desert tortoise biologist shall survey for desert tortoises and their burrows using Service-approved protocols during the active desert tortoise season (March 1 – October 31). A biological monitor will survey for desert tortoises and their burrows in the same manner as previously described during the rest of the Year (November 1 – February 28/29). All potential desert tortoise burrows will be examined to determine occupancy of each burrow by desert tortoises in accordance with Service-approved protocol.
- 3.d. The AWSO would permanently disturb 0.27 acres of desert tortoise non-critical habitat on BLM-managed land. The applicant will pay compensation for disturbance of habitat prior to surface-disturbing activities associated with the proposed project. Disturbance will be compensated at the current rate of \$810.00 per acre.

Total remuneration fees to be paid to BLM for the project based on the current base rate of \$810.00 per acres are **\$218.70**. These funds will be used for management actions expected to provide a benefit to the desert tortoise over time. Actions may involve habitat acquisition, population or habitat enhancement, increasing knowledge of the species biological requirements, reducing loss of individual animals, documenting the species' current status and trends, and preserving distinct population attributes. Specific actions to be funded will be determined during annual meetings between BLM and the Service to identify and prioritize management actions, which may include implementation of range-wide tortoise monitoring, and management of the Desert Tortoise Conservation Center (BLM and Service 2010).

The fee rate will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) on January 31st of each year. The next adjustment shall occur on January 31, 2012, and will become effective March 1, 2012. Fees assessed or collected for projects covered under this biological opinion after March 1st of each year will be adjusted based on the CPI-U. Information on the CPI-U can be found on the Internet at:
<http://stats.bls.gov/news.release/cpi.nws.htm>.

These funds are independent of any other fees collected by BLM for desert tortoise conservation planning. The payment to BLM shall be accompanied by the attached Section 7 Land Disturbance Fee Payment Form (Appendix A), and completed by the payee.

3.e. Prior to starting operations each day on any project that is not totally enclosed by tortoise-proof fencing and cattle guards, the project proponent shall be responsible for conducting a desert tortoise inspection by authorized desert tortoise biologists using techniques approved by the Service and BLM during the active desert tortoise season (March 1 – October 31). A biological monitor will conduct this inspection during the rest of the year (November 1 – February 28/29). The inspection will determine if any desert tortoises are present in the following locations:

- Around and under all equipment;
- In and around all disturbed areas to include stockpiles and reject materials areas;
- In and around all routes of ingress and egress; and
- In and around all other areas where the operation might expand to during that day.

If a tortoise is discovered during this inspection or later in the day, the operator will immediately cease all operations in the immediate vicinity of the tortoise and will immediately notify the BLM authorized officer.

- 4.a. The project contractor would be required to have and comply with a dust control program.
- 4.b. A speed limit of 25 miles per hour will be required for all vehicles on the project site and unposted dirt access roads.
- 4.c. Overnight parking and storage of equipment and materials, including stockpiling, will occur in previously-disturbed areas or areas to be disturbed that have been cleared by a qualified desert tortoise biologist. If not possible, areas for overnight parking and storage of equipment will be designated by the BLM authorized officer based on recommendations of a qualified desert tortoise biologist.
- 4.d. All vehicular traffic will be restricted to existing access roads, or those roads approved by the BLM authorized officer in consultation with the Service.
- 4.e. Project activity areas will be clearly marked or flagged at the outer boundaries before the onset of construction. All activities will be confined to designated areas. Blading of vegetation will occur only to the extent necessary and will be limited to areas designated for that purpose by the BLM authorized officer based on recommendations from a qualified desert tortoise biologist.
- 4.f. If trenches or holes are to remain open overnight, they will be checked for tortoises at the end and beginning of each workday. The trenches or holes will be checked immediately prior to backfilling.

- 4.g. The project application will notify the BLM's authorized officer at least 10 days before initiation of any project. Notification will be made to BLM's wildlife staff in Caliente or Ely.
- 4.h. All appropriate Nevada Department of Wildlife permits or letters of authorization will be acquired prior to handling desert tortoises and their parts, and prior to initiation of any activity that may require handling tortoises.
- 4.i. The project proponent must submit a document to BLM within 30 days of completion of the project, showing the number of acres disturbed; remuneration fees paid, and the number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities.

Context:

Alamo Sewer and Water District currently holds an authorized right-of-way (ROW) for a waterline and tank. The Proposed Action is to serve the local consumers in Alamo, Nevada with water that has less than 0.10 parts per billion (ppb) or arsenic. The Proposed Action includes renewing the ROW for another thirty years and co-locating an 8" PVC waterline within the existing ROW.

Intensity:

1. Impacts that may be both beneficial and adverse.

Rationale: The primary beneficial impact of the Proposed Action would be providing Alamo residents with healthier water, increasing consumer health. All known adverse impacts have been mitigated to the extent practical by designing the Proposed Action to avoid impacts as much as possible and by including the mitigation measures listed above.

2. The degree to which the proposed action affects public health and safety.

Rationale: Implementation of the Proposed Action will not result in potential substantial or adverse impacts to public health and safety.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

Rationale: The Proposed Action would take place within existing disturbance thus the Proposed Action has no potential to affect significant scientific, cultural or historic resources. There are no wild and scenic rivers, or ecologically critical areas present in the temporary closure area.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
Rationale: The effects on the quality of human environment were determined to be insignificant. The Proposed Action to amend and renew an existing right-of-way will not have high controversial effects.
5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
Rationale: The Proposed Action has no known effects on the human environment which are considered highly uncertain or involved unique or unknown risks. This is demonstrated through the effects analysis on the EA.
6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
Rationale: The Proposed Action does not set a precedent for future actions. Future actions would be subject to evaluation through the appropriate level of National Environmental Policy (NEPA) documentation.
7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.
Rationale: Past, present and reasonably foreseeable future actions in the area are related to multiple use of public lands. Impacts to the resources from other land disturbing activities were analyzed and no significant cumulative impacts have been identified in the EA.
8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.
Rationale: The Proposed Action would take place within existing disturbance thus the Proposed Action has no potential to affect significant scientific, cultural or historic resources.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
Rationale: The Proposed Action is located in desert tortoise habitat. Adverse effects to these species would be avoided or reduced through implementation of the environmental protection measures in the EA.
10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Rationale: The Proposed Action would not violate any known environmental protection laws as the action area is within the existing approved right-of-way thus no effects to the environment.

FINDING OF NO SIGNIFICANT IMPACT

I have determined that, with incorporation of the mitigation measures listed above, the Proposed Action will not significantly affect the quality of the human environment and that preparation of an Environmental Impact Statement (EIS) is not required.

/s/ Victoria Barr

Victoria Barr
Field Manager
Caliente Field Office

04/12/2012

Date