



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Southern Nevada District
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, NV 89130

<http://www.blm.gov/nv/st/en/fo/lvfo.1.html>

In Reply Refer to:

N-75701

2912 (NVS0056)

DEC 29 2010

Dear Interested Party:

Enclosed for your review and comment is the Bureau of Land Management (BLM), Las Vegas Field Office, Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI) for Clark County's application for a Recreation and Public Purpose lease, serial number N-75701, on public lands. The lease is for a public park which would include a recreation center, swimming pool, library, tennis courts, playground, restrooms, parking lot, and other related facilities.

The EA and draft FONSI can be accessed on the BLM ePlanning NEPA Register website: https://www.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.

Interested parties may submit comments to the above address. Before including your address, phone number, e-mail address, or other personal information, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the BLM Nevada State Director.

Comments concerning the EA and draft FONSI for the Clark County public park will be accepted through February 14, 2011. Please submit your comments to Ms. Dorothy Jean Dickey, Realty Specialist, at the address shown above. For more information regarding this action, please contact Ms. Dickey at (702) 515-5119.

Sincerely,

Vanessa L. Hice
Assistant Field Manager
Division of Lands

Enclosures

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

ENVIRONMENTAL ASSESSMENT

DOI-BLM-NV-S010-2010-0107-EA

**RECREATION AND PUBLIC PURPOSE LEASE/CONVEYANCE
FOR LONE MOUNTAIN PARK PHASE III**

APPLICANT.

Clark County, Nevada

GENERAL LOCATION.

Northwest Valley Between Lone Mountain Road and Alexander Road

PREPARING OFFICE

U.S. Department of the Interior
Bureau of Land Management
Las Vegas Field Office
4701 N Torrey Pines
Las Vegas, Nevada 89130
702-515-5000



Environmental Assessment — Recreation and Public Purposes Lease/Conveyance for Lone Mountain Regional Park Phase III

Identifying Information:

Title, EA number, and type of project:

Lone Mountain Regional Park Phase III

DOI-BLM-NV-S010-2010-0107-EA

N-75701 and N-75701-01

Location of Proposed Action:

Mount Diablo Meridian, Nevada, T. 20 S., R. 59 E., sec. 1, lot 1, E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$; and T. 20 S., R. 60 E., sec. 6, lots 5, 6, 7. Containing approximately 303.66 acres

Name and Location of Preparing Office:

Lead Office - Las Vegas FO and number LLNVS01000

Department of the Interior
Bureau of Land Management
Las Vegas Field Office
4701 N. Torrey Pines
Las Vegas, NV 89130

Identify the subject function code, lease, serial, or case file number:

Case file number N-75701 and N-75701-01.

Applicant Name:

Clark County, Department of Real Property Management, Las Vegas, Nevada

Purpose and Need for Action:

This project is needed to fulfill future expanding public recreational needs in the area.

Scoping, Public Involvement and Issues:

This is an application for a Recreation and Public Purpose lease/conveyance for Phase III for the Lone Mountain Regional Park. Phase I and Phase II have already been leased to Clark County as a regional park (case file N-57883-02 and N-57883-03). Phase I is developed as a county park and is located on Jensen Street between Hickam Avenue and Red Coach Avenue. Phase III will be an extension to the park area and will encompass Lone Mountain thus allowing for the addition of new facilities, park amenities, and walking and jogging trails.

Stipulations will be attached to the lease which will include conservation and protection of the natural resources, cultural resources, threatened and endangered species, and the environment.

This proposal has been reviewed by Bureau of Land Management resource team members. Their comments and evaluations are included in this environmental assessment.

The proposed ROW is in concurrence with the Las Vegas Resource Management Plan, Environmental Impact Statement (RMP) approved October 5, 1998.

A draft of this EA is available for review by the public on the internet under NEPA number: DOI-BLM-NV-S010-2010-0107-EA.

Proposed Action and Alternatives

Description of the Proposed Action:

Clark County, Department of Real Property Management, Las Vegas, Nevada, has submitted an application for a Recreation and Public Purpose (R&PP) lease/conveyance for Phase III of the Lone Mountain Regional Park located in the northwest part of the Las Vegas Valley. This case has been assigned serial number N-75701 (N-75701 is the classification page and N-75701-01 is the lease page.) The plan of development for the Lone Mountain Park includes a recreation center, swimming pool, ball fields, tennis courts, basketball courts, playground, tot-lot, restrooms, picnic and leisure areas, trailhead facilities, parking lot, turf establishment, landscaping, lighting, utilities and ancillary equipment. The outcrop known as Lone Mountain consists of steep and rugged terrain not suited for development so this area will consist primarily of walking and jogging trails. Developed recreation will cover approximately 120 acres out of the 303.66 acres.

Phase I of Lone Mountain Regional Park was leased to Clark County on July 29, 1998 under case file N-57883-02 and Phase II of Lone Mountain Regional Park was leased to Clark County on December 13, 1999 under case file N-57883-03. Phase I is already developed as a county park and consists of trails, parking lot, picnic tables, play area, restrooms, and several other amenities. Phase III will be an extension to the park area and will encompass Lone Mountain thus allowing for the addition of new facilities, park amenities and walking and jogging trails.

Description of Alternatives Analyzed in Detail:

No Action Alternative: Adoption of the no action alternative would negate the recreational benefits of the R&PP Act and result in the land remaining as it presently exists.

Alternatives Considered but not Analyzed in Detail

None.

Conformance

The proposed action is in conformance with the Record of Decision for the Approved Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP), approved October 5, 1998. The land described in this proposal is within a designated disposal boundary.

The plan has been reviewed and it is determined the proposed action is in conformance with land use plan decision LD-1 and LD-1-d under the authority of the Federal Land Policy And Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1701 et seq.) These public lands are being disposed of in accordance with the Recreation and Public Purposes Act of June 14, 1926, as amended, (43 U.S.C. 869 et seq.).

