

Multiple Species Habitat Conservation Plan and Amendment Overview

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desert conservation
PROGRAM



Desert Conservation Program



MISSION:

Manage regional compliance with the federal Endangered Species Act



HOW?

Ensuring survivability of imperiled species by implementing the Clark County Multiple Species Habitat Conservation Plan (MSHCP) and Section 10 Incidental Take Permit

Endangered Species Act



- **Endangered Species Act of 1973** - To protect and recover imperiled species and the ecosystems upon which they depend.
- **Section 9** – Prohibits the taking of species listed as endangered or threatened
- **Section 10** – Non-federal incidental take permit
- **Habitat Conservation Plan** - A required component of a Section 10 incidental take permit application; describes the anticipated effects of proposed take and how these effects will be avoided, minimized, and mitigated.



Desert Conservation Program



August 4, 1989 – tortoise emergency listed by U.S. Fish and Wildlife Service as endangered; revised to threatened.

An immediate and total moratorium on all new construction

32326 Federal Register / Vol. 54, No. 149 / Friday, August 4, 1989 / Rules and Regulations

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB35

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for the Mojave Population of the Desert Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

Director for Fish and Wildlife Enhancement, at the above address (telephone (503) 231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The desert tortoise is one of three species in the genus *Gopherus* found in the United States. The Berlandier's tortoise (*G. berlandieri*) is found in northeastern Mexico and southern Texas. The gopher tortoise (*G. polyphemus*) is found in the hot, humid portions of southeastern United States. *G. agassizii* is relatively large, with

believed to be a result of urban development, long-term livestock grazing, mining, large-scale water development, off-road vehicle use, collecting, and many other human-related uses.

The Sonoran population is found in Arizona, south and east of the Colorado River, and in Mexico. Tortoises in this area are found on steep, rocky slopes of mountain ranges, primarily in Arizona upland vegetation dominated by palo verde and saguaro cactus. The distribution of the present population and habitat is disjunct. Some habitat has been lost to expansion of urban

Tortoise delays building one year

□ Construction stopped by the endangered animal will stay on hold until January of 1991 at the soonest.

By Caryn Shetterly
Review-Journal

Construction on Las Vegas projects halted in August by the endangered desert tortoise will not resume for at least another year — and that deadline is optimistic, a committee learned Monday.

According to a schedule presented by an ecologist to the Clark County desert

tortoise steering committee, the federal permit needed to allow construction to begin again cannot be obtained until January 1991.

The permit would provide for removal of tortoises for research from some urban areas of the Las Vegas Valley in exchange for continued development.

The date could slip depending on how long the U.S. Fish and Wildlife Service takes to grant the permit — if at all. The service has 90 days to respond to a permit application, which Clark County intends to file in April. But the service can extend the response time another 90 days if it sees fit.

"We need to be creative in how we interpret these deadlines," said Paul Fromer, an ecologist with Regional Environmental Consultants, the San Diego firm that will write an Environmental Impact Statement on the proposed plan.

Recent discussions have indicated that Fish and Wildlife is willing to cede some desert tortoise habitat to development. The federal agency has already started discussions with some local developers, including Summa Corp., to allow continued building before the permit process is completed in order to settle a lawsuit filed by builders against the Department of the Interior.

The 1991 date, a seemingly distant one, is earlier than originally anticipated by private developers and government officials, who had thought they would be waiting at least two years for construction of housing, flood control and water distribution projects.

Terry Murphy, representative for the 750-member Southern Nevada Homebuilders Association, was pleased with, but wary of, the new deadline.

"I would be thrilled to death if we were granted an incidental take permit by January 1991, but the preliminary discussions I've had indicate it would be 12

Please see TORTOISE/4A

4A/Las Vegas Review-Journal/Tuesday, December 5, 1989

Section 10 Permit History



Clark County has applied for and received three Section 10 incidental take permits since 1991:

- 1991 – Short-Term Habitat Conservation Plan
 - Covered 1 Species: Desert tortoise
- 1995 – Desert Conservation Plan
 - Covered 1 Species: Desert tortoise
- 2001 – Multiple Species Habitat Conservation Plan (MSHCP)
 - Covers 78 Species



Current MSHCP



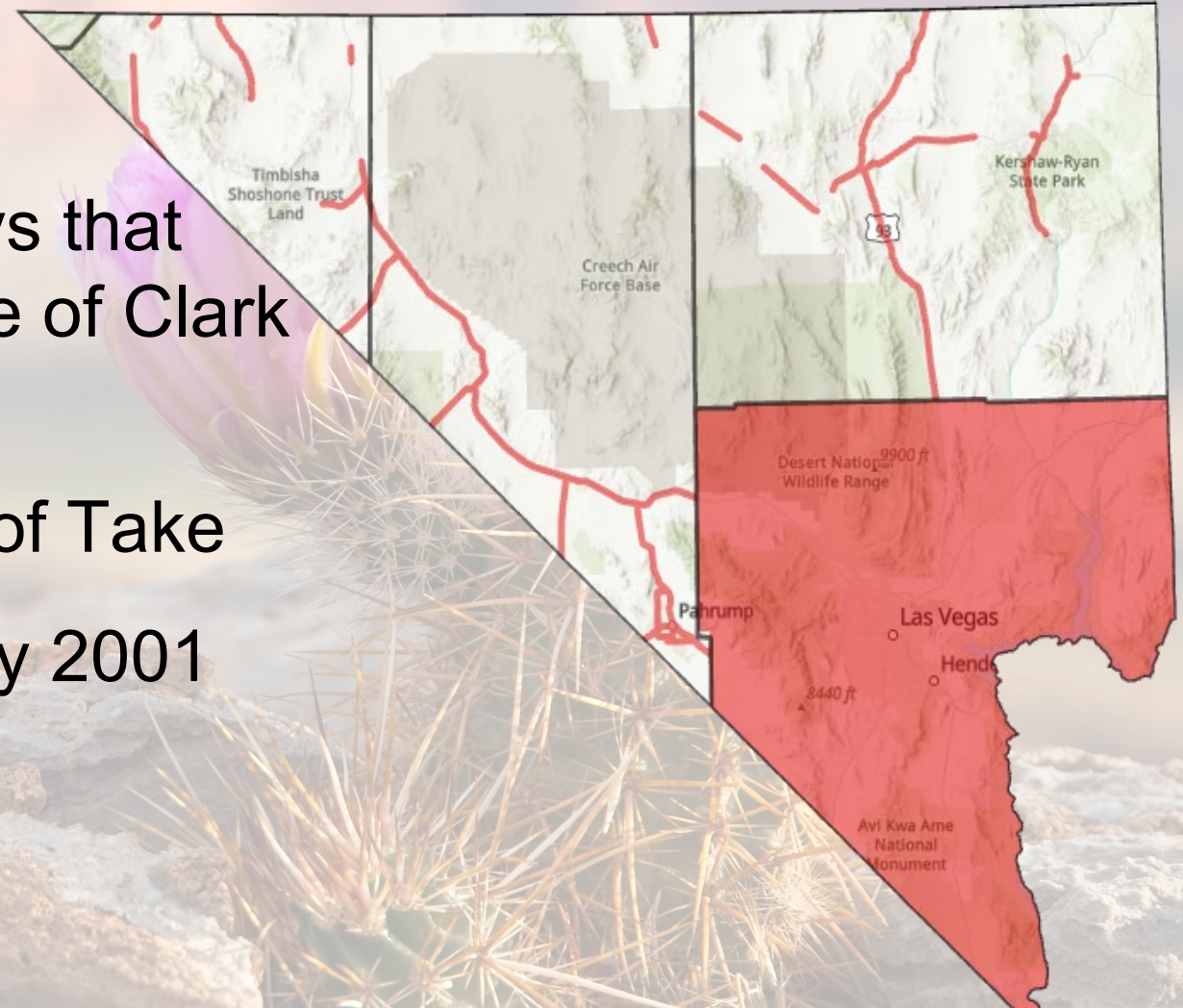
- The Desert Conservation Program serves as the Administrator of the Clark County MSHCP and incidental take permit.
- Permitee: A non-federal entity that receives an incidental take permit.
- Is responsible for ensuring compliance with the provisions of the permit.
- Must have jurisdictional authority over the activities covered by the permit

