

MULTIPLE SPECIES HABITAT CONSERVATION PLAN OVERVIEW AND PROGRESS

Kimberley Jenkins
August 22, 2023



MOJAVEMAX.COM



desert conservation
PROGRAM



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

Developers lose verdict to tortoises

By Mary Manning
SUN Staff Writer

12/14/89

The U.S. Court of Appeals upheld the emergency listing of the Mojave Desert tortoise Wednesday, denying a preliminary injunction sought by Nevada, Las Vegas and developers.

The 18-page decision said Interior Secretary Manuel Lujan Jr. acted properly to protect the tortoises vanishing from their homelands in Southern California, Southern Nevada and parts of Southern Utah by issuing the emergency listing Aug. 4.

"More troubling is appellants' contention that the secretary acted irrationally by including the Nevada portion of the Mojave population," the decision said.

Nevada, the city and developers claimed there was no proof that tortoises within the state suffered from an upper respiratory disease apparently cutting down populations in Southern California.

"Appellants face a heavy burden in establishing that the secretary acted irrationally by including Nevada but not including the Arizona Sonoran population in the listing," the decision said. "Since the agencies have great discretion to treat a problem partially, we would not strike down the listing if it were a first step toward a complete solution, even if we thought it 'should' have covered both the Mojave and Sonoran populations."

A District Court decision already denied the Nevada governments and developers relief. The Appeals Court reaffirmed that decision.

"So the tortoise has won," said Michael Bean of the Environmental Defense Fund, one of the organizations that petitioned the federal government to issue the emergency declaration. That emergency listing expires April 2, but the government is expected to ask for a

August – December 1989

Injunction filed; lost

Appealed; lost

December 1989 to August 1991

County leads an effort to obtain a short-term incidental take permit to allow development to resume.

Tuesday, August 13, 1991 a

Las Vegas Review-Journal

Tortoise pact ends construction delay

□ A proposal to help save tortoises, while allowing more building, will cost new homeowners about \$350.

By Mary Hynes
Review-Journal

Construction stalled for two years in areas of the Las Vegas Valley by the presence of the federally protected desert tortoise can move forward under an agreement signed Monday by the U.S. Fish and Wildlife Service.

The agreement, approved earlier by other federal agencies as well as local governments, allows over the next three years for development of 22,352 acres where the tortoise is found in exchange for preservation of 400,000 acres of prime habitat for a tortoise sanctuary.

The agreement, called the short term habitation conservation plan, will be effective Sept. 3, when Clark County purchases the first sanctuary land near Searchlight. The plan's \$10 million cost will be paid for out of development fees ranging from \$250 to \$550 per acre.

A debate has gone on for two years over how to strike a balance between protecting the tortoise, which is threatened by a respiratory ailment, while protecting the community from the effects of a potential building moratorium.



Jim Laurie/Review Journal

Marvin Plenert, regional director of the U.S. Fish and Wildlife Service, left, signs an agreement allowing development on land inhabited by the desert tortoise. Seated with him are Clark County consultant Paul Selzer, center, and County Commission Chairman Jay Bingham.

Ranchers also railed against losing any grazing rights, and off-road vehicle enthusiasts against foregoing recreational pleasures.

"I know it's a good settlement because everybody is unhappy," said U.S. Sen. Harry Reid, D-Nev., at a formal

signing ceremony.

Speakers including Reid, Sen. Richard Bryan, D-Nev., Lt. Gov. Sue Wagner and Clark County Commissioner Jay Bingham praised the compromise and cooperation that had gone into the agreement.

From 1B

In the next year, the federal government and local municipalities will strive to come up with a long-range plan for reckoning with the tortoise. The plan likely will include relocating tortoises from land slated for development to areas unpopulated by the reptile, said Paul Selzer, a consultant to Clark County.

When U.S. Fish and Wildlife declared the desert tortoise an endangered species in August 1989, its status was later upgraded to threatened, some feared a building moratorium would follow.

Those fears were not realized, however. The tortoise is not found everywhere and some construction was shifted to tortoise-free land.

Terry Murphy, a representative of the Southern Nevada Home Builders Association, said many projects had been delayed by the tortoise's threatened status, but could not say how many. He said the plan would add \$350 to the average cost of a new house in the valley.

"We have proven that diverse interests can come together and solve a problem," Bingham said.

Said Wagner: "By preserving the desert tortoise and allowing for orderly development, the case can be made that strong economic growth need not result in a declining quality of life for the citizens of Southern Nevada."

The Fish and Wildlife Service's approval of the plan allows development on 22,352 acres in the valley where the beleaguered tortoise now makes its home. As many as 3,500 of the reptiles can be removed from the valley and taken to the Dewey Animal Care Center.

The relocated tortoises then will either be used for research, put up for adoption or, as a last resort, destroyed.

The tortoise preserve near Searchlight will provide sanctuary to its existing reptile residents. Measures to protect the tortoises include eliminating livestock grazing, closing some roads and eliminating competitive off-road racing.