Affected Environment:

SUPPLEMENTAL AUTHORITIES

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Air Quality			X	Ensure DAQEM dust permit is obtained during construction activity and is in compliance for the duration of the project(s). Air quality Impacts addressed in EA.
Area of Critical Environmental Concern (ACEC)	X			The proposed project area is not within an ACEC or any critical desert tortoise habitat.
Cultural/ Historical	X			To comply with Section 106 of the National Historic Preservation Act (NHPA), the BLM Archaeologist conducted an existing data review of the area of potential effect (APE) according to 36 CFR 800.4. The APE was previously evaluated for cultural resources and the results are detailed in BLM Cultural Resource reports 5-1006, 5-1970, 5-2212, 5-2467. There are no historic properties within the APE; no further evaluation is required unless the scope of the undertaking changes. As proposed, the undertaking will have no effect to historic properties.
Paleontological Resources	X			No fossil-bearing geological strata will be adversely affected by the undertaking as proposed

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Environmental Justice	X			No minority or low-income communities are present in project area.
Farmlands Prime or Unique	X			Proposed project area is not within any prime or unique farmlands.
Noxious Weeds/Invasive Non-native Species		X		Weed plan is necessary to minimize weed establishment and population expansion due to disturbance and travel vectors, both during construction and as perpetual maintenance. Depending on desert tortoise habitat designation, herbicide treatments must be included in EA for biological assessment.
Native American Religious Concerns	X			An ethnographic assessment was conducted in support of the Valley Disposal Boundary EIS by the Chambers Group. The Nevada State Historic Preservation Office (SHPO) concurred on the adequacy of the report and consultation efforts. No Native American concerns were identified for this portion of the Las Vegas Valley; no further analysis is required.
Floodplains	X			Not present.
Riparian/Wetlands	X			Not present.
Threatened, Endangered or Candidate Plant Species	X			Not present.

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Threatened, Endangered or Candidate Animal Species.	X		X	The proposed action requires formal consultation with the Fish and Wildlife Service (USFWS) and the biological opinion for the Las Vegas Valley must be appended. The appended programmatic biological opinion is completed and the number is File No. 1-5-96-F-23R.3.APD22. See comments in EA below and see attached copy of the appended biological opinion. Proponent must adhere to terms and conditions of the appended biological opinion. Prior to construction, tortoise mitigation fees must be paid, and an authorized desert tortoise biologist must be notified of construction activities.
Migratory Birds		X		Addressed in EA.
Waste - Hazardous/Solid	X			No hazmat issues. Include standard Hazmat stipulations.
Water Quality		X		May need a section 401 permit from NDEP.
Wild & Scenic Rivers	X			Not present.
Wilderness (Study Area)	X			The proposed action has not been inventoried nor is expected to meet the elements of wilderness characteristics.

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Forests and Rangelands (HFRA only)	X			The proposed project is in an area that contains high densities of cactus and yucca. Cactus and yucca are considered government property and are regulated under the Nevada BLM forestry program. To minimize potential impacts, all cactus and yucca within permanent and temporary impact areas should be salvaged, replanted, and maintained as landscaping within undeveloped portions of the project area.
Human Health and Safety	X			Need to follow safety precautions during construction of park.

Other resources of the human environment that have been considered for this environmental assessment (EA) are listed in the table below. Elements that may be affected are further described in the EA. Rationale for those elements that would not be affected by the proposed action and alternative is listed in the table below.

Other Resources	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Grazing Management	X			Proposed action is not within any authorized grazing allotments.
Green House Gas Emissions (Climate Change)		X		Currently there are no emission limits for potential Greenhouse Gas (GHG) emissions, and no technically defensible methodology for predicting potential climate changes from GHG emissions. However, there are, and will continue to be, several efforts

Other Resources	Not Present	Present/Not Affected	Present/May be Affected	Rationale
				to address GHG emissions from federal activities, including BLM authorized uses.
Minerals		X		Any necessary excavation that produces mineral materials within the ROW must be used within the lease or stockpiled on site for sale by the BLM.
Paleontological Resources	X			No fossil-bearing geological strat will be adversely affected by the undertaking as proposed.
Socio-Economic Values		X		Proposed action may create temporary disruption in traffic during construction and may potentially create economic impacts to local businesses. However, once proposed project is completed, the improvements may be beneficial to the economy and social aspects of the community.
Soils/Hydrology		X		May need a section 404 Permit from Army Corp. The proponent should utilize Best Management Practices (BMP's) to minimize erosion.

Other Resources	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Vegetation		X		Based on rare plant surveys for adjacent parcels. There is a low potential for the project to impact yellow two toned penstemon (Penstemon bicolor bicolor), a BLM special status plant. The development of approximately 120 acres of potential habitat would not be considered significant or require mitigation.
Visual Resources		X		The proposed action is located in Visual Resource Management Class III, which allows for moderate levels of contrast with the existing landscape. Clearing of 120 acres and installation of new facilities will create a visual contrast with the surrounding landscape. However, due to the proximity of the beltway and other surrounding developments, this action is not anticipated to dominate the view of the casual observer. Applicant should mitigate visual impacts by incorporating elements of form, line, color, and texture found in the surrounding area.
Recreation	X			Not present.
Fuels/Fire Management		X		This project should not impact fuels or fire management.
Wildlife		X		Addressed in EA

Air Quality:

The United States Environmental Protection Agency (USEPA) changed the standard for ozone from .084 ppb to .075 ppb, in March of 2008. This new standard will require implementation of Volatile Organic Compound (VOC) reduction strategies. There are a number VOC reduction strategies, including but not limited to reformulated fuel, vapor recovery, double walled under-ground storage tanks, increase mass transit and car pooling. It is not known at this time which of these reduction strategies would be implemented by Clark County Department of Air Quality and Environmental Management (CCDAQEM) as part of the State Implementation Plan (SIP) to show attainment for the ozone standard. BLM will work closely with Clark County to ensure BLM authorizations are included as part of the SIP for the affected area. It is anticipated that the USEPA will issue new non-attainment designations in 2010, so Clark County does not have any SIP or plan requirements under the revised NAAQS at this time.

Migratory Birds:

Under the Migratory Bird Treaty Act of 1918 (MBTA) and subsequent amendments (16 U.S.C. 703-711), it is unlawful to take, kill, or possess migratory birds. A list of the protected bird species can be found in 50 C.F.R. §10.13. The list of birds protected under this regulation is extensive and the project site has potential to support many of these species, including the BLM sensitive species the western burrowing owl (*Athene cunicularia*). Typically, the breeding season is when these species are most sensitive to disturbance, which generally occurs from March 15 through July 30.