Current MSHCP



MSHCP Plan Area

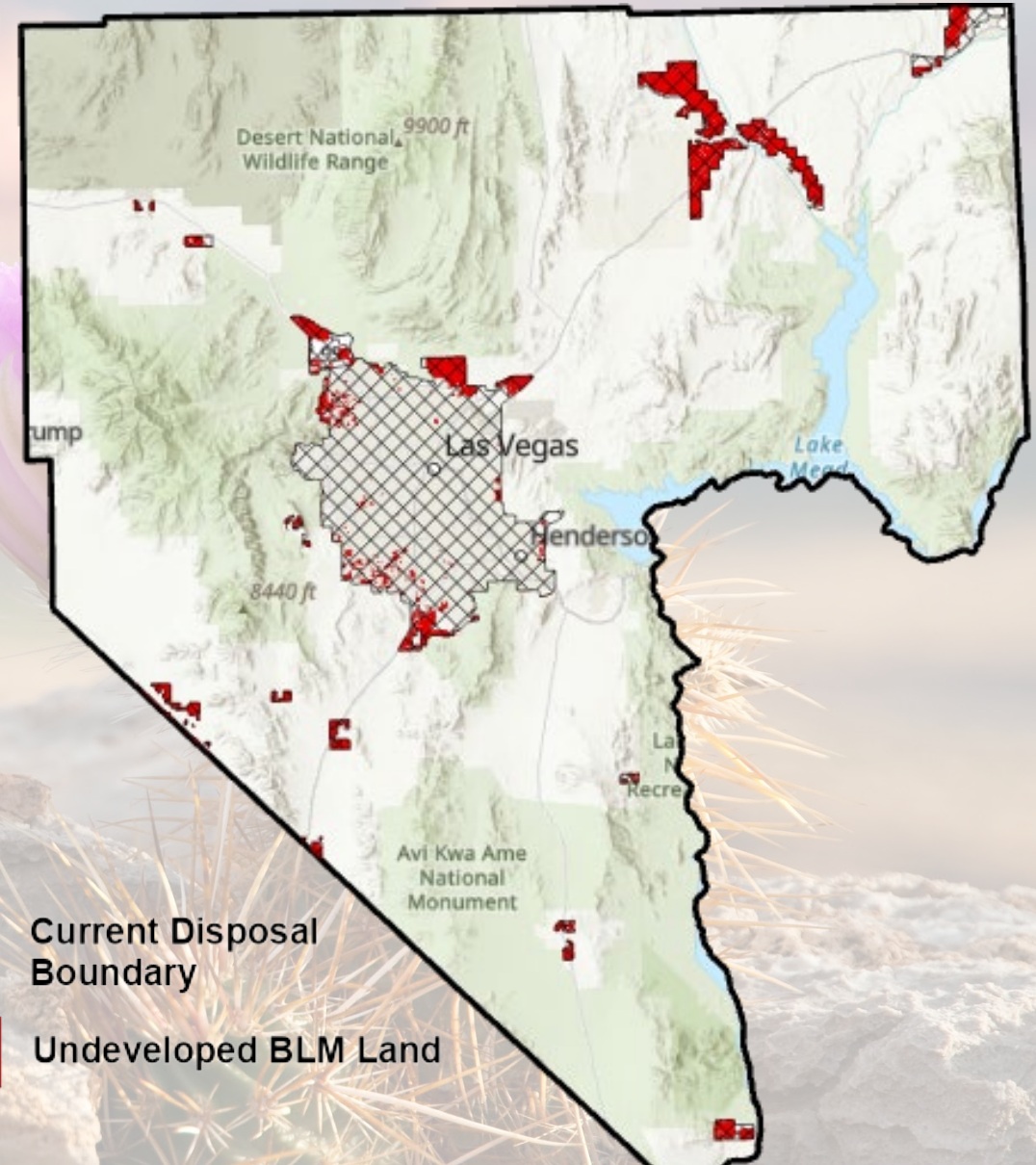
- MSHCP Plan Area includes all Clark County and some highways that are within tortoise habitat outside of Clark County.
- Authorizes up to 145,000 acres of Take
- 30-year permit effective February 2001



Current MSHCP



- Covers all non-federal land in Clark County and land that becomes non-federal
- Bureau of Land Management (BLM) Disposal Areas