The Nature Conservancy, a national, non-profit group, is assisting Clark County in purchasing land for the sanctuary. The first land purchase will be the 160,000-acre Myers Ranch near Searchlight for \$475,000, which will come from a \$2 million fund to purchase sanctuary land.

Please see TORTOISES/2B

It would work to ensure, for example, that off-road vehicles do not harm the tortoise sanctuary.

"There are a lot of easy ways out," she said. "We're hoping to make the preserves true preserves."

Construction previously has been allowed on some areas inhabited by the tortoise.

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



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

- Covers 78 Species
 - Threatened: Desert tortoise and yellow-billed cuckoo
 - Endangered: Southwestern willow flycatcher and Mt. Charleston blue butterfly



DESERT CONSERVATION PROGRAM



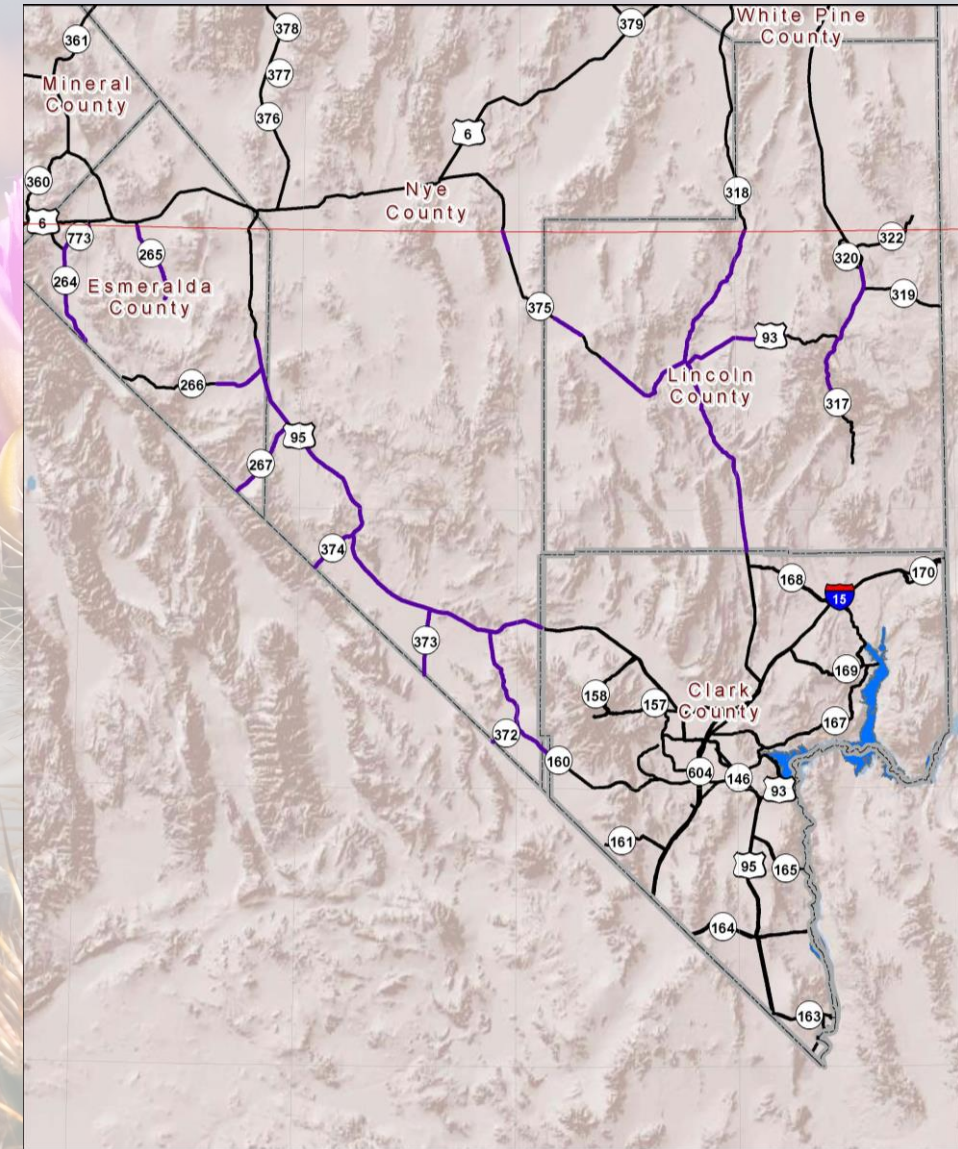
The Desert Conservation Program serves as the Administrator of the Clark County MSHCP and incidental take permit.