Wildlife:

The proposed project area is adjacent to lands that support wildlife characteristic of the Mojave Desert. Biological diversity varies according to topography, plant community, and proximity to water, soil type, and season. Several common species of reptiles that may be present in the vicinity of the proposed project site may include the western whip-tail (*Cnemidophorus tigris*), desert iguana (*Dipsosaurus dorsalis*), side-blotched lizard (*Uta stansburniana*), zebra-tail lizard (*Callisaurus draconoides*), desert tortoise (*Gopherus agassizii*), western shovel-nosed snake (*Chionactis occipitalis*) and garter snake (*Thamnophis* sp.). Common bird species that may be present in the vicinity of the proposed project site may include the rock wren (*Salpinctes obsoletus*), black-throated sparrow (*Amphispiza quinquestriata*), turkey vulture (*Cathartes aura*), common raven (*Corvus corax*), phainopepla (*Phainopepla nitens*), red-tailed hawk (*Buteo jamaicensis*), and western burrowing owl (*Athene cunicularia hypugea*). Common mammal species include the black-tailed hare (*Lepus californicus*), the desert cottontail (*Sylvilagus audubonii*), coyote (*Canis latrans*), badger (*Taxidea taxus*), kit fox (*Vulpes macrotis*) and many species of rodents.

BLM Sensitive Wildlife Species:

According to the definition of a BLM sensitive species (see definition page 9-5 of the Disposal EIS) discussed in the Disposal EIS (pp. 3-26, 3-30 to 3-32), the following sensitive species are known to potentially occur within the parcel: western burrowing owl, chuckwalla and banded Gila monster. Western burrowing owl and banded Gila monster occur in washes and Mojave Desert scrub uplands in undeveloped parcels. The chuckwalla is a widespread species, but is regionally limited by its requirement for rock outcrops. Chuckwallas likely occur within the project area, but would be localized on rock outcroppings.

Threatened, Endangered Species:

Threatened and endangered species are placed on a federal list by the U. S. Fish and Wildlife Service (USFWS) and receive protection under the Endangered Species Act of 1973, as amended. The only T species known to occur in the vicinity of the project area is the threatened desert tortoise (*Gopherus agassizii*). In the Mojave region, the desert tortoise occurs primarily on flats and bajadas with soils ranging from sand to sandy-gravel characterized by scattered shrubs and abundant inter-shrub space for herbaceous plant growth. They are also found on rocky terrain and slopes. This project lies within the Las Vegas Valley programmatic area and falls within low density tortoise habitat. Desert tortoise survey data conducted for the preparation of the Disposal Boundary EIS indicates there are tortoise burrows located within the project site.

Environmental Effects:

Air Quality:

Simulations using the Argonne National Laboratory cumulative air modeling assessment indicated potential for future ozone concentrations from development of disposed lands to temporarily exceed the 0.084 ppb standard for select areas of Las Vegas Valley. The temporary exceedances were considered a “worst-case” scenario because the model was constructed using very conservative approaches and only included reformulated fuels as a VOC reduction strategy.

The Argonne National Laboratory air-quality model also assumed a disposal rate of approximately 4,000 acres per year based upon the rate of sales at the time and the assumption that the market could support this rate of disposal into the foreseeable future. In the past 2-3 years, deteriorating economic conditions have reduced demand for additional housing and land; the number of acres actually disposed has dropped considerably in the Las Vegas Valley from a high of 10,000 acres [2003-2006] to a low of 100 acres [2007-2010]. The current downward trend in land sales is expected to continue for the next several years based on the present economic conditions.

The results projected in the ozone model still adequately address future expected levels of ozone in the Las Vegas Valley. Future ozone concentrations resulting from development of disposed lands probably will be less than predicted by the model because of the greatly reduced rate of land disposal, conservative modeling approaches and likely implementation of VOC reduction measures not considered in modeling scenarios. The current 0.075 ppb ozone standard is not likely to be exceeded based upon this rationale, but there is some uncertainty involved with modeling results. In order to address uncertainty, the following measures will be implemented. BLM will coordinate CCDAQEM to ensure federal actions are consistent with the future guidelines provided by CCDAQEM. BLM, in coordination with CCDAQEM, also will determine if additional modeling is needed in the future if disposal rates increase to initially assumed values and specific VOC reduction measures are identified and implemented under a revised SIP.

A dust control permit will be required for this proposed action. Ensure compliance with dust regulations for the duration of the proposed action.

Migratory Birds:

Migratory birds, including the BLM sensitive species the western burrowing owl (*Athene cunicularia*), may be present on the project site. The proponent will be required to adhere to the following mitigation measures: 1) To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 15th - July 30th. 2) If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

Wildlife/BLM Sensitive Wildlife Species:

Wildlife species in the general area include small mammals, rodents, birds and reptiles. These species would be displaced as lands are disturbed within the project area. The primary direct impact of the proposed action on wildlife would be killing or maiming of ground dwelling animals during construction and the loss of habitat. Additional impacts associated with the

mortality from vehicular traffic may also be realized upon the completion of construction and subsequent use of the project area. Wildlife species in the general area are common and widely distributed throughout the area and the loss of some individuals and/or their habitat would have a negligible impact on populations of the species throughout the region.

Threatened, Endangered Species:

This project will disturb a total of 45.55 acres of tortoise habitat. Since tortoise sign has been found in the vicinity and undisturbed habitat exists in the area, there is potential for tortoises to wander into the project area. If not noticed and avoided during construction, desert tortoises could be either injured or killed (by crushing) or harassed (by being moved out of harm's way). Section 7 Consultation for this project is covered under the Append to the Las Vegas Valley Biological Opinion (File Nos. 84320-2010-F-0453 and 1-5-96-F-23R.3.APD22) contingent on compliance with the attached terms and conditions. Additional impacts to desert tortoise are discussed in the above mentioned Biological Opinion. Minimization measures in the above biological opinion contain measures to reduce potential impacts to desert tortoise.

Cumulative Impacts

All cumulative impacts associated with this action were analyzed on pages 4-58 through 4-66 of the Las Vegas Valley Disposal Boundary Environmental Impact Statement signed March 2005.

Tribes, Individuals, Organizations, or Agencies Consulted:

Table 1. List of Persons, Agencies and Organizations Consulted

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
Krynn Williams	Clark County Department of Real Property-Applicant	Supports issuance of 303 acre lease/conveyance.