MSHCP Funding

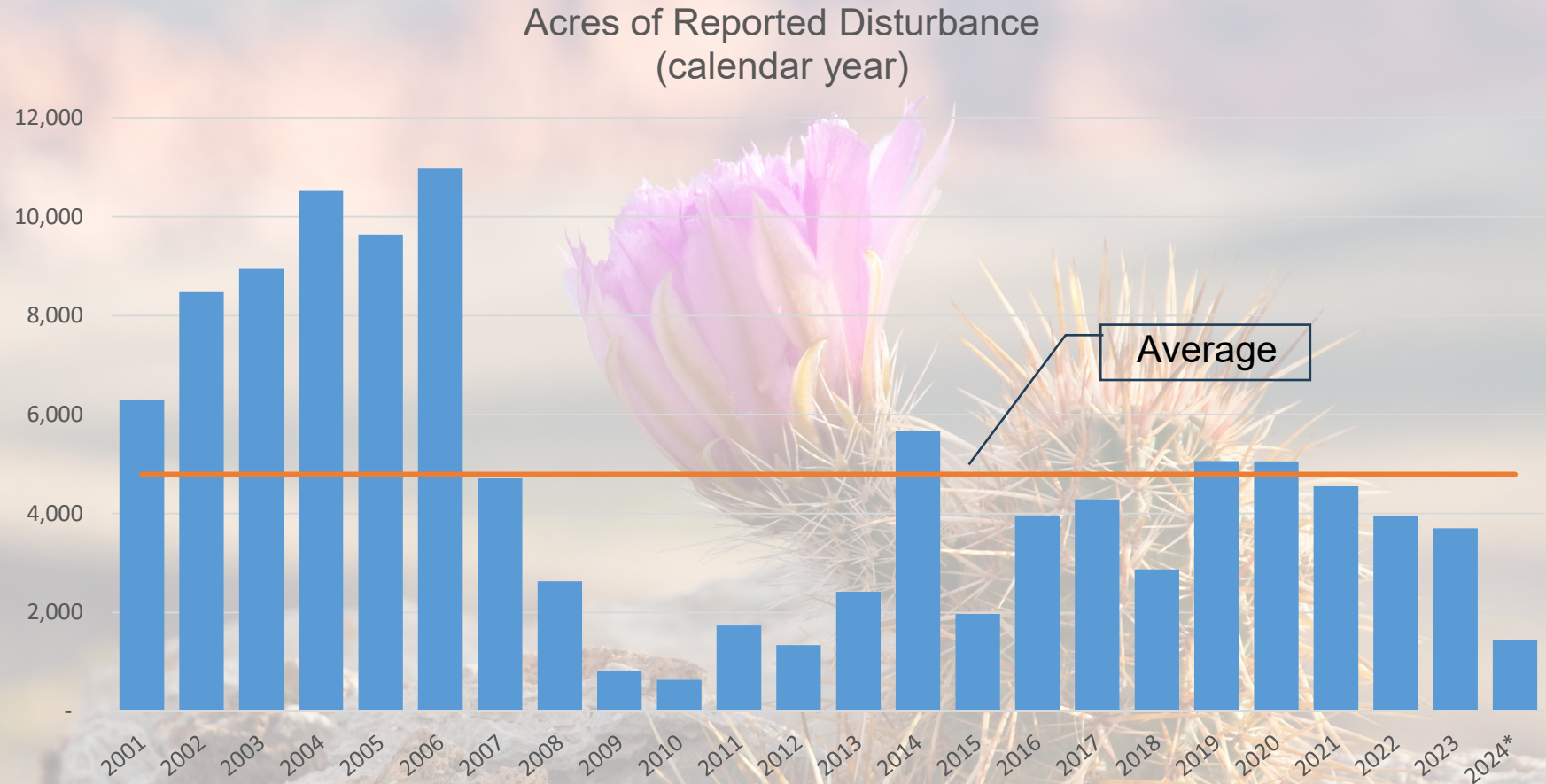


- Developers pay a \$550 per-acre disturbance fee to opt-in to the plan
- Eligible for funding under the Southern Nevada Public Land Management Act (SNPLMA) – grant program
- These funds are used to carry out the conservation actions described in the MSHCP

Status of the MSHCP



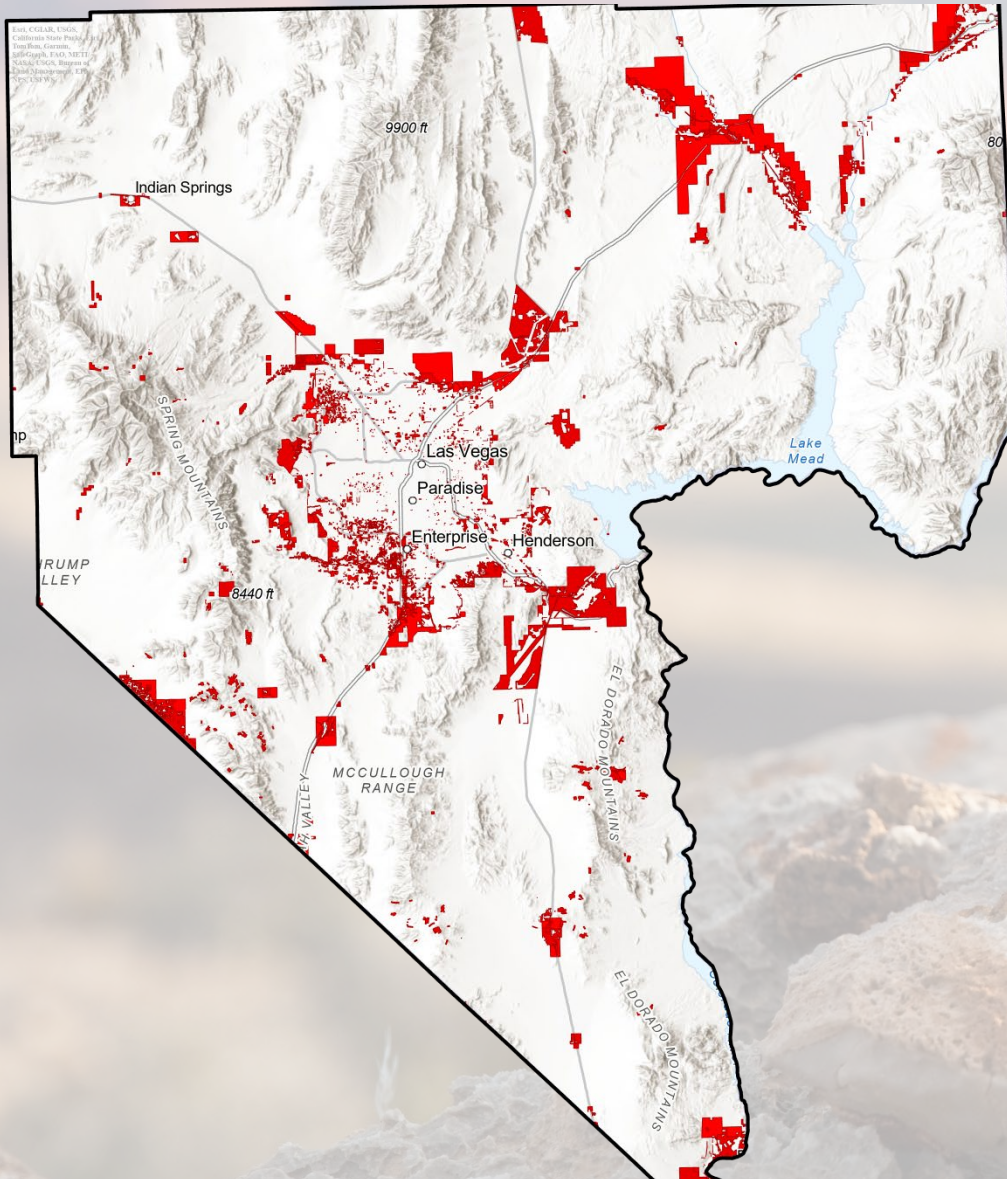
- 129,129 acres reported disturbance
- 89% of Authorized Take
- Average ~4,800 acres of disturbance/year
- 16,741 acres remain under current permit



