

Categorical Exclusion (CX)
N-94174 SCM II Production Inc. Big Dune Film Permit

Background

NEPA NUMBER: DOI-BLM-NV-S030-2015-0018-CX

SCM II Productions Inc. requested a film permit in Big Dune, near Amargosa Valley, Nye County Nevada for June 22, 2015.

BLM Office:

Bureau of Land Management
Pahrump Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130

LLNVS03000

Lease/Serial/Case File No.:

N-94174

Proposed Action Title/Type:

This is a filming permit request from SCM II Production Inc for a film permit on public lands.

Location of Proposed Action:

LOCATION AND LEGAL DESCRIPTION:

The site is located 8 miles west of Lathrop Wells, Nevada, on US-95 and then south 2.5 miles on Valley View Blvd., then west 0.7 miles to Big Dune. Near the town of Amargosa Valley, Nevada in Nye County.

The Legal Description for the road is:

Mount Diablo Meridian, Nevada

T. 15 S., R. 48 E.,

sec. 16, S1/2.

Description of Proposed Action:

SCM II Productions Inc. applied for a film permit to use the Amargosa Desert Big Dunes area on June 22, 2015, to film scenes for a TV series. There would be a total of 25 members of cast and crew with 5 personal vehicles, 4 mini vans, 1 picture vehicle, 2 snowmobiles, 3 XDCAMs, 1 Sony FS700, and Go Pro cameras. There will be no props, animals, sets or catering. They will stay on existing trails and agreed to comply with the standard filming stipulations. Filming will take place around 8am to 6pm.

The activity is that cast members will test their snowmobiles, after having worked to restore them back to running condition and swapping the front ski's for wheels suitable to ride in the sand. The applicant stated that snowmobiles are capable of running on sand, and the applicant would get shots of snowmobiles riding back and forth as well as up and down a few hills. The snowmobiles

would not be powerful enough to launch off dunes, the riding would be very reserved, mainly just having fun and seeing if they will go on the sand.

The applicant would hire two local Production Assistants for the duration of filming in Nevada. All of our cast except two people would be locals. The filming crew would be spending money on food and fuel from local businesses. The crew will not be lodging in or near Amargosa Valley. The applicant has rented houses in Las Vegas for the crew.

Land Use Plan Conformance

Land Use Plan Name:

Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP), and the Record of Decision for the Approved Las Vegas Resource Management Plan and Final Environmental Impact Statement.

Date Approved/Amended:

RMP dated October 5, 1998.

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions) :

The proposed action is in conformance with the applicable RMP because it is clearly consistent with the following LUP decision(s):

Land Use Authorizations Objective LD-2. "All public lands within the planning area, unless otherwise classified, segregated or withdrawn, and with the exception of Area of Critical Environmental Concern and Wilderness Study Areas, are available at the discretion of the agency, for land use leases and permits under Section 302 of Federal Land Policy and Management Act and for airport leases under the authority of the Act of May 24, 1928, as amended."

Land Use Authorizations Management LD-2: "Land use lease or permit applications and airport lease applications will be addressed on a case-by-case basis, where consistent with the other resource management objectives and local land uses. Special terms and conditions regarding use of the public lands involved will be developed as applicable."

Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. (19): "Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition."

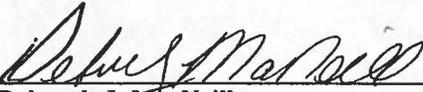
This categorical exclusion is appropriate in this situation because 1) the request is for a short-term land use authorization where the land will naturally rehabilitate to its natural state after use; and 2) there are no extraordinary circumstances described in 516 DM 2 potentially having effects that may significantly affect the environment.

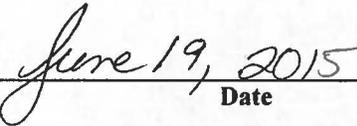
Comments providing substantive new information relevant to the analysis and mitigation measures have been incorporated into the Exhibit A stipulations which are attached to this document.