List of Preparers

Table 2. List of Preparers:

Name	Title	Responsible for the Following Section(s) of this Document
Brenda Warner	Realty Specialist	Introduction, Purpose and Need, Scoping, Land/Access
Dorothy J. Dickey	Realty Specialist	Review of DRAFT edit, and completion of Final EA
Lisa Christianson	Environmental Protection Specialist	Air Quality, Greenhouse Gas Emissions
Fred Edwards	Botanist	Botanist, Forest Initiative, Healthy (Cactus/Yucca), Threatened, Endangered or Candidate (Plant Species), Vegetation Excluding Listed Species
Susanne Rowe	Archaeologist	Cultural Resources, Native American Religious Concerns, Paleontology,
Jayson Barangan	Natural Resource Specialist	Fish & Wildlife, Migratory Birds, Threatened, Endangered or Candidate (Animal Species),
Sarah Peterson	Hydrologist	Floodplains, Hydrologic Conditions, Riparian/Wetlands, Soils, Water Resources/Quality (Drinking/Surface/Ground), Wetlands/Riparian Zones, Wild & Scenic Rivers
Mark Slaughter	Wildlife Biologist	Fish & Wildlife, Migratory Birds, Threatened, Endangered or Candidate (Animal Species)
George Varhalmi	Geologist	Geology/Mineral Resources/Energy Production,
Nora Caplette	Natural Resource Specialist	Invasive Species/ Noxious Weeds
Kirsten Cannon	Public Affairs Specialist	Public Affairs
Kystal Johnson	Wild Horse and Burro Specialist	Farmlands, Livestock Grazing
Lucas Rhea	Fire Management Spec.	Fuels/Fire Management
Katie Kleinick	Wildlife Biologist	Threatened, endangered animal species

Name	Title	Responsible for the Following Section(s) of this Document
Lauren Brown	NRS Restoration Ecologist	Visual Resources
Sendi Kalcic	Wilderness Planner	Areas with Wilderness Characteristics

Exhibit A

Stipulations

Stipulations to be attached to the Lease

Exhibit A
Stipulations N-75701-01

1.0 Provisions of Title VI of the Civil Rights Act of 1964.

- 1.1. The lessee or any successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241) and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the land conveyed herein is used for the purpose for which the lease was made pursuant to the act cited or for another purpose involving the provision of similar services or benefits.
- 1.2. If the lessee or any successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964 and the requirements imposed by the Secretary of the Interior issued pursuant to that title during the period which the land described herein is used for the purpose for which the lease was made pursuant to the act cited or for another purpose involving the provision of similar services or benefits, said Secretary or his delegate may declare the terms of this lease terminated in whole or in part.
- 1.3. The lessee, by acceptance of this patent, agrees for itself and its successors in interest that a declaration of termination in whole or in part of this lease shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the land involved in the declaration.
- 1.4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964 and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the lessee or any successor in interest.
- 1.5. The lessee or any successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the property conveyed.
- 1.6. The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the lessee and his (its) successors in interest for the period for which the land described herein is used for the purpose for which this lease was made, or for another purpose involving the provision of similar services or benefits.
- 1.7. The assurances and covenant required by sections (1) through (6) above shall not apply to ultimate beneficiaries under the program for which this lease is made; "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

2.0 **Special Stipulations**

- 2.1. The proposed project is located in an area that contains high densities of cactus and yucca. Cactus and yucca are considered government property and are regulated under the Nevada BLM forestry program. To minimize potential impacts, all cactus and yucca within permanent and temporary impact areas should be salvaged, replanted, and maintained as landscaping within undeveloped portions of the project area.
- 2.2. Weed Plan is necessary to minimize weed establishment and population expansion due to disturbance and travel vectors, both during construction and as perpetual maintenance.
- 2.3. The holder shall, prior to construction activities, provide the Authorized Officer of the Bureau of Land Management (BLM) with proof of payment of required desert tortoise mitigation fees and a final site plan of development; and following a decision on any additional environmental analysis that may need to be completed as a result of the revised site plan, a notice to proceed may be issued. An authorized desert tortoise Biologist must be notified prior to construction activities; please call (702) 515-5000.

3.0 **General Stipulations**

- 3.1. The lease is issued subject to all valid existing rights.
- 3.2. The lease shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 3.3. Lessee shall mark the exterior boundaries of the lease with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Lessee. Lessee shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 3.4. Lessee shall conduct all activities associated with construction, operation, maintenance and termination of this lease within its authorized limits.
- 3.5. Lessee shall maintain the lease in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.

- 3.6. Lessee shall, during construction of the facility, provide a prominent sign stating: *This facility is being constructed on public land provided in support of the community by the Department of the Interior, Bureau of Land Management, Las Vegas Field Office.* Logos can be provided.
- 3.7. Lessee shall, upon completion of construction of the facility, either immediately within or immediately adjacent to the main entrance, provide a prominent **permanent** plaque stating: *This facility is located on public land provided in support of the community by the Department of the Interior, Bureau of Land Management, Las Vegas Field Office.* Logos can be provided.
- 3.8. Lessee shall maintain copy of the authorization along with stipulations on construction site at all times.
- 3.9. Mineral material generated, and not needed for the development of the proposed action within the lease site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of in place excess mineral material.
- 3.10. Within 90 days of construction completion, the Lessee shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the lease:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.
CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

4.0 Air Quality

- 4.1. The Lessee shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Lessee shall be responsible for dust abatement within the limits of the right-of-way and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Lessee shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the lease.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Lessee will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Lessee.

Prior to relinquishment, abandonment, or termination of this lease, the Lessee shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

- 4.2. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

5.0 Cultural

- 5.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Lessee, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Lessee shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Lessee will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Lessee. Lessee shall be responsible for the resultant mitigation costs.

6.0 Hazardous Material/Pesticides/Liability

- 6.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the right-of-way area at any time by the Lessee. The Lessee shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Lessee or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 6.2. The Lessee shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the lease potentially affecting the lease of which the Lessee is aware.

- 6.3. As required by law, Lessee shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the lease.
- 6.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Lessee shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this lease.

- 6.5. The Lessee shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Lessee agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the right-of-way), the United States against any liability arising from the Lessee's use or occupancy of the lease, regardless of whether the Lessee has actually developed or caused development to occur on the lease, from the time of the issuance of this lease to the Lessee, and during the term of this lease. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Lessee, its agents, contractors, or third parties. If the liability is caused by third parties, the Lessee will pursue legal remedies against such third parties as if the Lessee were the fee owner of the lease.
- 6.6. Notwithstanding any limits to the Lessee's ability to indemnify and hold harmless the United States which may exist under state law, the Lessee agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Lessee's use or occupancy of the lease regardless of whether the Lessee has actually developed or caused development to occur on the lease from the time of the issuance of this lease to the Lessee and during the term of this lease.