Permittees:

- Clark County
- City of Las Vegas
- City of North Las Vegas
- City of Henderson
- City of Mesquite
- City of Boulder City
- Nevada Department of Transportation (NDOT)



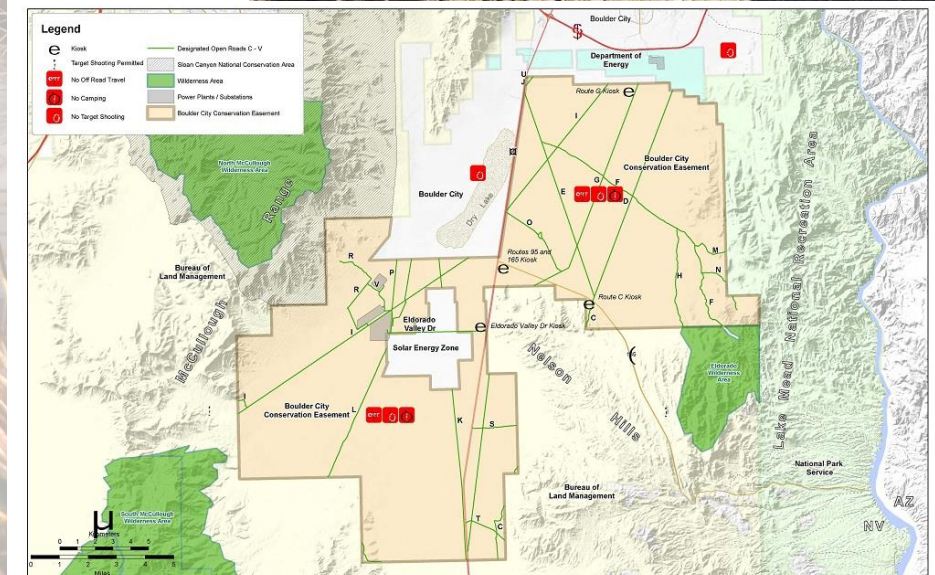
- Authorizes up to 167,650 acres of Take
- Covers all non-federal land in Clark County
 - Including BLM disposal lands
- 30-year permit effective February 2001
- Developers pay a \$550 per-acre disturbance fee to opt-in to the plan
- Fee is used to fund the conservation actions described in the MSHCP



CONSERVATION ACTIONS

Non-Discretionary: Explicit permit conditions

- BCCE
- Riparian property acquisition
- Tortoise fencing
- Tortoise translocation
- Adaptive Management Program
- General administration



CONSERVATION ACTIONS



Discretionary Actions: 604 possible actions described in the MSHCP

- Research
- Inventory
- Protective Measures
- Restoration and Enhancement
- Land Use Policies and Actions



Biennial Implementation Plan and Budget

- Identifies the mitigation actions to be funded each biennium
- Odd numbered years
- Collaborative process
 - Public comment period: October
- Approved and adopted by the Clark County Board of County Commissioners