I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

Approval and Contact Information

Authorizing Official:


Deborah J. MacNeill
Pahrump Field Manager
Pahrump Field Office


Date

Contact Person

Erica Pionke, Realty Specialist

Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
phone: 702-515-5000

EXHIBIT A

DOI-BLM-NV-S030-2015-0018-CX

FILM PERMIT STIPULATIONS FOR FILMING ON BUREAU OF LAND MANAGEMENT LANDS

The following stipulations have been incorporated into the permit in order to manage filming activities being conducted on public land. The Permittee shall comply with the following stipulations:

1. The Permittee shall comply with all applicable Local, State and Federal laws and regulations.
2. The Permittee shall indemnify and hold harmless, the United States, against any and all liability, direct or indirect, arising from the occupancy and use of the public land associated with the activities herein authorized.
3. The Permittee shall designate a representative for field operations before activities may commence. This person shall be the sole field representative for the Permittee's employees or contractors in dealing with the Authorized Officer. Said representative shall be responsible to receive and comply with all communications and decisions issued by the Authorized Officer. The selected representative shall be a Unit Production Manager or higher.
4. Unless specifically approved in writing as part of the permitted activity, all use under this permit shall be confined to areas of previous surface disturbance.
5. In areas other than open areas, vehicle use shall be limited to existing roads, and existing trails. The Permittee shall not leave the road surface to turn around or to go around any obstruction on the road itself. Vehicle speeds are limited to 25 MPH on ALL dirt and access roads.
6. The Permittee shall inform all employees, contractors, and subcontractors of the terms and conditions of this authorization. Any officer, employee or agent of the Bureau of Land Management (BLM) may direct the Permittee or its employees, contractors, or subcontractors to cease and desist all activities on public land at any time in order to protect significant public land resources. Activities shall resume only upon written approval by the Authorized Officer.
7. The Permittee shall remove from public land and properly dispose of any and all trash, litter, debris, waste, excess materials, including flagging and signs, or other substances and materials resulting from the use under this authorization. All trash and food items shall be promptly contained within closed, raven-proof containers. These shall be regularly removed from the project site to reduce the attractiveness of the area to ravens and other tortoise predators. All litter and garbage will be removed to a county approved landfill. The authorized office will be provided with proof of receipts of disposal upon request.
8. Many of the film locations on public land are remote. Permittee shall be responsible for ensuring adequate sanitation facilities for participants is provided. These toilet facilities may be either porta-potties or motorhomes.
9. If vehicles, equipment, materials, etc. are left on site overnight, a caretaker must be present to ensure the security of the property.

10. The Permittee shall maintain liability insurance, naming the United States Department of the Interior, as co-insured for the full term of the permit.

11. The Permittee will provide film credits for movies and television shows. A copy of the video will be submitted to the Authorized Officer of the BLM. The credits will read as follows for use of public lands:

U.S. Department of Interior
Bureau of Land Management
Southern Nevada District Office

12. This permit does not authorize the taking, killing, or collection of any wildlife, vegetation or soils or the introduction of plants or animals at any location authorized by a permit.

13. Filming operations shall be conducted in such a manner as to avoid creating safety hazards to other public land visitors and to the filming crews.

14. The Permittee shall take adequate steps acceptable to the Authorized Officer to rehabilitate any surface disturbed during use under this permit, including areas previously disturbed, to a condition comparable to their condition prior to the permitted activity. (Examples: smoothing of berms or disturbed sod to natural contour; removing props, trash and debris.)

15. Commercial filming activities involving pyrotechnics or explosive devices are not allowed on BLM lands.

16. The Permittee is fully responsible for obtaining any permits or approvals required by state, local, or other Federal agencies. (Examples: county use permits, fire permits, county air quality permits, etc.)

17. The Permittee shall place signs and other warning devices as deemed necessary for the safety of others to warn of the actions taking place.

18. Should hazardous materials be spilled or deposited within the film permit area by the Film Permittee, its agents or a third party, the Authorized Officer for the BLM Pahrump Field Office shall be immediately notified. Any clean up or reporting requirements shall be completed in compliance with all applicable State and Federal laws and regulations.

19. Catering service, meals, breaks, shall be cleaned up and the lands kept clear of trash and debris.

20. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder or any person working on the Holder's behalf, on public or Federal land shall be immediately reported to the Authorized Officer of the BLM of the Pahrump Field Office. The Permittee 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 the appropriate actions to follow to prevent the loss of significant cultural or scientific values. The Permittee will be responsible for the cost of the evaluation. Any decision as to proper mitigation measures to be taken will be made by the Authorized Officer after consultation with the Permittee.