7.0 Survey Monuments

- 7.1. Lessee shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points,

U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the lessee shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The lessee shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the lessee shall be responsible for the survey cost.

8.0 Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian

- 8.1. The proposed project is located in an area that contains high densities of cactus and yucca. Cactus and yucca are considered government property and are regulated under the Nevada BLM forestry program. To minimize potential impacts, all cactus and yucca within permanent and temporary impact areas should be salvaged, replanted, and maintained as landscaping within undeveloped portions of the project area.
- 8.2. The Lessee shall be responsible for weed control on disturbed areas within the limits of the lease. The Lessee is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the lease stipulations.
- 8.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 8.4. Land surface treatment for areas previously undisturbed: Strip the top three to six inches of soil material with associated plant material over all surfaces to be disturbed by construction. Stockpile this material along the course of construction will be salvaged and transplanted out of harm's way but still within the lease. At the conclusion, including trench backfilling and compaction, replace the stockpiled soil with plant debris uniformly back on the surface of the disturbed area.
- 8.5. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, lessee needs to follow Nevada Administrative Code (NAC) protocols for drilling.

9.0 Lease/Conveyance

- 9.1. The Lessee may request patent after development in accordance with the approved

Plan of Development has been completed, or substantial development has occurred indicating that the project will be completed in its entirety. A minimum of ninety (90) days shall be required from the date a patent request is submitted to the Authorized Officer to allow notification of lessees of lands authorizations.

- 9.2. The Lease is issued subject to all valid existing rights. Patent to the Federal Lands within the lease area, if issued, shall be subject to all valid existing rights at the time of patent, including authorizations leased by the United States, under the terms and conditions in existence at the time of patent. Subject to limitations prescribed by law and regulation, prior to patent issuance, a Lessee of any lease within the Federal Lands may be given the opportunity to amend the lease for conversion to a new term, including perpetuity, if applicable, or to an easement.

10.0 **Migratory Birds**

- 10.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

11.0 **Threatened and Endangered Wildlife and Plant Species Stipulations**

- 11.1. The Lessee will comply with the terms and conditions of the appended Biological Opinion, number 1-5-96-F-023R3.APD22, on file at the Bureau of Land Management, Las Vegas Field Office and attached to this document.

APPENDED BIOLOGICAL OPINION

1-5-96-F-023R3.APD22



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Nevada Fish and Wildlife Office
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
Ph: (702) 515-5230 ~ Fax: (702) 515-5231

September 10, 2010
File Nos. 84320-2010-F-0453 and
1-5-96-F-023R3.APD22

Memorandum

To: Assistant Field Manager, Division Renewable Resources, Las Vegas Field Office,
Bureau of Land Management, Las Vegas, Nevada

From: State Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada

Subject: Request to Append Recreation and Public Purpose Lease Application for a Park
Site in the Las Vegas Valley, to the Programmatic Biological and Conference
Opinion (PBCO) for Proposed Actions within the Las Vegas Valley, Clark
County, Nevada

This responds to your memorandum dated August 2, 2010, requesting the subject action be appended to the Programmatic Biological and Conference Opinion (PBCO) for the Las Vegas Valley (File No. 1-5-96-F-023R3) issued on December 20, 2004. The PBCO addressed potential effects to the desert tortoise (*Gopherus agassizii*) (Mojave population), a species listed as threatened in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.) and 50 CFR § 402 of our interagency regulations governing section 7 of the Act. A PBCO on the Las Vegas buckwheat (*Eriogonum corymbosum* var. *nilesii*) was also provided. While the Fish and Wildlife Service has not proposed the Las Vegas buckwheat as endangered or threatened under the Act, we did elevate the taxon to candidate status on December 6, 2007.

Our response to your request is attached. If we can be of any further assistance, please contact Brian A. Novosak in the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230.


for Robert D. Williams

Attachments

**TAKE PRIDE
IN AMERICA** 

ATTACHMENT

APPENDED ACTION UNDER THE LAS VEGAS VALLEY PROGRAMMATIC BIOLOGICAL AND CONFERENCE OPINION (PBCO)

Date of Request: August 2, 2010 **File Nos. of Action:** 84320-2010-F-0453 and
1-5-96-F-023R3.APD22

Date Received: August 3, 2010

Date of Response: September 10, 2010

Species Affected: Desert tortoise (*Gopherus agassizii*) (Mojave population)

Proposed Action: Recreation and Public Purpose lease application for a Park Site in the Las Vegas Valley, Nevada

INTRODUCTION

The Clark County Department of Real Property Management has submitted a Recreation and Public Purpose lease application for a park site southeast of the intersection of Lone Mountain Road and Clark County 215. Desert tortoise densities for the project site listed above is low (10 to 45 per square mile) based upon the tortoise surveys conducted in 2003-04. No known Las Vegas buckwheat (*Eriogonum corymbosum* var. *nilesii*) or its habitat occur within the project boundary; therefore, the Fish and Wildlife Service (Service) agrees with the Bureau of Land Management's (BLM) determination that no adverse effects to the species are anticipated to occur. The species will not be discussed further in this document.

CONSULTATION HISTORY

On April 11, 1996, the Service issued the 1996 biological opinion (File No. 1-5-96-F-023R) to BLM's Las Vegas District for implementation of portions of their Management Framework Plan, and proposed Las Vegas District Resource Management Plan pertaining to land sales, exchanges, leases, and rights-of-way within the Las Vegas Valley.

On October 31, 2001, the Service issued the 2001 biological opinion (File No. 1-5-96-F-023R.2) to BLM which (1) extended the term of the PBCO which expired April 11, 2001, to an indefinite period of time, (2) incorporated the previous correction and amendments into this modified opinion, (3) eliminated the numeric cap, by project, on the number of acres that may be disturbed, and (4) deleted the discretionary clause addressing possible non-waiver of fees for actions within the urbanized exclusionary zone identified in the 1996 biological opinion. The 2001 biological opinion is superseded by the subject biological opinion.

On December 20, 2004, the Service issued the 2004 biological opinion (File No. 1-5-96-F-023R.3) to BLM which continues implementing actions described in the 1996 and 2001 biological opinions, as amended, within the programmatic boundary. It also allows BLM to proceed without further consultation under this PBCO for activities that involve disturbance or disposal of 40 acres or less, unless BLM lands have been identified to contain or are adjacent to occupied Las Vegas buckwheat habitat. For actions that would involve disturbance or disposal of more than 40 acres, or have been identified to contain or are adjacent to occupied Las Vegas buckwheat habitat, BLM shall submit a request to append the action to the PBCO. Within 30 days, the Service will respond to BLM's request and append the action to this PBCO, as appropriate. Once the proposed action is appended, BLM may proceed with the action.