PROGRESS REPORTING

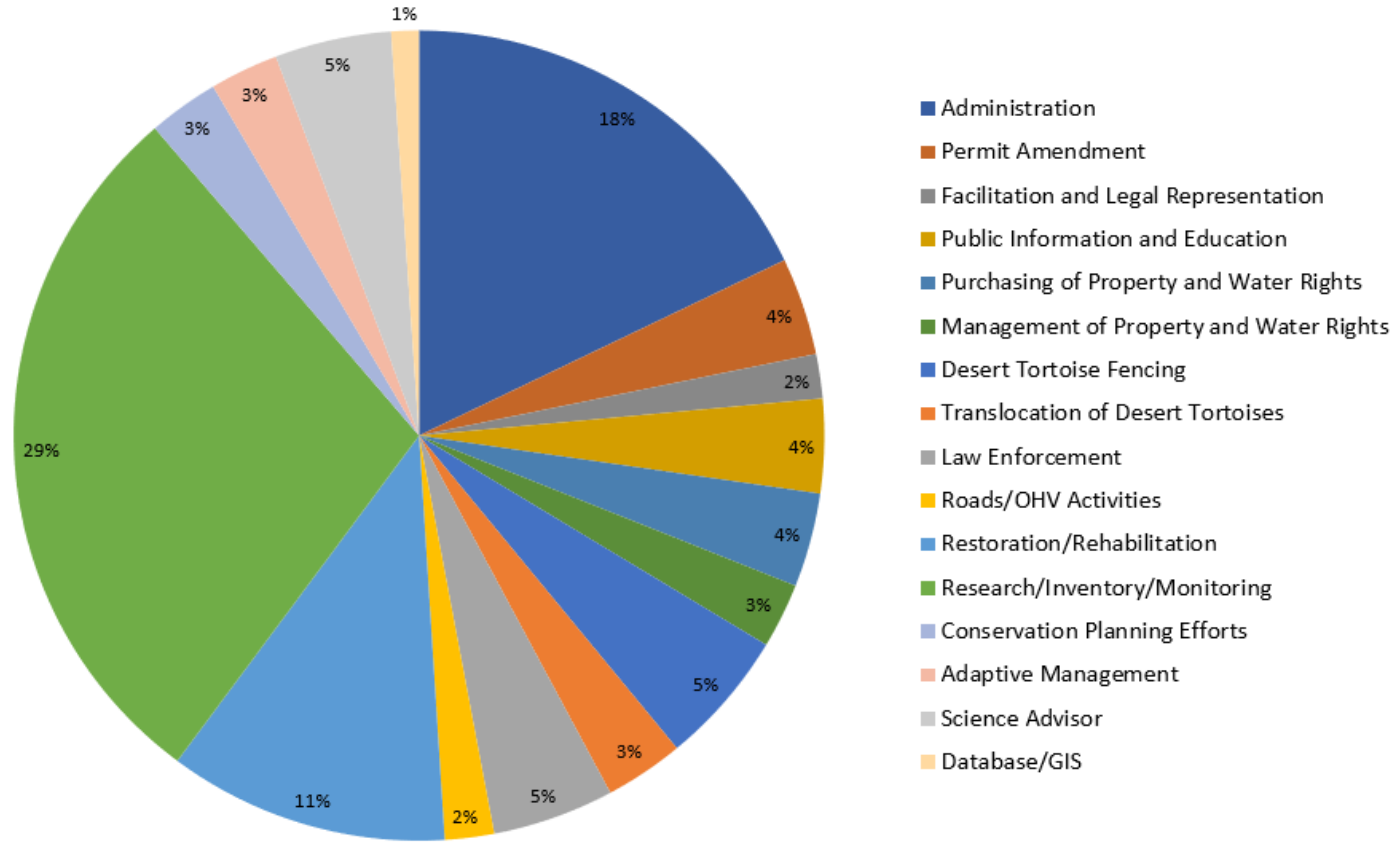


- Project Completion Notices
- Quarterly Administrator Updates
 - Includes financial and land disturbance updates
- Annual Progress Symposium
 - Provides an update on overall implementation of the MSHCP.
 - Provides updates on the progress of specific projects.
- Biennial Progress Report
 - Required compliance report; provided to U.S. Fish and Wildlife Service
- Biennial Adaptive Management Report

FUNDING BY CATEGORY



\$162.2 million from 2001 - Present



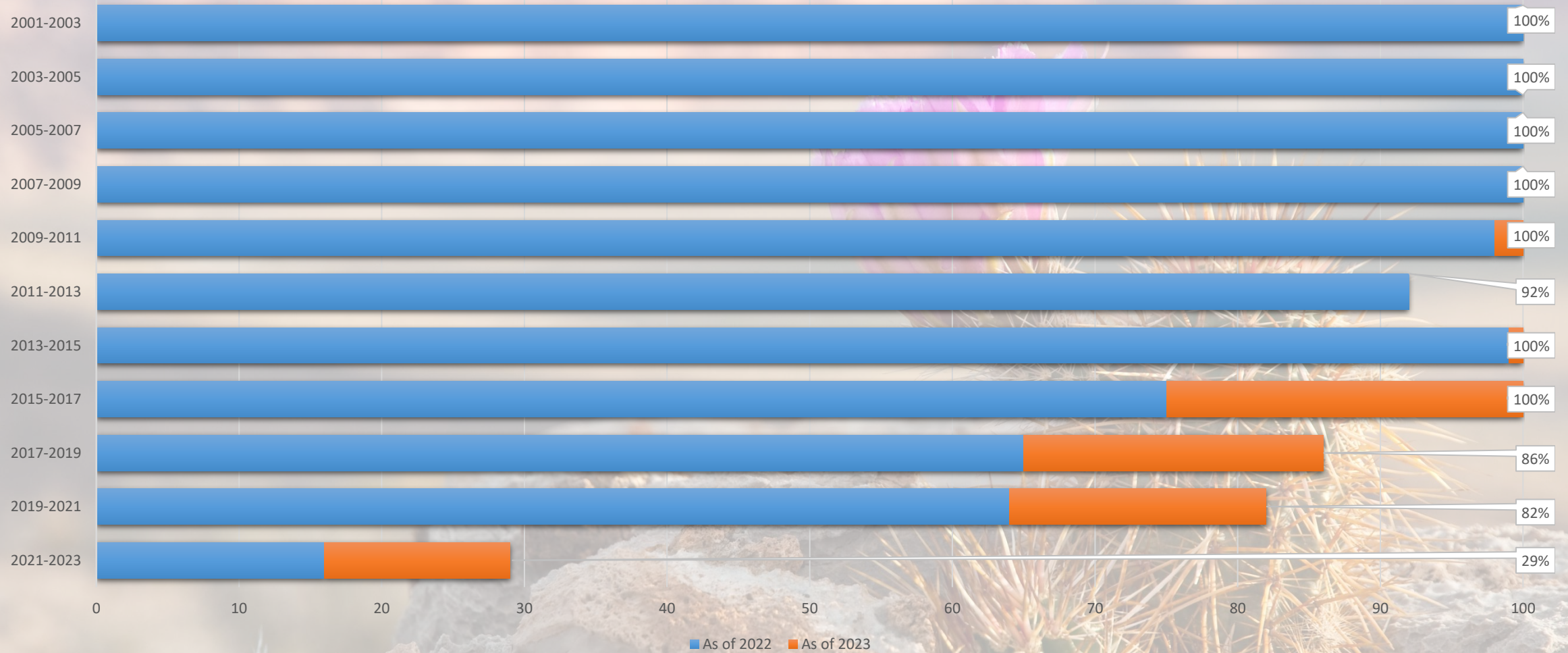
Highest Funded Categories:

- Research, Inventory, and Monitoring
- Administration
- Restoration and Rehabilitation

PROGRESS PER BIENNIUM

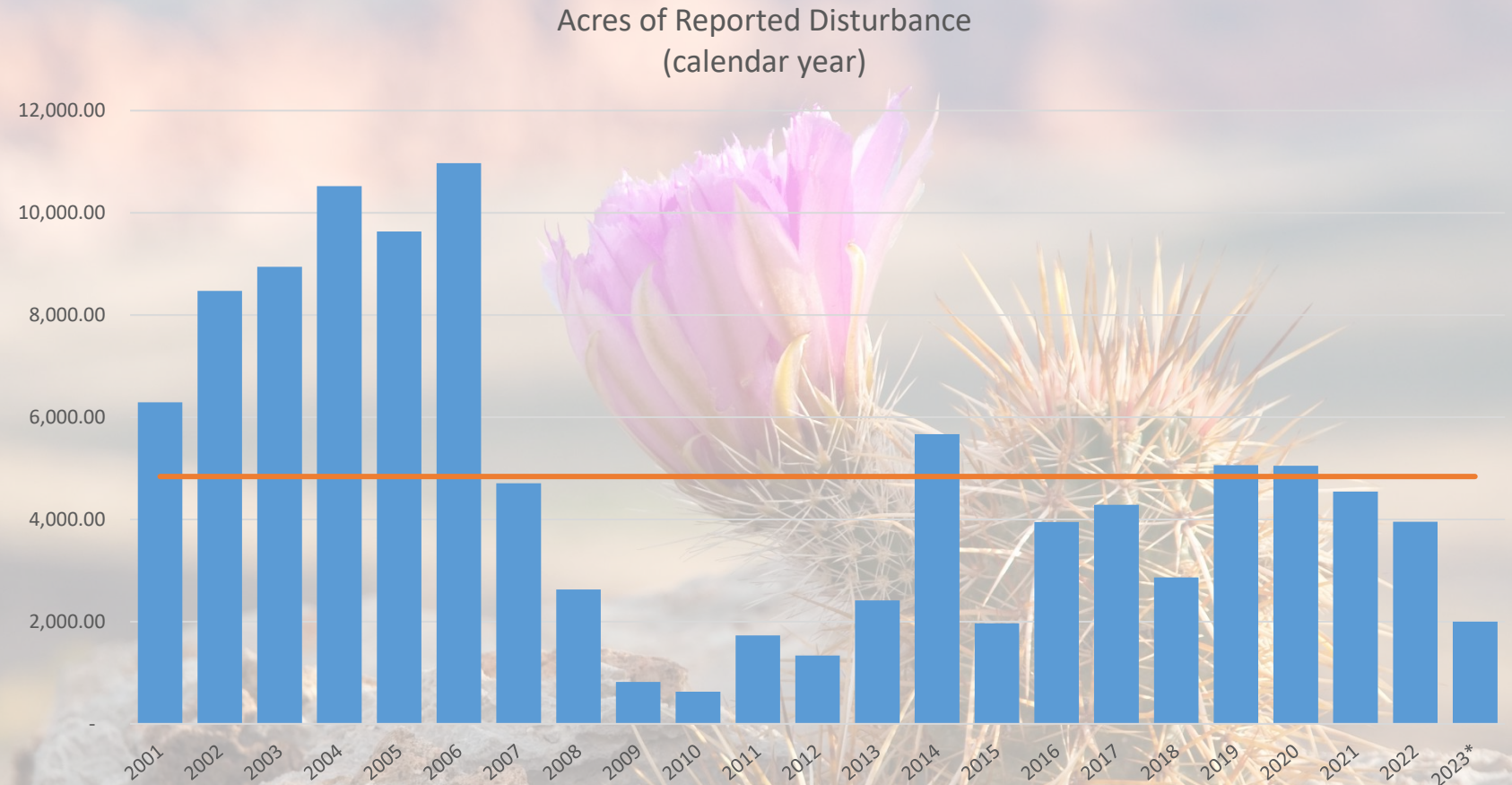


Progress per Biennium (percent complete)



ANNUAL DISTURBANCE

- 123,786 acres disturbed to date
- \$68.08 million earned to date
- Average ~4,800 acres of disturbance/year
- 43,864 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.