Total acres reported in this chart do not include acres of municipal development, which were exempt from the payment of mitigation fees through January 2010. Total number of acres of municipal development that were exempted from mitigation fee payment is 15,000 acres.

*Partial year data.

Land Available for Development



- Approximately 90,000 acres of undeveloped BLM land within disposal boundaries
- Approximately 147,000 acres of undeveloped private property across Clark County
- Proposed legislation may add 25,000 acres to the Las Vegas Valley Disposal Boundary (while reducing other disposal boundaries)
- Only 16,741 acres of take (or development) remaining under the current incidental take permit.
- Application will request 215,000 acres of development with a permit term of 50 years

MSHCP Expires?



- Absent a regional permit, developers would have to pursue individual project-level permits
- Individual permits can take several months (very small projects) or can take several years (large, complex projects)
- The cost of an individual permit is also widely variable, from several hundred thousand dollars (small projects) to millions of dollars (large-scale developments)
- Impacts to the economy and housing prices by artificially increasing scarcity

Benefits to Regional Approach



- Regional economic benefits by streamlining the development process
- Provides regulatory certainty
- Keeps costs lower
- Pool resources to more effectively carry out conservation
- Long-term protection for species across a large area
- Regional approach to species conservation results in better species outcomes

Accomplishments



- Spent over \$133 million towards implementation of the MSHCP
- Purchased and retired nearly 2.2 million acres of grazing privileges
- Overseen 1,632 contracts/agreements to implement conservation actions
- Acquired 782 acres of land along the Muddy and Virgin rivers
- Established an 87,000-acres conservation easement south of Boulder City
- Constructed/funded 294 miles of desert tortoise fencing along roads and highways
- Over 700 wild tortoises removed from development sites and translocated
- Some of the only areas with stable or increasing tortoise populations

MSHCP Amendment



- In 2007 the Board of County Commissioners directed staff to initiate an amendment to the MSHCP and incidental take permit
- The Desert Conservation Program has been actively working on the application package in consultation with the U.S. Fish and Wildlife Service

Opting in is Voluntary



- The MSHCP Amendment will be voluntary
- Developers can opt-in to the Plan by paying the per-acre disturbance fee
 - OR -
 - Developers can pursue and negotiate an individual permit

MSHCP Amendment Contents



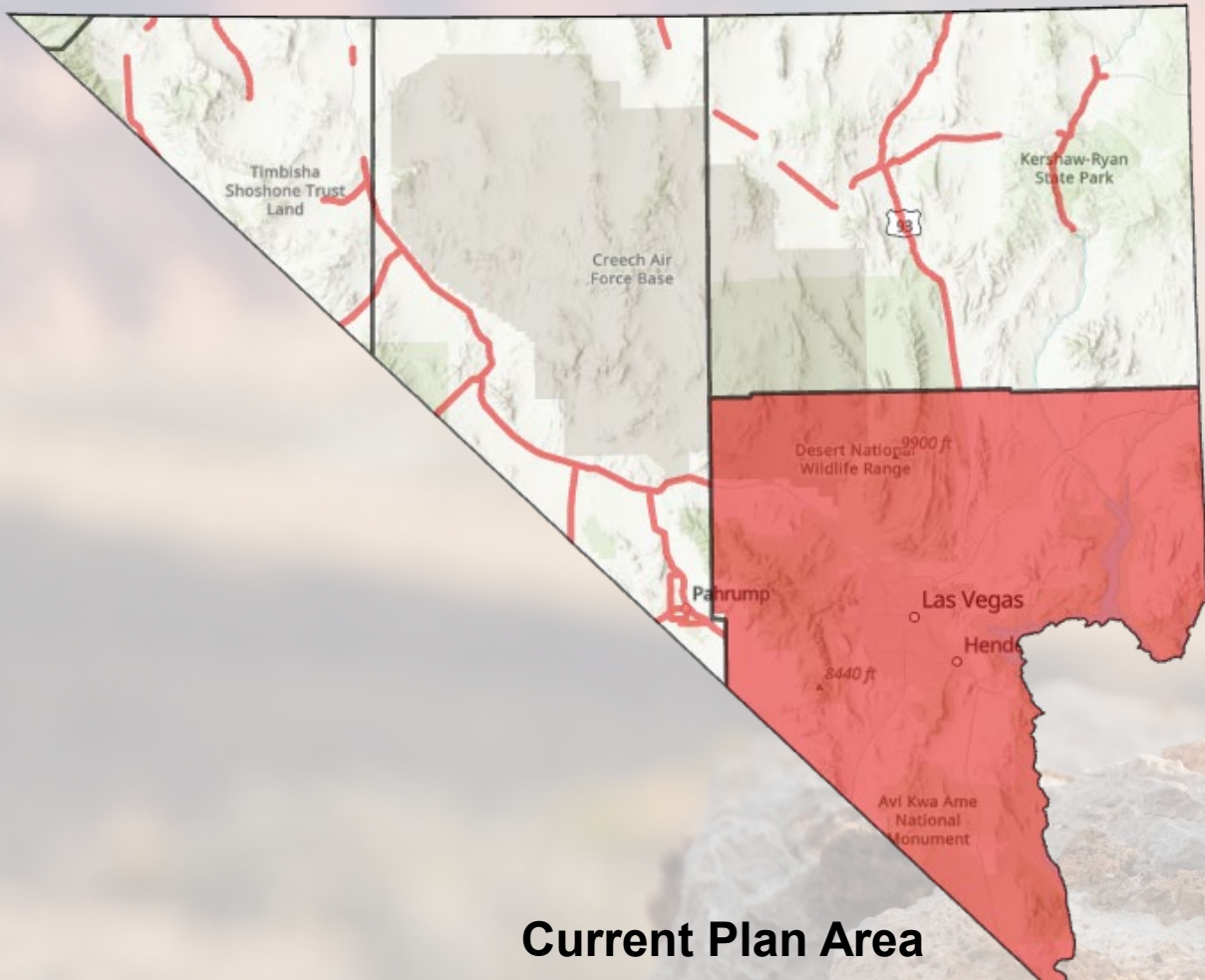
- Ch. 1- Background and regulatory information, and description of Plan Area
- Ch. 2 - Description of Covered Activities (i.e., development)
- Ch. 3 - Description of Covered Species
- Ch. 4 – Environmental setting and biological resources
- Ch. 5 – Analysis of impacts to Covered Species and assessment of potential “Take”