21. Collection or disturbance of artifacts and other archaeological, historical, and paleontological materials by the Permittee, its representatives or employees, shall not be allowed. Offenders shall be subject to prosecution under the appropriate State and Federal laws.

22. Permittee will receive a fact sheet on the Big Dune Beetles and Desert Tortoise that describe the reasons and need for protection, and definition of take and potential penalties under the Endangered Species Act for harassment of the Desert Tortoise. An education program utilizing the fact sheet on the Big Dune Beetles and Desert Tortoise shall be presented to all personnel on site prior to permitted activities occurring within the Big Dune ACEC.

23. Vehicles may drive throughout the un-vegetated portions of the open dunes at Big Dune and on existing roads, trails and dry washes. Vehicle use off road is not authorized in vegetated areas within the filming area.

24. All motorized vehicles must stay on designated routes within the Big Dune ACEC.

25. All motorized vehicles will avoid vegetated areas on the dunes and avoid the closed beetle habitat area that is identified with signs and shown on the map provided.

26. No dogs shall be allowed at a work site in desert tortoise habitat, unless on leash.

27. No dumping of water, sewage, trash, oil or any other petroleum products is allowed in the area. All wastes must be transported out of the area.

28. Smoking shall be allowed only in designated areas on public lands. No open fires, campfires, or bonfires are allowed on BLM lands.

29. The Permittee shall limit the size of any ground disturbance to the absolute minimum necessary to perform the activity safely and as designed. The Permittee will avoid creating soil conditions that promote weed germination and establishment.

30. The Permittee shall begin project operations in weed free areas whenever feasible before operating in weed-infested areas.

31. The Permittee shall locate pits and staging areas for the use of equipment storage, machine and vehicle parking or any other area needed for the temporary placement of people, machinery and supplies in areas that are relatively weed-free. The Permittee shall avoid or minimize all types of travel through weed-infested areas or restrict major activities to periods of time when the spread of seed or plant parts are least likely.

32. Permittee shall inspect, remove, and dispose of weed seed and plant parts found on their clothing and personal equipment, bag the product and dispose of in a dumpster for deposit in local landfills. Disposal methods may vary depending on the project. If you have questions consult with the PFO Noxious Weed Coordinator.

33. The Permittee shall evaluate options, including area closures, to regulate the flow of traffic on sites where native vegetation needs to be established.

34. Fire restrictions are generally enacted May through October. Compliance with fire restrictions is mandatory while fire restrictions are in effect. Specific non-compliant activities may be permitted in writing on a case by case basis by a line officer after review and approval by the Fire Management Officer (43 CFR 9212).

35. The Permittee must have a muffler and a spark arrester on all off highway vehicles to operate on BLM-managed public lands (43 CFR 8343).