PROJECT & CONTRACT MANAGEMENT



From August 15, 2022 to August 21, 2023

- **57** contracts administered
 - **19** new contracts initiated
 - **12** contracts completed/closed
- **17** Purchase Orders/Goods
- **175** milestones achieved
- **264** deliverables accepted
- **254** invoices received



SNPLMA FUNDING



- Administered 6 SNPLMA Grants
- Drew down \$368,382 in SNPLMA funds
- Closed out 3 SNPLMA grants
- 3 new grants approved under Round 19 for a total of \$3,501,521



WILD DESERT TORTOISE ASSISTANCE HOTLINE

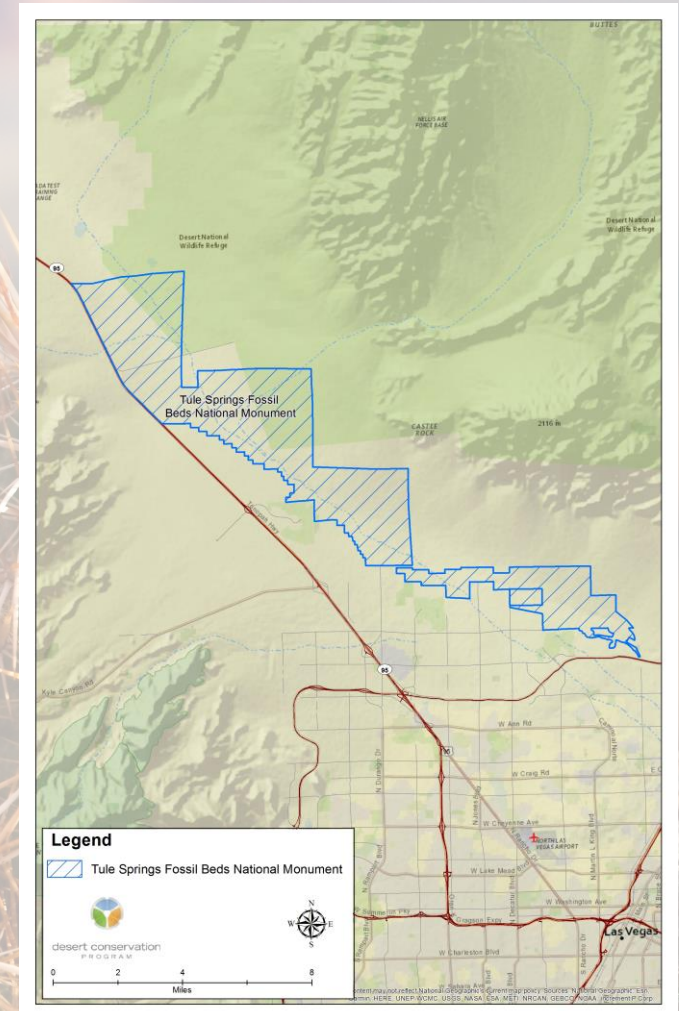


From August 2019 to August 2022

- 6 calls received
- 2 desert tortoises picked up
- 5 tortoises translocated to the BCCE



- Tule Springs Fossil Beds National Monument
 - Five miles of fencing
 - Completed in September 2023
 - Phase II, Corn Creek Rd (SNPLMA R20)



FENCING (CONTINUED)



Road Warriors

- Collect data about road mortalities
- Validate road prioritization models
- Inspect fencing condition
- Report maintenance needs to NDOT



Upcoming:

- Inspect culverts that are currently passable
- Conduct minor maintenance of fence and culverts

RESTORATION



BCCE

- ~2.5 miles of road reclaimed.
- Repaired and improved on damaged site.
- Continue to monitor restoration progress.
- Similar restoration effort is planned for later this year.



Rainbow Gardens

- NEPA complete.
- Solicit proposals for post-and-cable fence construction later this year.
- Working with DRI on bearpoppy reintroduction trials.

RESTORATION (CONTINUED)



Brome Reduction

- Examining effectiveness of Rejuvra in controlling brome within desert tortoise habitat
- NEPA and Pesticide Use Permit complete; field work to begin in fall