On August 2, 2010, BLM requested to append the action to the PBCO (File No. 1-5-96-F-023R.3) thereby initiating formal consultation for the project. The Service received the request on August 3, 2010, and initiated formal consultation at that time.

SUMMARY OF PROPOSED ACTION

The Clark County Department of Real Property Management has submitted a Recreation and Public Purpose lease application for a park site in the Las Vegas Valley. The site would first be leased and upon development, patents would be issued upon request. The site is located in the northwestern part of the Las Vegas Valley encompassing Lone Mountain generally southeast of the intersection of Lone Mountain Road and Clark County 215. The total amount of land applied for is 303.66 acres. The requested parcels are adjacent to the existing 30 acre phase of Lone Mountain Park that was issued by BLM July 29, 1998. The selected site is located in an area that is in need of recreational opportunities due to the nearby growing residential area.

A completed description of BLM's proposed action can be found in their August 2, 2010, request (BLM 2010) and is hereby incorporated by reference.

Proposed Minimization Measures

In their August 2, 2010, memorandum and request to append the action to the PBCO, BLM proposed numerous measures from the PBCO to minimize potential effects to the desert tortoise as a result of the proposed action. These measures have been incorporated into the Incidental Take Statement of this appended biological opinion, as appropriate.

STATUS OF THE SPECIES/ENVIRONMENTAL BASELINE

The range-wide status of the desert tortoise consists of information on its listing history, species account, recovery plan, recovery units, distribution, reproduction, and numbers. This information is dated October 22, 2008, and provided on the Service's website at: http://www.fws.gov/nevada/desert_tortoise/dt_life.html. If unavailable on this web site, contact

the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230, and provide File No. 84320-2010-F-0453.

Status of the Species in the Action Area

During the fall and winter of 2003-2004, desert tortoise surveys were conducted on BLM land in the Las Vegas Valley. Desert tortoise densities for the project site listed above is low (10 to 45 per square mile) based upon the tortoise surveys conducted in 2003-04. Survey results indicate that two tortoise burrows occur within the parcel (see Table 1 in BLM 2010).

The parcel is fragmented and surrounded by urban development to the south, east (residential development) and north (Clark County 215); however, to the north there is undisturbed, contiguous habitat. Additionally, the proposed site has impacts resulting from human activities such as hiking, bike riding and illegal off-highway vehicle and motorcycle use. The vegetation community for the area is creosote-bursage desert shrub type.

The proposed action is the 22nd appended action under the PBCO. The previously appended actions in desert tortoise habitat are identified in Table 1.

EFFECTS ANALYSIS

The effects of the proposed action are within the scope of overall effects described in the *Effects of the Proposed Action on the Listed Species* section of the PBCO. Approximately 303.66 acres of land would be required for the proposed project. All of the lands associated with the park sites, 222.01 acres will be left in its natural state and 36.1 acres are already disturbed; leaving 45.55 acres to be disturbed for recreation development. The Service estimates that four desert tortoises could occur within the area to be disturbed.

The direct effects of the proposed action include injury or mortality of individual desert tortoises if clearance surveys are not conducted; collapse or destruction of desert tortoise burrows possibly occupied by desert tortoises; and if a damaged burrow is occupied, the occupant may become entombed and die. If desert tortoises onsite are captured and moved off the land to be developed, the displaced tortoises may wander back into the footprint or out into adjacent areas leading to increased incidences of predation or human encounters, including vehicles. The indirect effects of the proposed action are those effects caused by, or resulting from the proposed action, are later in time, and are reasonably certain to occur. Indirect effects may include increased stress from harassment and movement into areas that contain a resident tortoise population which can create an increase in competition for forage, particularly during drought years. Increased tortoise densities may lead to increased spread of disease, thus reducing overall population health. Increased tortoise densities would lead to increased competition for shelter. Displaced tortoises would be exposed to increased predation as they learn new surroundings and find shelter.

As the development of Las Vegas Valley continues, so does the direct permanent loss of desert tortoise habitat. Continued infrastructure construction creates physical barriers to tortoise movement and gene dispersal. Desert tortoise habitat could continue to be fragmented, and reduced in quality and quantity. Local desert tortoise populations could become extirpated resulting in the loss of important genetically distinct populations from the rangewide tortoise population and larger scale extirpations.

CONCLUSION

After reviewing the current status of the desert tortoise, the environmental baseline for the action area and the effects of the proposed action, it is the Service's biological opinion that the proposed action is within the scope of the Las Vegas Valley PBCO issued to BLM's Las Vegas Field Office on December 20, 2004, and is therefore, not likely to jeopardize the continued existence of the threatened Mojave population of the desert tortoise.

INCIDENTAL TAKE STATEMENT FOR PROPOSED ACTION

The Terms and Conditions may include: (1) restating measures proposed by BLM; (2) modifying the measures proposed by BLM; or (3) specifying additional measures considered necessary by the Service. Where these Terms and Conditions vary from or contradict the minimization measures proposed under the Description of the Proposed Action, specifications in these Terms and Conditions shall apply. The measures described below are nondiscretionary and must be implemented by BLM, or other jurisdictional Federal agencies, so that they become binding conditions of any project, contract, grant, or permit issued by BLM as appropriate, in order for the exemption in section 7(o)(2) to apply.

Amount of Take

Based on the effects analysis previously described, the Service anticipates that all Mojave desert tortoises that occur on the 45.55-acre project disturbance area may be taken by capture as a result of the proposed action. Based on the survey data and known occurrence records in the action area, the Service estimates that four desert tortoises may be taken by capture and relocation as a result of the proposed action; no tortoises are anticipated to be killed or injured.

REASONABLE AND PRUDENT MEASURES (RPMs)

The Service believes that the following RPMs with Terms and Conditions are necessary and appropriate to minimize take of desert tortoise.

RPM 1: *BLM and other jurisdictional Federal agencies as appropriate shall ensure implementation of measures to minimize injury or mortality of desert tortoises due to surface-disturbing activities, operation of project vehicles or equipment, and project operations:*

Terms and Conditions:

- 1.a. The BLM does not propose that clearance surveys be required; therefore, a clearance survey is voluntary. If a clearance is conducted, any tortoises found must be relocated to the Desert Tortoise Conservation Center following Term and Condition 1.b.
- 1.b. The proponent will be required to have an authorized desert tortoise biologist (authorized biologist) on call to relocate any desert tortoises that enter the work area. If tortoises are encountered that must be moved out of harm's way, the authorized biologist will contact the BLM wildlife staff at (702) 515-5000 to identify the relocation site or whether the animal will be transferred to the Clark County Tortoise Pick-up Service.