MSHCP Amendment Contents

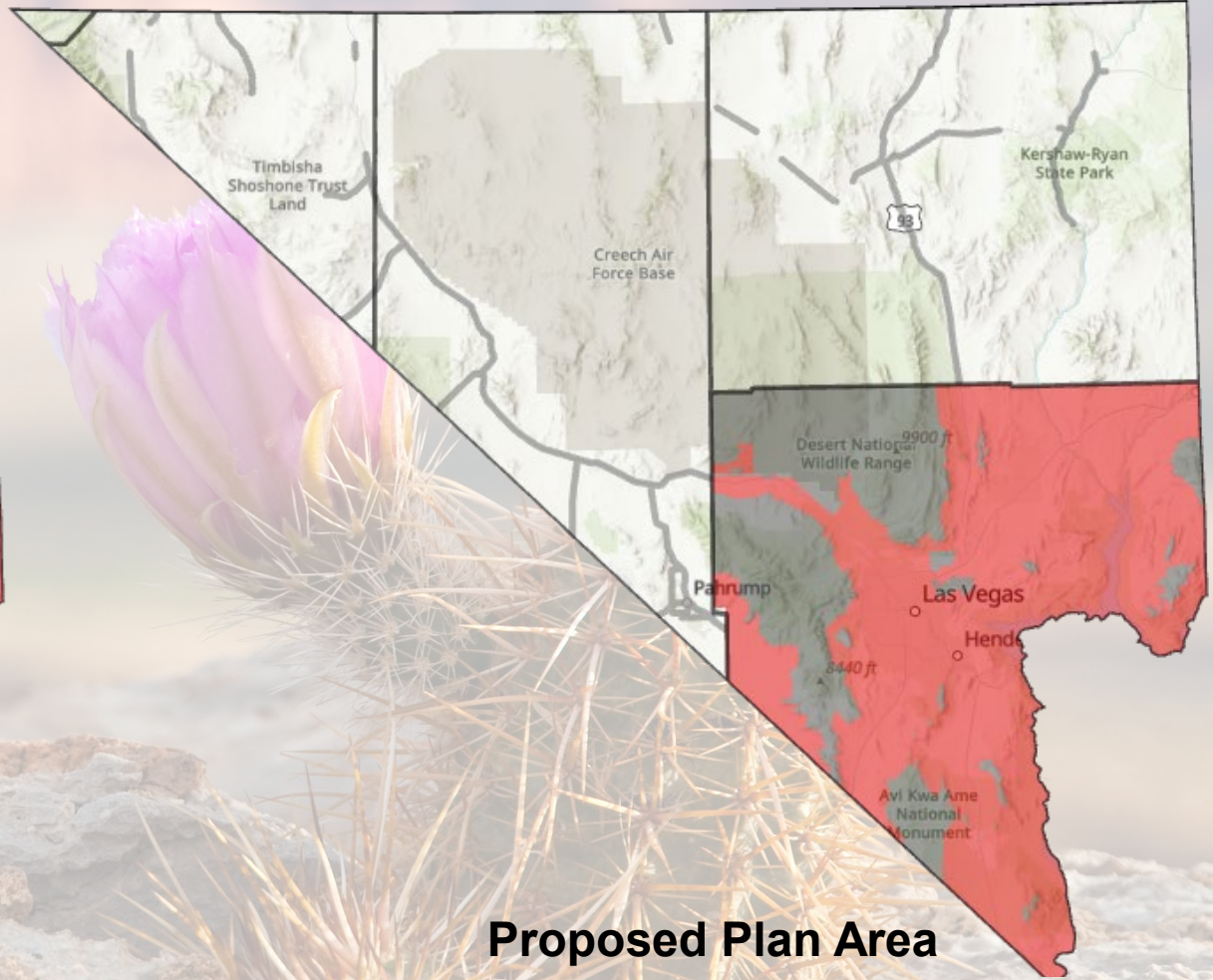


- Ch. 6 – Conservation Strategy (biological goals and objectives, avoidance and minimization measures, measures to mitigate unavoidable “Take”, monitoring and adaptive management program, and reporting)
- Ch. 7 – Regulatory Assurances (assurances to landowners, description of changed and unforeseen circumstances)
- Ch. 8 – Funding
- Ch. 9 – Administration and Implementation

Plan Area



Current Plan Area



Proposed Plan Area

Covered Species

	Current MSHCP	MSHCP Amendment
Mammals	4	3
Birds	8	10
Reptiles	14	2
Amphibians	1	1
Invertebrates	10	2
Plants	41	13
Total	78	31



Conservation Strategy



Avoidance, Minimization, and Mitigation Measures

Required components of a habitat conservation plan application

- Avoidance measures – implemented prior to construction (e.g., removal of a covered species from the project site)
- Minimization measures – implemented during project activities (e.g., lighting standards meant to minimize impacts to adjacent natural areas)
- Mitigation measures – occur outside, and separate from, project activities (e.g., establish and manage conservation areas where covered species can persist)