36. The Permittee shall use weed free seed for reclamation and for other organic products for erosion control, stabilization, or re-vegetation (e.g. straw bales, organic mulch) must be certified weed free.
37. The Permittee is responsible for ensuring that all project related vehicles and equipment arriving at the site (including, but not limited to, drill rigs, dozers, support vehicles, pickups and passenger vehicles, including those of the operator, any contractor or subcontractor and invited visitors) do not transport noxious weeds onto the project site. The Permittee shall ensure that all such vehicles and equipment that will be traveling off constructed and maintained roads or parking areas within the project area have been power washed, including the undercarriage, since their last off road use and prior to off road use on the project. When beginning off road use on the project, such vehicles and equipment shall not harbor soil, mud or plant parts from another locale. Depending on the site setting such as remoteness, or other site condition, the operator may be required to have an on-site wash area identified and readily available. Seeds and plant parts will be collected, bagged and deposited in dumpsters destined for local landfills, when practical. If a noxious weed infestation is known or later discovered on the project site, project related vehicles or equipment that have traveled through such an infestation shall be power washed including the undercarriage prior to leaving the site, at an established, identified wash area. Wash water and sediment shall be contained in an adjacent settling basin. Should any vegetation emerge in the wash area or settling basin, it will be promptly identified and appropriately controlled if found to be an undesirable invasive plant.
38. All motorized and non-motorized equipment should remain on existing roads and trails and should not drive, park, or stand on vegetation in the filming area.
30. The Permittee shall not use clumps of vegetation on or adjacent to the dunes as ramps or jumps.
40. Safety flags are recommended.
41. The Permittee shall exercise "tread lightly" and "pack in pack out" procedures for ALL types of waste associated with this permit, otherwise, no issues.
42. Do not enter washes, floodplains or dry lakes during rain or shortly before or after precipitation events.
43. All projects within the boundary of Nye County, involving soil disturbing activity of .5 acres or greater, in the aggregate (total acres combined), must develop a Dust Control Plan to be submitted to the Nye County Air Quality Program Administrator, along with all other applications, as required. The Dust Control Plan shall specify the use of Best Management Practices (BMPs) to control the generation of fugitive dust from each soil disturbing activity. All control measures selected must be maintained to ensure the visible emissions do not exceed the 20% opacity limit as described in Section 15.28.150.A of the county dust regulation.
44. Section 7 Consultation for this project is covered under the Programmatic Biological Opinion (84320-2010-F-0365.R003) contingent on compliance with the terms and conditions. The Permittee will stay on existing trails/routes and will not cause any vegetation disturbance; therefore, no remuneration fees, for habitat disturbance, will be required. Terms and conditions and minimization measures in the above Biological Opinion contain measures to avoid and minimize potential impacts, including take, to desert tortoise. A copy of the terms and conditions included as Attachment A must be followed. (Sec 7 Log # NV-052-15-131).
45. This authorization is issued subject to all valid existing rights as of the date of issuance. Failure to comply with any terms or conditions of this permit may result in the immediate suspension or termination of the permit and may result in civil or criminal charges, as appropriate.

Attachment A

Case Number: N-94174
NEPA Project #: DOI-BLM-NV-S030-2015-0018-CX
Sec. 7 Log #: NV-052-15-131

TERMS AND CONDITIONS: BO File No. 84320-2010-F-0365.R003

In order to be exempt from the prohibitions of section 9 of the Act, the Bureau must comply with the following terms and conditions and minimization measures, which implement the reasonable and prudent measures described above. These terms and conditions are non-discretionary.

RPM 1: **Applies towards lands and realty, ROWs, and mining actions and other activities that involve vehicle and equipment use, excavations, or blasting. BLM, and other jurisdictional Federal agencies as appropriate, shall implement or ensure implementation of measures to minimize injury or mortality of desert tortoises due to project construction, operation and maintenance; and most actions involving habitat disturbance.**

Terms and Conditions:

- 1.a. *Field Contact Representative (FCR)*— not required for this project.
- 1.b. *Authorized desert tortoise biologist*—not required for this project.
1. c. Authorized desert tortoise biologists, monitors, and the FCR (see Term and Condition 1.a.) shall be responsible for ensuring compliance with all conservation measures for the project. This responsibility includes: (1) enforcing the litter-control program; (2) ensuring that desert tortoise habitat disturbance is restricted to authorized areas; (3) ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously-disturbed areas or designated areas; (4) ensuring that all vehicles associated with construction activities remain within the proposed construction zones; (5) ensuring that no tortoises are underneath project vehicles and equipment prior to use or movement; (6) ensuring that all monitors (including the authorized desert tortoise biologist) have a copy of the required measures in their possession, have read them, and they are readily available to the monitor when on the project site.

An authorized desert tortoise biologist will serve as a mentor to train desert tortoise monitors and will approve monitors if required. An authorized desert tortoise biologist is responsible for errors committed by desert tortoise monitors.

An authorized desert tortoise biologist shall record each observation of desert tortoise handled in the tortoise monitoring reports. Information will include the following: location (GPS), date and time of observation, whether the desert tortoise was handled, general health and whether it voided its bladder, location desert tortoise was moved from and location moved to, unique physical characteristics of each tortoise, and effectiveness and compliance with the desert tortoise protection measures. This information will be provided **directly** to BLM and the Service.

An authorized desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related field. The biologist must have demonstrated prior field experience using accepted resource agency techniques. As a guideline, Service approval of an authorized biologist requires that the applicant have at least 60 days project experience as a desert tortoise monitor. In addition, the biologist shall have the ability to recognize and accurately record survey results and must be familiar with the terms and conditions of the biological opinion that resulted from project-level consultation between BLM and the Service. All tortoise biologists shall be familiar with the field manual (Service 2009).