Only individuals trained to handle desert tortoises in accordance with Service-approved guidelines (Service 2010) shall be authorized to handle desert tortoises, unless they are in imminent danger.

Potential desert tortoise biologists shall complete and submit the Statement of Qualifications Form (Service 2010) to the Service for review and approval; allow 30 days for a Service response. The authorized biologist must have thorough and current knowledge of desert tortoise behavior, natural history, ecology, and physiology, and demonstrate substantial field experience and training to safely and successfully conduct their required duties. Authorized biologists are approved to monitor project activities within desert tortoise habitat and are responsible for locating desert tortoises and their sign (i.e., conduct clearance surveys).

Tortoises shall not be placed on private lands or lands under management by an agency other than BLM without written permission of the landowner or agency. If unforeseen circumstances occur that would question the survival of tortoises potentially relocated from project areas, BLM shall coordinate with the Service on the disposition of such tortoises.

RPM 2: *The BLM and other jurisdictional Federal agencies as appropriate shall ensure implementation of the following measures to minimize loss and long-term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, crushed vegetation, and introduction of weeds or contaminants as a result of construction activities:*

Terms and Conditions:

- 2.a. The BLM shall ensure that a fee is paid at the current rate of \$774 per acre of disturbance, as indexed for inflation, prior to surface disturbance as described below. 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, 2011, and will become effective March 1, 2011. 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 at:
<http://stats.bls.gov/news.release/cpi.nr0.htm>

This fee will be paid directly to the BLM, Reno, Nevada. These funds are independent of any other fees collected by BLM for desert tortoise conservation planning.

The payment shall be accompanied by the attached Section 7 Land Disturbance Fee Payment Form, and completed by the payee.

The new surface disturbance for this project on BLM lands is 45.55 acres. The total fee for these lands is \$35,255.70 (\$774.00 x 45.55).

- 2.b. The boundaries of project areas shall be flagged or marked and all equipment, vehicles, and construction materials will remain within the project site or authorized areas. Staging areas will be located in previously-disturbed areas whenever possible. Cross-country travel and travel outside authorized areas will be prohibited.

RPM 3: *The BLM and other jurisdictional Federal agencies as appropriate shall ensure implementation of the following measures to ensure that tortoises are not injured as a result of capture and handling:*

Terms and Conditions:

- 3.a. 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 shall be kept shaded at all times until it is safe to release them. No desert tortoise shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F (35°C). Ambient air temperature shall be measured in the shade, protected from wind, at a height of 2 inches (5 centimeters) above the ground surface. No desert tortoise shall be captured if the ambient air temperature is anticipated to exceed 95°F (35°C) before handling and relocation can be completed. If the ambient air temperature exceeds 95°F (35°C) during handling or processing, desert tortoises shall be kept shaded in an

environment that does not exceed 95°F (35°C), and the animals shall not be released until ambient air temperature declines to below 95°F (35°C).

- 3.b. Any tortoise found within one hour before nightfall will be placed in a separate clean cardboard box and held in a cool, predator-free location. The box will be covered and kept upright at all times to minimize stress to the tortoise. Each box will be used once and then disposed of properly. The tortoise will be released the next day following Service-approved protocols. Each tortoise will be handled with new disposable latex gloves. After use, the gloves will be properly discarded and a fresh set used for each subsequent tortoise handling.
- 3.c. Project activities that may endanger a tortoise will cease if a tortoise is found on a project site. Project activities will resume after an authorized biologist removes the tortoise from danger or after the tortoise has moved to a safe area on its own volition.
- 3.d. A desert tortoise education program may be required on an action-specific basis if a BLM biologist or the Service believe that project personnel will encounter desert tortoises. The program would be presented to all personnel onsite during construction activities. This program would contain information concerning the biology and distribution of the desert tortoise, desert tortoise activity patterns, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties, measures designed to minimize the effects of construction activities, the means by which employees can facilitate this process, and reporting requirements to be implemented when tortoises are encountered.
- RPM 4:** *The BLM and other jurisdictional Federal agencies as appropriate shall implement measure to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion:*

Term and Condition:

The BLM shall keep an up-to-date log of all actions taken under this consultation including acreage affected; number of desert tortoises injured, killed, or removed from project areas; and fees paid for each action. BLM will continue to provide the log information to the Service's Nevada Fish and Wildlife Office in Las Vegas on an annual basis. Information will be cumulative throughout the term of this consultation.

RPM 5: *The BLM and other jurisdictional Federal agencies as appropriate shall ensure implementation of the following measure to minimize predation on desert tortoises by predators drawn to the project area:*

Term and Condition

Trash and food items shall be disposed properly in predator-proof containers with resealing lids. During construction activities, trash containers will be emptied and waste will be removed from the project area daily. Trash removal reduces the attractiveness of the area to opportunistic predators such as desert kit fox, coyotes, and common ravens.

This concludes formal consultation on the action outlined in your August 2, 2010, request. This consultation document is hereby appended to the PBCO issued to BLM's Las Vegas Field Office to fulfill their consultation requirements pursuant to section 7(a)(2) of the Act.

LITERATURE CITED

BLM (Bureau of Land Management). 2010. Request to Append an Action to the Programmatic Biological Conference Opinion for Las Vegas, Valley, Clark County, Nevada. Las Vegas Field Office, Las Vegas, Nevada. August 2, 2010. 8 pp.