Piute-Eldorado ACEC

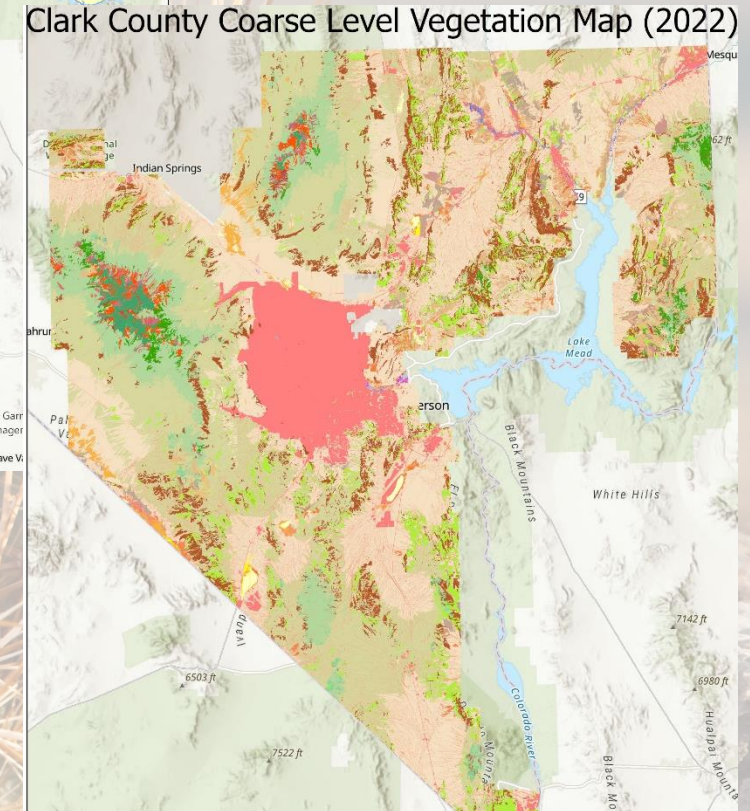
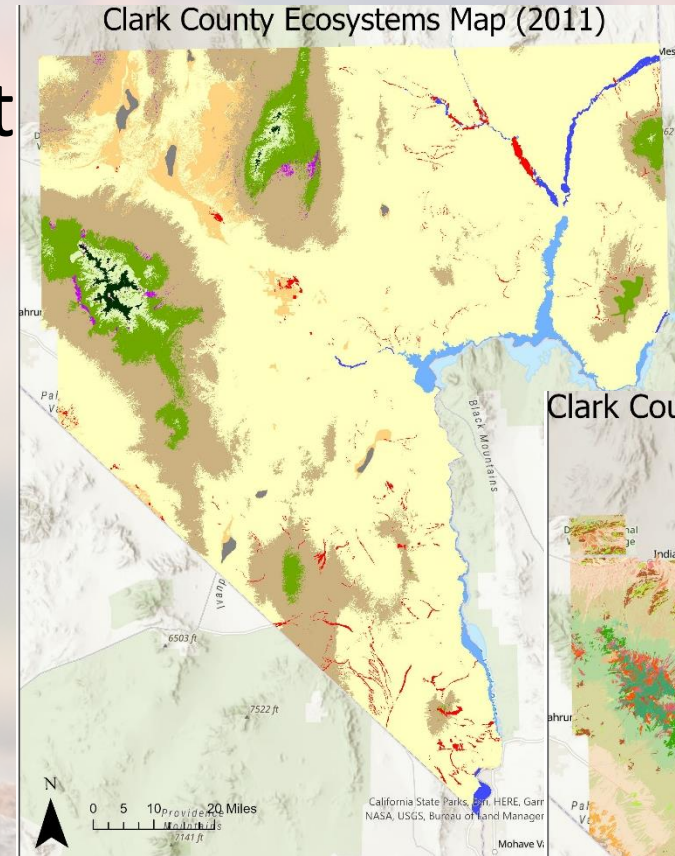
- Restoration of linear disturbances, up to 725 segments
- Restoration Plan (RFQ in development)

VEGETATION MAP

- Detailed vegetation map dataset
- Covers ~4.2 million acres
- Coarse level map data now available online

Upcoming:

- Awarded Round 19 grant for final phase
- Fine scale vegetation map dataset in 2025.



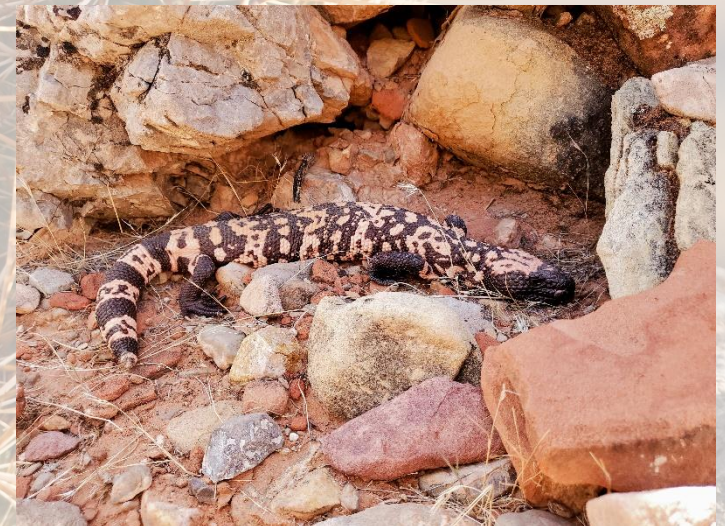
PERMIT AMENDMENT



- Draft chapters complete (except funding, in progress)
- Briefing Permittees, Management, Stakeholders