Potential authorized desert tortoise biologists must submit their statement of qualifications to the Service's Nevada Fish and Wildlife Office in Las Vegas for approval, allowing a minimum of 30 days for Service response. The statement form is available on the internet at:

http://www.fws.gov/nevada/desert_tortoise/auth_dt_form.htm.

Prior to final approval to begin work on the project, the authorized desert tortoise biologists will have read the required measures (terms and conditions and other stipulations) and have a copy of the measures available at all times while on the project site. BLM shall provide the appropriate agency contact for the project to the Service and the Service will include the forms with approval letters. Biologists and monitors should be visibly identifiable on the project site, which may include use of a uniquely designated hardhat or safety vest color.

1. d. *Desert tortoise monitor*—Not required for this project.
- 1.e. *Desert tortoise education program*—**A desert tortoise education program shall be presented to all personnel on site by an agency or authorized desert tortoise biologist, monitor, FCR or other approved by the BLM.** The Service, BLM, and appropriate state agencies shall approve the program. At a minimum, the program shall cover desert-specific Leave-No-Trace guidelines, the distribution of desert tortoises, general behavior and ecology of this species, sensitivity to human activities, threats including introduction of exotic plants and animals, legal protection (the definition of "take" will also be explained), penalties for violation of State and Federal laws, reporting requirements, and project measures in this biological opinion. All field workers shall be instructed that activities must be confined to locations within the approved areas and their obligation to walk around and check underneath and vehicles and equipment before moving them (or be cleared by an authorized desert tortoise biologist). Workers and project associates will be encouraged to carpool to and from the project sites. In addition, the program shall include fire prevention measures to be implemented by employees during project activities. The program shall instruct participants to report all observations of desert tortoise and their sign during construction activities to the FCR and authorized desert tortoise biologist.
- 1.f. *Vehicle travel*—Project personnel shall exercise vigilance when commuting to the project area to minimize risk for inadvertent injury or mortality of all wildlife species encountered on paved and unpaved roads leading to and from the project site. Speed limits will be clearly marked, and all workers will be made aware of these limits. On-site, personnel shall carpool to the greatest extent possible.

During the desert tortoise less-active season (generally November through February), vehicle speed on project-related access roads and in the work area will not exceed 25 mph. All vehicles and construction equipment will be tightly grouped.

During the more-active season (generally March through October), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days, vehicle speed on project-related access roads and in the work area will not exceed 15 mph.

- 1.g. *Unauthorized access*—not required for this project.
- 1.h. *Desert tortoise clearance*—Not required for this project.
- 1.i. *Desert tortoise in harm's way*—Any project-related activity that may endanger a desert tortoise shall cease if a desert tortoise is found on the project site. Project activities may resume after an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) removes the desert tortoise from danger or after the desert tortoise has moved to a safe area on its own.
- 1.j. *Handling of desert tortoises*—Desert tortoises shall only be moved by an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) solely for the purpose of moving the tortoises out of harm's way.
- 1.k. *Penning*—Not applicable for the proposed action.
- 1.l. *Temporary tortoise-proof fencing*—Not required for this project.
- 1.m. *Permanent tortoise-proof fencing*—Not required for this project.
- 1.n. *Wildlife escape ramps*— See measure 8.d. for trenches.
- 1.o. *Dust control*—Water applied for dust control shall not be allowed to pool as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks will be repaired to prevent pooling water.
- 1.p. *Blasting*— Not applicable for the proposed action.
- 1.q. *Power transmission projects*—Not applicable for the proposed action.
- 1.r. *Timing of construction*—Not applicable for the proposed action.

RPM 2: **Predator Control— Applies to all actions.** *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to minimize injury to desert tortoises as a result of predators drawn to the project area from construction, operation, and minor maintenance activities:*

Terms and Conditions:

- 2.a. **Litter control, applies to all projects**—A litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit foxes, coyotes, and common ravens. Trash and food items will be disposed of properly in predator-proof containers with predator-proof lids. Trash containers will be emptied and construction waste will be

removed daily from the project area and disposed of in an approved landfill. Vehicles hauling trash to the landfill or transfer facility must be secured to prevent litter from blowing out along the road.