Service (U.S. Fish and Wildlife Service). 2010. Desert Tortoise Field Manual. Desert Tortoise Recovery Office, Reno, Nevada. Available at:
http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/

Table 1. Prior Actions Submitted to be Appended under the PBCO

No.	Date	Action Name	No. Acres Affected		Take Exempted		Take Reported	
			BLM	Private	Lethal	Non-lethal	Lethal	Non-lethal
1	1/31/2005	Winter 2005 Land Sale	0	0	MSHCP	MSHCP	NR	NR
2	2/23/2005	State Route 160 Improvement Project	70	249	2 BLM MSHCP	2 BLM MSHCP	NR	NR
3	6/09/2005	Clark County School District High School	60	0	MSHCP	MSHCP	NR	NR
4	8/9/2005	I-15 Interchange at Silverado Ranch	33.2	83.7	1 BLM MSHCP	2 BLM MSHCP	NR	NR
5	8/29/2005	Clark County School District Elementary School	40	0	MSHCP	MSHCP	NR	NR
6	9/01/2005	November 2005 Land Sale*	2981.88	0	MSHCP	MSHCP	NR	NR
7	12/1/2005	Duck Creek Detention Basin	152	0	4 lethal or non-lethal		NR	NR
8	4/25/2006	National Guard Armory Patent	956.3	0	30 lethal or non-lethal		NR	NR
9	3/22/2006	Patent for 8 Clark County Schools	207.15	0	0	20	NR	NR
10	3/23/2006	Lease for 5 Clark County Parks	123.27	0	23 lethal or non-lethal		NR	NR
11	5/11/2006	Mineral Sale- Lone Mtn. Comm. Pit	120	0	7 lethal or non-lethal		NR	NR
12	5/12/2006	June 2006 Land Sale*	22.5	0	MSHCP	MSHCP	NR	NR
13	12/13/2006	Winter 2006/2007 Land Sale*	30	0	MSHCP	MSHCP	NR	NR
14	10/28/06	North Las Vegas Park	41.48	0	2 lethal or non-lethal		NR	NR
15	4/2/2007	City of Henderson Park	160	0	6 lethal or non-lethal		NR	NR
16	6/26/2007	June 2007 Land Sale	16.25	0	MSHCP	MSHCP	NR	NR
17	2/25/2008	June 2008 Land Sale	28.75	0	MSHCP	MSHCP	NR	NR
18	3/27/2009	Mineral Materials Sale- Lone Mtn. Comm. Pit	1157	0	23 lethal or non-lethal		NR	NR
19	1/23/2009	Spring 2009 Land Sale*	115	0	MSHCP	MSHCP	NR	NR
20	03/27/2009	Army Nat. Guard Facility	46.57	0	5 lethal or non-lethal		NR	NR
21	11/30/2009	Widening of I-15 from Tropicana to Sloan	17.3	67.7	0	5	NR	NR
TOTALS			6378.65	400.4				

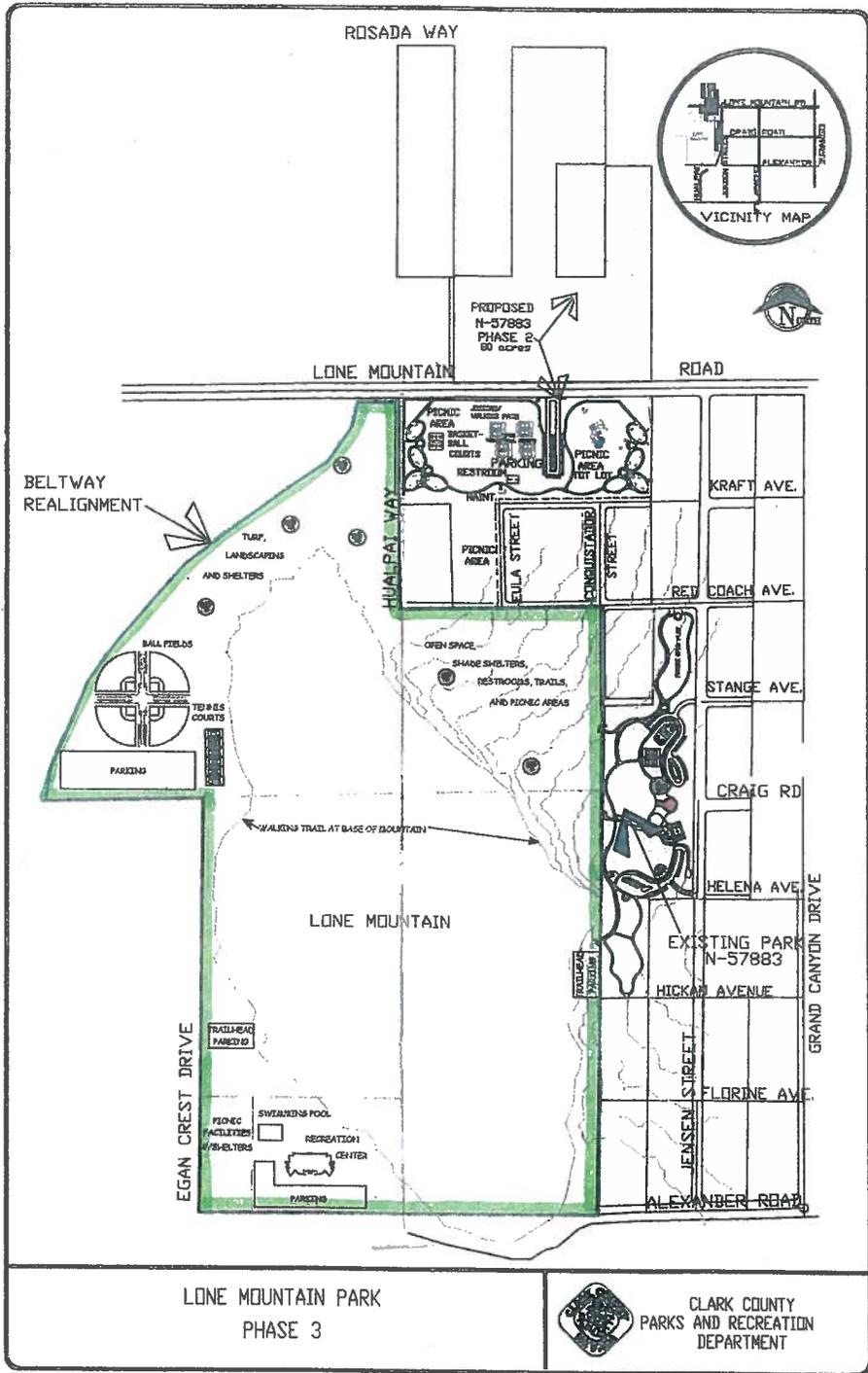
MSHCP = Clark County Multiple Species Habitat Conservation Plan incidental take permit;

NR = None Reported

*Reflects actual number of acres sold

Exhibit B & C

MAPS



LONE MOUNTAIN PARK
PHASE 3

CLARK COUNTY
PARKS AND RECREATION
DEPARTMENT

N-75701-01

LONE MOUNTAIN PARK PHASE III

EXHIBIT B
1 of 1