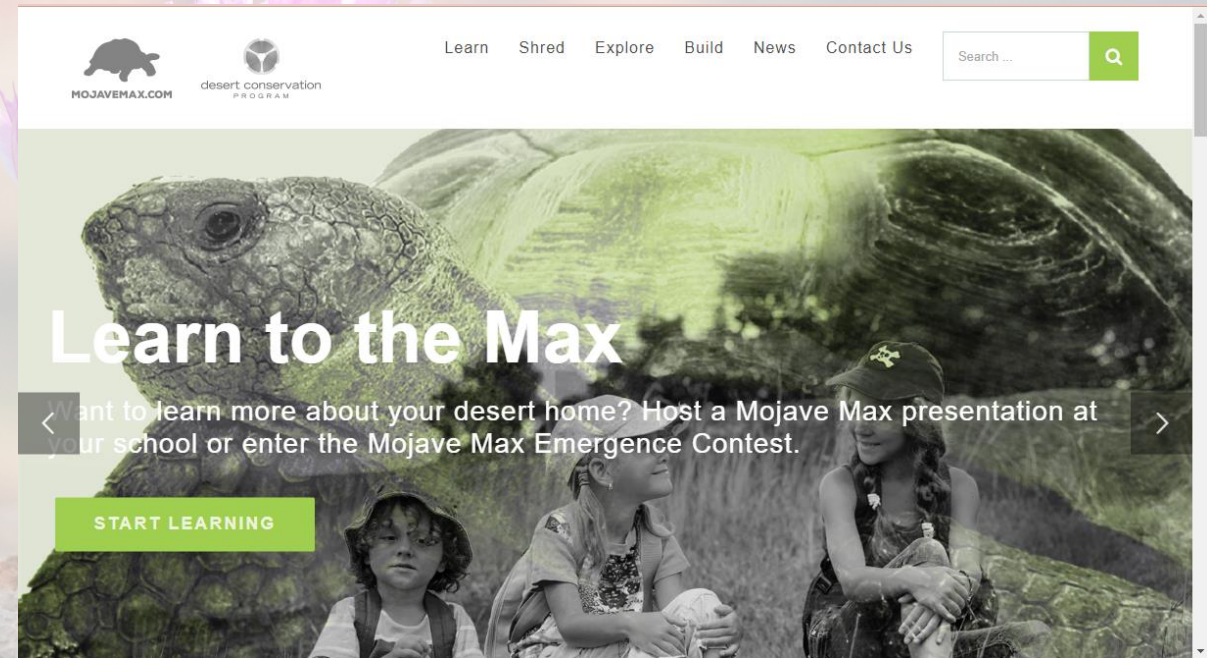
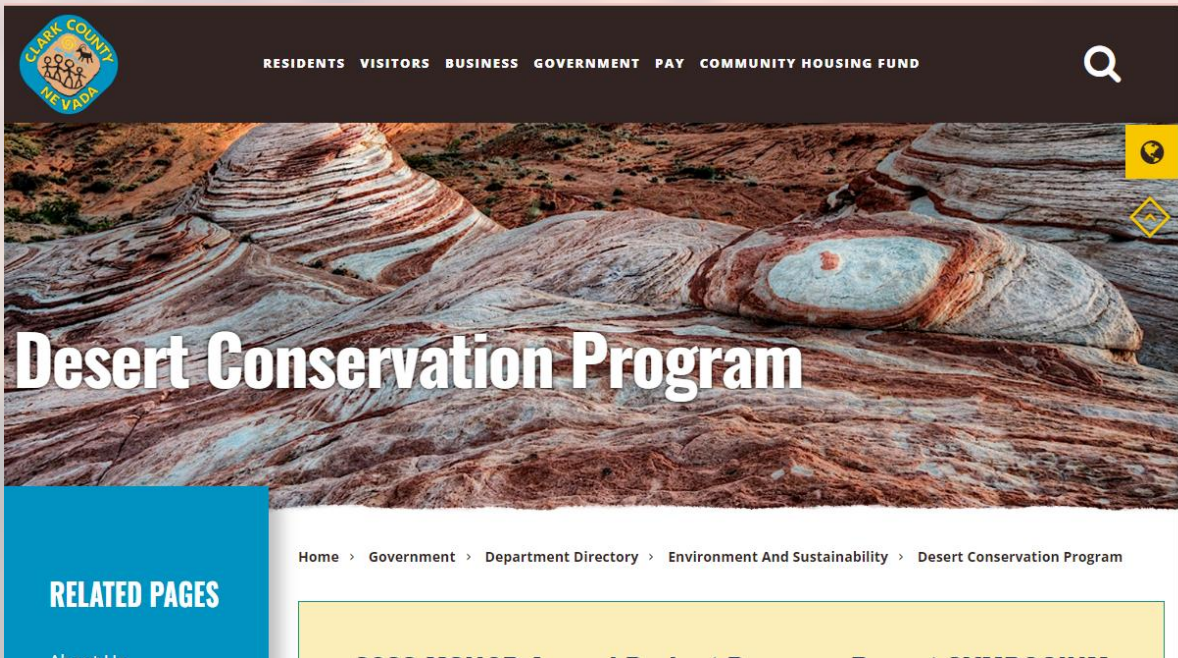
Upcoming:

- Continue species surveys and model development
- Finalize impacts analysis
- NEPA Analysis
- Full HCP Application submittal ~2026





To learn more, please visit our websites:



QUESTIONS?