- 2.b. *Deterrence*—Not applicable for the proposed action.
- 2.c. *Monitoring and predator control*—Not applicable for the proposed action.
- 2.d. *Evaporation ponds and open water sources*—Not applicable for the proposed action.

RPM 3: Impacts to Desert Tortoise Habitat—Applies towards all actions that involve habitat impacts. *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement 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 from construction, operation, and minor maintenance activities:*

Terms and Conditions:

- 3.a. *Habitat protection plans*—Not required for this project.
- 3.b. *Restoration plan*—Not required for this project.
- 3.c. *Minimizing new disturbance*—Cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and construction materials shall be restricted to the designated areas and new disturbance will be restricted to the minimum necessary to complete the task (e.g., such as construction of one-lane access roads with passing turnouts every mile rather than a wider two-lane road).

All work area boundaries shall be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities.

- 3.d. *Weed prevention*—Vehicles and equipment shall be cleaned with a high pressure washer prior to arrival in desert tortoise habitat and prior to departure from areas of known invasive weed and nonnative grass infestations to prevent or at least minimize the introduction or spread these species.
- 3.e. *Chemical spills*—Hazardous and toxic materials such as fuels, solvents, lubricants, and acids used during construction will be controlled to prevent accidental spills. Any leak or accidental release of hazardous and toxic materials will be stopped immediately and cleaned up at the time of occurrence. Contaminated soils will be removed and disposed at an approved landfill site.
- 3.f. *Residual impacts from disturbance*— No remuneration fees are required due to no new disturbance.

RMP 7: Compliance and Reporting—Applies towards all actions. *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to comply with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements*

contained in this biological opinion:

Terms and Conditions:

- 7.a. *Desert tortoise deaths*—The deaths and injuries of desert tortoises shall be investigated as thoroughly as possible to determine the cause. The Service (702/515-5230), BLM wildlife staff (702/515-5000) and appropriate state wildlife agency must be verbally informed immediately and within 5 business days in writing (electronic mail is sufficient). The Authorized Desert Tortoise Biologist shall complete the Desert Tortoise Handling and Take Report (Appendix E).
- 7.b. *Non-compliance*—Any incident occurring during project activities that was considered by the FCR, authorized desert tortoise biologist, or biological monitor to be in non-compliance with this biological opinion shall be immediately documented by an authorized desert tortoise biologist. Documentation shall include photos, GPS coordinates, and details on the circumstances of the event. The incident will be included in the annual report and post-project report.
- 7.c. *Fence inspection*—Fencing is not required for this project.
- 7.d. *Project reporting requirements*— Project proponents will provide BLM with compliance reports. Quarter (non-appended actions), annual, and comprehensive final project reports will be submitted to BLM and the Service's Nevada Fish and Wildlife Office in Las Vegas. Annual reports are required for all appended actions (except those completed and provided in a prior annual report). Annual reports will cover the calendar year and are due April 1st of the following year (e.g., the annual report for calendar year 2013 is due April 1, 2014). Quarterly reports for non-appended actions are due 15 calendar days following the quarter. Final project reports are due within 60 days following completion of the project or each phase of the project.

The Programmatic Biological Opinion Report to the Fish and Wildlife Service (Appendix G) will be used for quarterly, annual, and final project reports, and shall include all Desert Tortoise Handling and Take Reports (Appendix E). If available, GIS shape files will be included.

- 7.e. *Operation and maintenance*—A written assessment report shall be submitted annually to the Service outlining the operation and maintenance activities that occurred over the past year.

Report to include: It will include frequency of implementation of minimization measures, biological observations, general success of each of the minimization measures. All deaths, injuries, and illnesses of endangered or threatened species within the project area, whether associated with project activities or not, will be summarized in the annual report. The report is due April 1 of each year.

- 7.f. *Restoration monitoring*—Not required for this project.

8: Minimization Measures

- 8.a. *The project applicant shall notify BLM wildlife staff at 702-515-5000 at least 10 days before initiation of the project.* Notification shall occur before any activities begin that will damage or remove vegetation, such as off-road vehicle travel for surveys, soil testing, and clearing vegetation off the project site. The purpose of the notification is to ensure that the proper education program is given and to review expectations for compliance with the terms and conditions of the biological opinion.