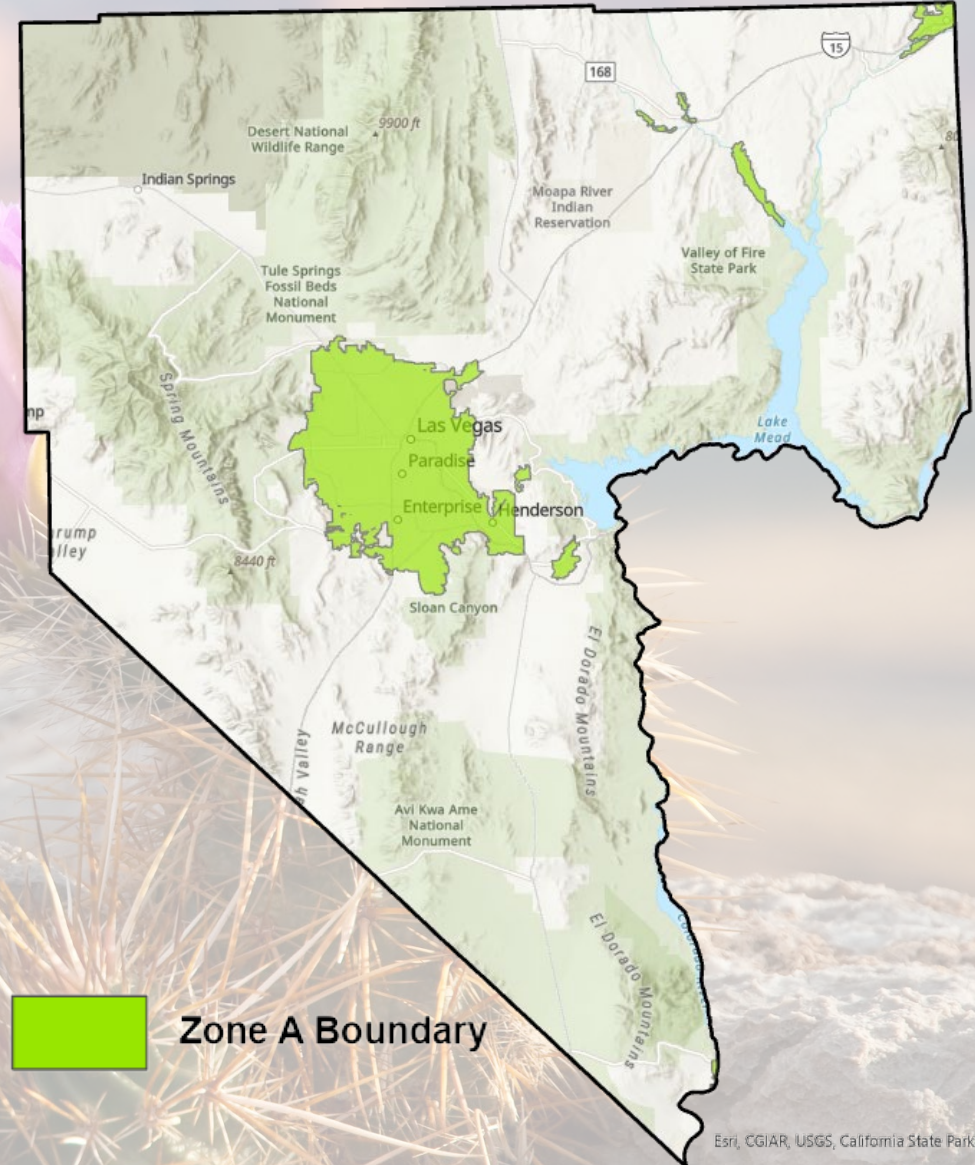
Measures must increase under a new permit

- Avoidance, minimization, and mitigation measures in place today will not be approved again (regulations and policies have changed since 2001)

Avoidance Measures



- Zone A: Infill within urban/developed areas
- Zone B: natural areas
- Desert tortoise clearance surveys within suitable habitat
- Burrowing owl clearance surveys within suitable habitat



Avoidance Measures



The screenshot displays the OpenDoor web application interface. On the left, a sidebar contains a search bar with the text "Search OpenDoor" and a magnifying glass icon. Below the search bar, there is an "Advanced Search" dropdown menu. The main content area shows a map of Clark County, Nevada, with a data disclaimer overlay. The disclaimer text reads: "Welcome to OpenDoor! Due to continuous development activity throughout Clark County, this data is for reference only. The information is presented solely for the convenience of the citizens of Clark County. Specific questions are to be referred to the appropriate County Department and/or municipality. THE MAPS AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED." The map shows a city area with a grid overlay and a river. The interface also includes a "Current Tool: Select Property" section with coordinates (X: 527541 Y: 26843442), flight date, and current view settings. A feedback prompt and a tip are also visible in the sidebar.

Search OpenDoor

Advanced Search

Current Tool: Select Property
Coords in State Plane ft
X: 527541 Y: 26843442
Flight Date: Most Current Flight
Current View: Aerial Imagery Only
1: 250,000

Your feedback helps improve OpenWeb

For improved performance and additional functionality, visit this site using Chrome or Edge

Tip: Pressing 'ctrl' and 'F5' keys simultaneously performs a "force reload", allowing you to enjoy new features as released

Data Disclaimer

Welcome to OpenDoor!

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Minimization Measures

Adoption of project design measures and urban-wildlife interface design standards into development code:

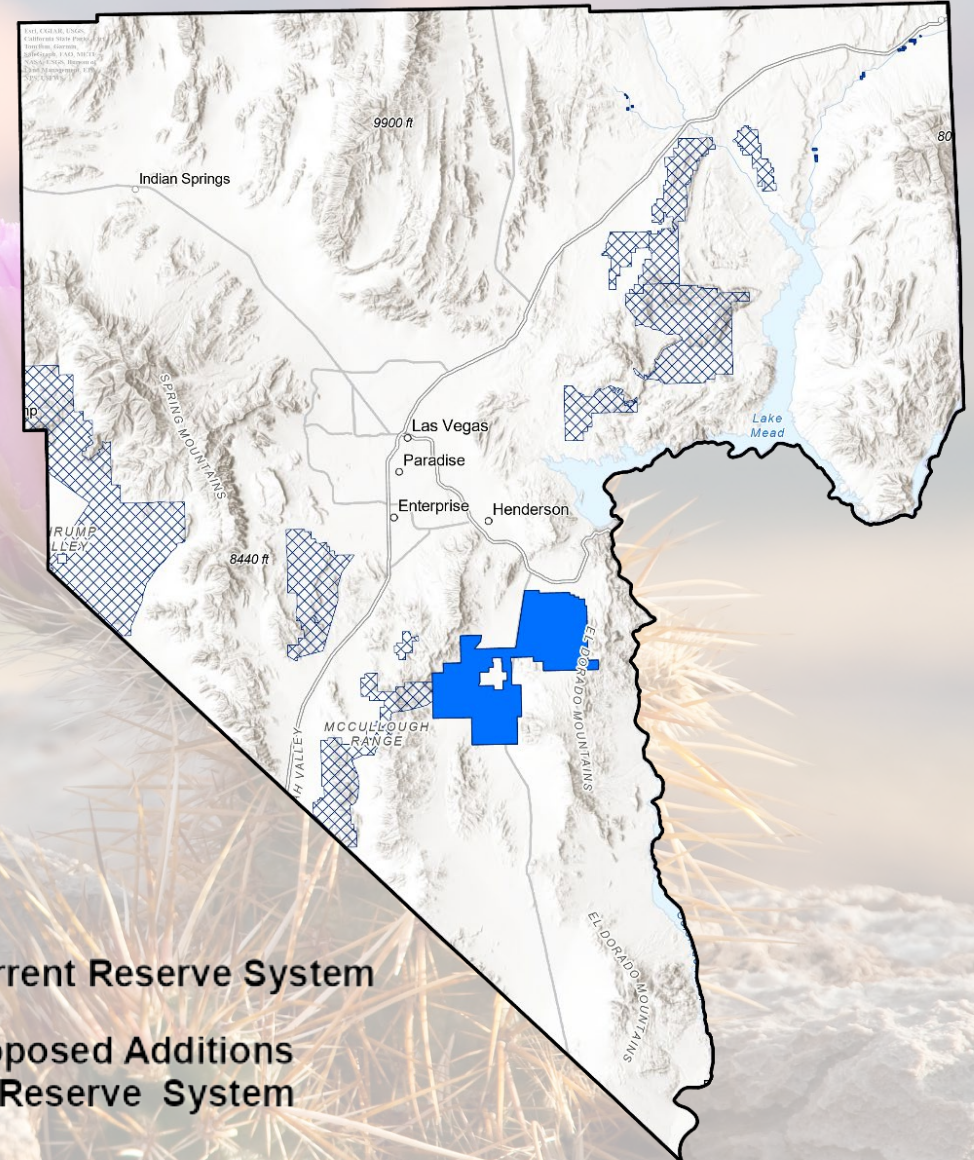
- Intended to limit edge effects when development is adjacent to natural habitat areas
- Fences and signage along the interface
- Lighting standards to minimize impacts to wildlife
- Use of native, drought tolerant plant species for landscaping
- Restrictions on roads terminating at the boundary of a natural area

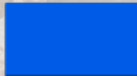



Mitigation Measures (Reserve System)



- Relies on designation of a Reserve System
- Reserve System would largely consist of BLM-administered land and some private property

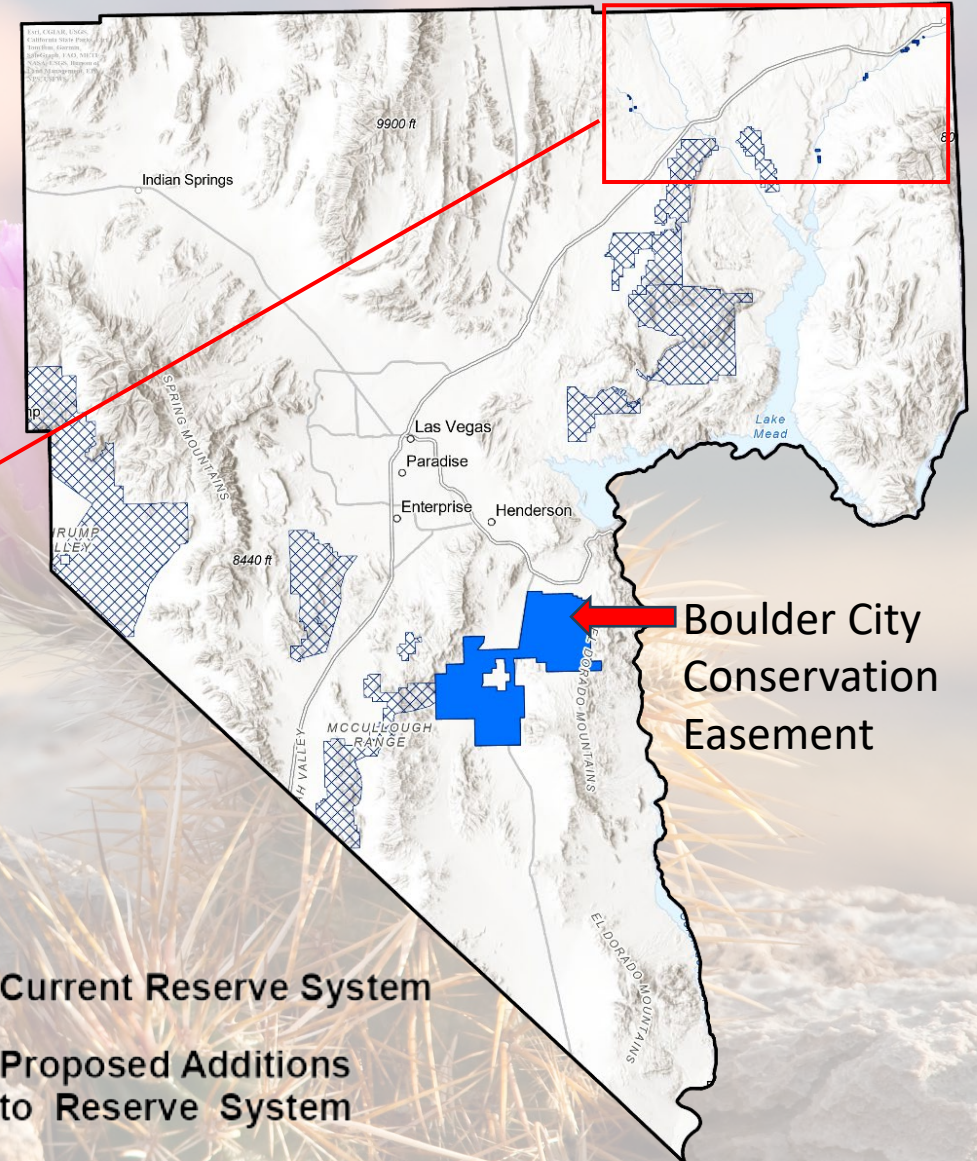


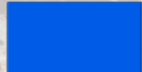
 Current Reserve System
 Proposed Additions to Reserve System


Mitigation Measures (Reserve System)



- Currently manage 87,268 acres at the Boulder City Conservation Easement and 781 acres of riparian properties (Muddy and Virgin River)
- Will add 358,962 acres



 Current Reserve System

 Proposed Additions to Reserve System

Mitigation Measures (Reserve System)



Managed for the conservation and recovery of Covered Species

- Law enforcement
- Weed surveys and treatments
- Fencing, signage, and other habitat protective measures
- Route designation
- Restoration of unauthorized activities and closed routes
- Species and habitat monitoring



Funding



Increasing avoidance, minimization, and mitigation measures will require additional revenue to fund

- A per-acre fee increase will be necessary
- Desert Conservation Program will be required to demonstrate that they can fully fund the entire plan and that revenue sources are guaranteed (i.e., we cannot use grant funding)
 - This is a permit issuance criterion – without a funding guarantee, U.S. Fish and Wildlife Service will not approve the application.