- 8.b. Overnight parking and storage of equipment and materials, including stockpiling, shall be in previously disturbed areas or areas cleared by a tortoise biologist. If not possible, areas for overnight parking and storage of equipment shall be designated by the tortoise biologist in coordination with BLM and project proponent, which will minimize habitat disturbance.
- 8.c. Within desert tortoise habitat, any construction pipe, culvert, or similar structure with a diameter greater than 3 inches stored less than 8 inches above the ground will be inspected for tortoises before the material is moved, buried, or capped.
- 8.d. Trenches: not required for this project.
- 8.f. **Vehicles:** All project/event-related individuals shall check underneath stationary vehicles before moving them. Tortoises often take cover under vehicles. All vehicle use will be restricted to existing roads. New access roads will be created only when absolutely necessary and only when approved by BLM. Workers shall not drive or park vehicles where catalytic converters can ignite dry vegetation and to exhibit care when smoking in natural areas. Fire protective mats or shields shall be used during grinding or welding.

APPENDIX E. DESERT TORTOISE HANDLING AND TAKE REPORT

If a desert tortoise is killed or injured, immediately contact the U.S. Fish and Wildlife Service and BLM, by phone at the numbers below and complete Section 1 of the form.

Completed forms should be submitted to the BLM and Fish and Wildlife Service:

Bureau of Land Management
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5000

U.S. Fish and Wildlife Service
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5230

Project Name: Big Dune Film Permit NEPA No.: DOI-BLM-NV-S030-2015-0018-CX Case File No./SRP No.: N-94174 BLM Section 7 log no.: NV-052-15-131	Report Date:
Fish and Wildlife Service Append File No.- n/a	
Authorized Desert Tortoise Biologist: _____ Employed by: _____	
Section 1: Complete all information below if a desert tortoise is injured or killed in addition to initial contact described above.	
If tortoise was injured <input type="checkbox"/> or killed <input type="checkbox"/> (check appropriate box):	
Date and time found: _____ Found by: _____ GPS location (NAD 83): easting: _____ northing: _____ No. of photos taken: _____ Disposition: _____ _____ _____	
Attach report with photos that describe in detail, the circumstances and potential cause of injury or mortality. For injuries include name of veterinarian and detailed assessment of injuries.	

Section 2: Complete all information below for each desert tortoise handled.

All instances of desert tortoise handling must be reported in this section and be included in the quarterly, annual, and final project reports.

Desert tortoise number: _____

Date and time found: _____ Sex of tortoise: _____

Air temperature when found: _____ Air temperature when released: _____

Tortoise activity when found: _____

Handled by: _____ Approx. carapace length _____

GPS location (NAD 83) found: easting: _____ northing: _____

GPS location released: easting: _____ northing: _____

Approximate distance moved: _____

Did tortoise void bladder; if so state approximate volume and actions taken:

Post handling or movement monitoring and observations:

Section 3: Complete for each tortoise burrow penned.

All instances of desert tortoise penning must be reported in this section and be included in the quarterly, annual, and final project reports.

Date and time of pen construction:

Began: _____ Completed: _____

Date and time pen removed: _____

Pen constructed by: _____

Why was tortoise penned? _____

How frequently was pen monitored? _____

Observations of desert tortoise behavior including time and date of observation:

Include photos of pen and burrow with report.

APPENDIX G. PROGRAMMATIC BIOLOGICAL OPINION (FILE NO. 84320-2010-F-0365.R003) REPORT TO THE FISH AND WILDLIFE SERVICE

The information below should be completed by BLM or the Authorized Desert Tortoise Biologist for the project/action. Reports for all appended actions are required annually (due March 1 of each year for prior calendar year activities) and upon completion of the project/action.

Project Name: Big Dune Film Permit

NEPA no.: DOI-BLM-NV-S030-2015-0018-CX

Case File no./SRP no.: N-94174

BLM Section 7 log no.: NV-052-15-131

Annual Report

Project Completion Report

1. Date: _____

2. Fish and Wildlife Service File No (for appended actions): _____ n/a _____

3. Species and critical habitat affected:

Desert tortoise

Desert tortoise critical habitat

Other (identify): _____

4. Project/action status:

Not begun In progress* Completed date _____

If in progress, state approximate percent complete: _____

5. Desert tortoise habitat disturbed:

Non-critical habitat		Critical habitat	
Proposed disturbance (ac)	Actual disturbance (ac)	Proposed disturbance (ac)	Actual disturbance (ac)
0		0	

6. Habitat of other species disturbed (identify species, non-critical, and critical habitat affected below):

7. Summary of individual desert tortoises taken (appended action):

Desert Tortoise:

	Adults	Juveniles	Eggs
Exempted			
Actual			

Describe other individuals taken:

8. Name of authorized desert tortoise biologists and monitors on the project and the dates they were on the project.

9. Describe all non-compliance issues and events.

10. Desert tortoise burrow observed during activity/event:

Total number desert tortoises observed: _____

Total number desert tortoise burrows observed: _____

Attach a summary report detailing each desert tortoise and/or desert tortoise burrows observed during activity/event including tortoise activity when found, how the animal was avoided, what happened to the tortoise, the date and time encountered and GPS location (NAD 83 easting: _____ northing: _____)

11. Contact Information

Name _____ Company _____

Address _____

Phone _____

Signature _____ Date _____

Send completed form to:

Bureau of Land Management
Attn: Wildlife Staff
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5000

U.S. Fish and Wildlife Service
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5230

N-94174 SCM II Productions Inc. Big Dune Film Permit

Compliance

Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP), and the Record of Decision for the Approved RMP

Selected Action

The BLM will grant the film permit request including the stipulations as Attachment A to the categorical exclusion document for filming at Big Dune, Nye County, Nevada on June 22, 2015, on public lands.

Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E. (19): "Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition."

This categorical exclusion is appropriate in this situation because 1) the request is for a short-term land use authorization where the land will be rehabilitated to its natural state after use; and 2) there are no extraordinary circumstances described in 516 DM 2 potentially having effects that may significantly affect the environment.

Public Involvement:

There was no public scoping conducted for this renewal.

Rationale:

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision:

ROWs Objective LD-2. "All public lands within the planning area, unless otherwise classified, segregated or withdrawn, and with the exception of Areas of Critical Environmental Concerns and Wilderness Study Areas, are available at the discretion of the agency, for land use leases and permits under Section 302 of Federal Land Policy and Management Act and for airport leases under the authority of the Act of May 24, 1928."

The proposed action is in conformance with the LUP, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions) :

ROWs Management LD-2-a. "Land use lease or permit applications and airport lease applications will be addressed on a case-by-case basis, where consistent with other resource management objectives and local land uses. Special terms and conditions regarding the use of the public lands involved will be developed as applicable."

Appeal or Protest Opportunities:

This decision shall take effect immediately upon the date it is signed by the Authorized Officer and shall remain in effect while any appeal is pending unless the Interior Board of Land Appeals issues a stay. Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4.

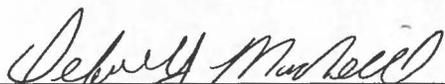
Within 30 days of the decision, a notice of appeal must be filed in the office of the Authorized Officer at 4701 Torrey Pines Dr., Las Vegas, Nevada 89130. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 within 30 days after the notice of appeal is filed with the Authorized Officer.

If you wish to file a petition for stay pursuant to 43 CFR Part 4.21(b), the petition for stay should accompany your notice of appeal and shall show sufficient justification based on the following standards:

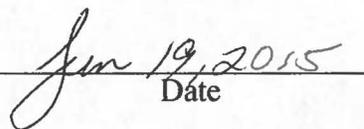
1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of irreparable harm to the appellant or resources if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a copy of the notice of appeal and petition for stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time it is filed with the Authorized Officer. A copy of the notice of appeal, any statement of reasons, and all pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor, U.S. Department of the Interior, Pacific Southwest Region, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1820, not later than 15 days after filing the document with the Authorized Officer and/or IBLA.

Authorizing Official:



Deborah J. MacNeill
Pahrump Field Manager


Date

Contact Person

For additional information concerning this Finding, contact.

Erica Pionke, Realty Specialist
Pahrump Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130
epionke@blm.gov; (702) 515-5059