Funding



- Preliminary funding analysis: 50-year plan will cost \$474 million (2023 dollars)
- Approximately \$2,500 per acre
- SNPLMA and other grant funds may offset costs
- Fee will be adjusted for inflation
- Periodic funding review

CLARK COUNTY DESERT CONSERVATION PROGRAM

Project # _____

LAND DISTURBANCE/MITIGATION FEE FORM

Receipt# _____

City/County _____

All project proponents in the permit area are required to complete this form and submit it to the appropriate local agency. Authorization to develop property will not be granted by the local agency until this form has been submitted and is accepted as complete. The project proponent is responsible for securing all signatures required below and for accurately providing all required information.

PROPERTY SITE DESCRIPTION

Assessor's Parcel Number(s) _____

Attached:

- Site Boundary outlined on Assessor's Parcel Map (Required if Engineer Stamp not provided)
 Legal Description (If Required)

Engineer Stamp

Type of Development Permit Being Sought: COMMERCIAL RESIDENTIAL

Total acreage in parcel: _____ (2 decimal places only)

Number of on-site acres within parcel to be disturbed: _____
(2 decimal places only)

Number of off-site acres within parcel to be disturbed: _____
(for Clark County use) (2 decimal places only)

Location (City, Town, Cross Streets) _____

Property Owner/Project Proponent (Print Name or Company Name) _____

Address, City, State, Zip _____ Telephone Number _____

Signature _____ Date _____

FOR OFFICIAL USE ONLY

MITIGATION FEE ASSESSED: _____ acres (2 decimal places only) X \$550.00 = \$ _____

Compliance Report Fee (Administrative Fee) = \$ _____

Total Fees Paid = \$ _____

If exemption of fee applies, please explain below: (ATTACH DOCUMENTATION)

Mitigation Fee Previously Paid: Permit Number: _____

Property Previously Developed, Fee Not Applicable. Explain _____

Other, Explain: _____

Received By: _____ Date: _____

CALCULATION OF ACRES DEVELOPED AND FEES PAID WILL BE AUDITED

Original - Agency Copy - Customer Copy - DCP

Next Steps



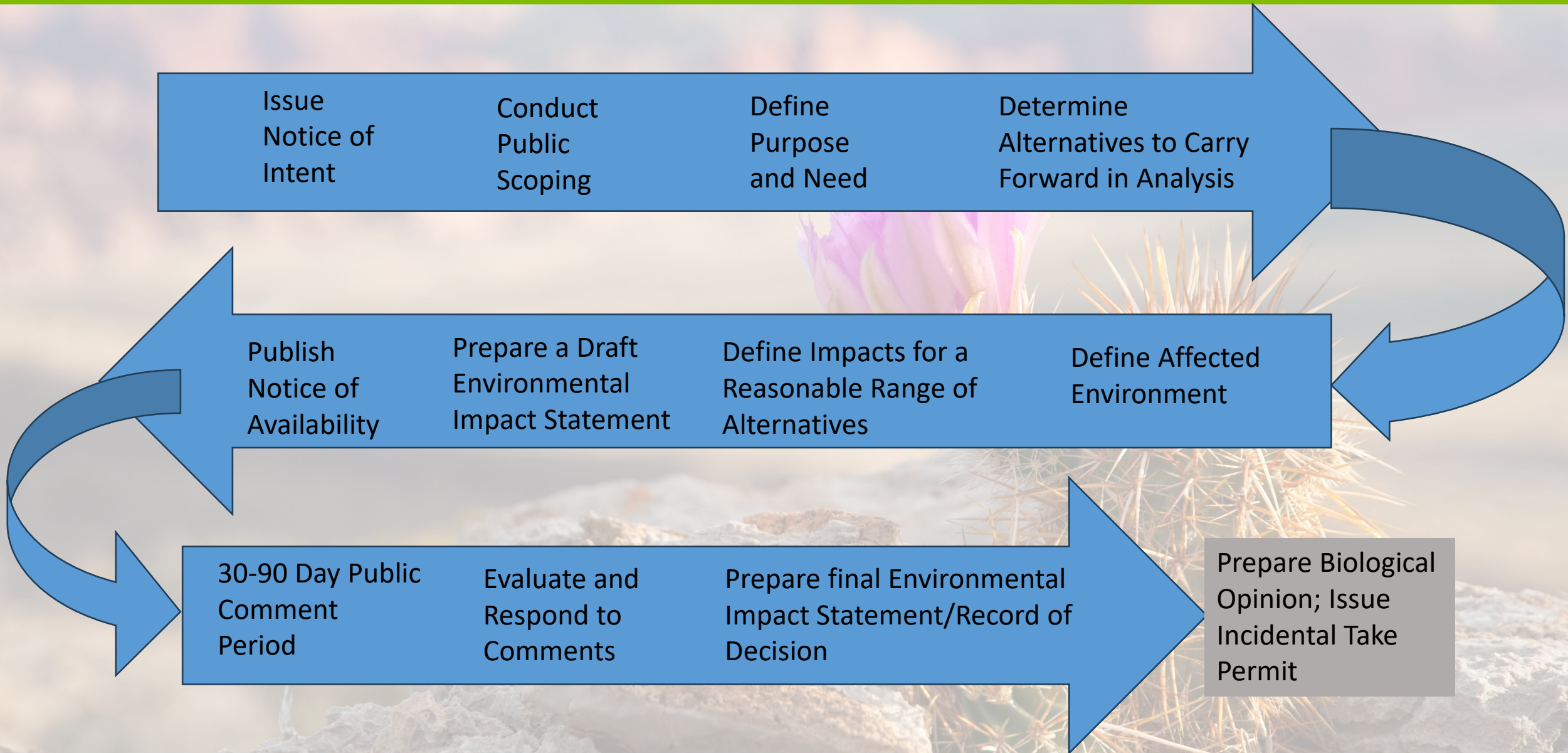
Draft MSHCP Amendment application is nearing completion

- Additional data collection activities and data analyses are underway to finalize the draft
- Chapters are being reviewed the U.S. Fish and Wildlife Service
- Continue to pursue designation of the Reserve System

Public Engagement and Stakeholder Outreach

- Review components of the Proposed MSHCP Amendment
- Solicit Feedback – Present to the Board of County Commissioners

Next Steps





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