

**CLARK COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM**

**Petitioner:** Marci Henson, Director of Air Quality

**Recommendation:**

**Approve and authorize the Chair to sign the Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada. (For possible action)**

**FISCAL IMPACT:**

Fund #:	N/A	Fund Name:	N/A
Fund Center:	N/A	Funded PGM/Grant:	N/A
Amount:	N/A		
Description:	N/A		
Additional Comments:	N/A		

**BACKGROUND:**

In accordance with NRS Chapter 527 native flora threatened with extinction may be placed on a list of fully protected species by the State Forester Firewarden. Once a species is placed on the list of fully protected species, any person who cuts, destroys, mutilates, picks, or removes such flora without a written permit commits a misdemeanor or greater offense. No member of the species can be removed or destroyed, except by a special permit issued by the State Forester Firewarden.

Currently, there are four extant species of native flora within Clark County that have been placed on the list of fully protected species: Las Vegas bearpoppy, threecorner milkvetch, sticky buckwheat, and Blue Diamond cholla.

The Desert Conservation Program administers federal Endangered Species Act compliance on behalf of Clark County and the cities of Las Vegas, North Las Vegas, Henderson, Boulder City, and Mesquite by implementing the Clark County Multiple Species Habitat Conservation Plan ("MSHCP"). The State Forester Firewarden has issued a Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada ("Special Permit") to the MSHCP Permittees. This Special Permit would authorize the Permittees and their constituents to remove or destroy fully protected flora on non-federal and non-state lands in Clark County to the extent authorized by the MSHCP. In exchange for the Special Permit, the Desert Conservation Program, acting on behalf of the Permittees, and in collaboration with the Nevada Division of Forestry, will develop projects to minimize and mitigate impacts to the species covered by the permit. These projects will be described in the biennial Implementation Plan and Budget for the Desert Conservation Program which is prepared and presented to the Board of County Commissioners for approval in each even-numbered year.

**APPROVED AS RECOMMENDED**

Cleared for Agenda

**6/4/2019**

Agenda Item #

**28**



STATE OF NEVADA  
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
**NEVADA DIVISION OF FORESTRY**  
2478 Fairview Drive  
Carson City, Nevada 89701  
Phone (775) 684-2500 Fax (775) 684-2570  
March 26, 2019

**Special Permit for the Removal or Destruction  
of Plant Species in Clark County, Nevada**

Pursuant to NRS 244.386, 277.180, 527.270, and 527.300, this special permit authorizes Clark County and the Cities of Boulder City, Henderson, Las Vegas, Mesquite, and North Las Vegas ("Permittees") and individuals issued subpermits by the Permittees to remove or destroy the plant species identified in Section 4 of this permit on any non-federal and non-state lands in Clark County to the extent authorized by the Clark County Multiple Species Habitat Conservation Plan ("MSHCP").

Terms and Conditions:

1. MSHCP.

The Permittees must comply with the provisions of the MSHCP applicable to the plant species identified in Section 4 of this permit. Upon request by the Nevada Division of Forestry ("NDF"), the Permittees shall demonstrate compliance by providing documentation from the United States Fish and Wildlife Service ("USFWS") that confirms the Permittees are in compliance with the applicable terms of the MSHCP.

2. Covered Activities.

Covered activities include activities associated with urban growth and development, including agriculture, flood control, livestock grazing, mineral extraction, off-highway vehicle activities, parks and recreation, residential and commercial development, solid waste facilities, transportation, utilities, and water and sewage facilities projects carried out by the Permittees and its subpermittees.

Covered activities also include activities associated with the management of the Reserve System. These activities include habitat and species management, habitat restoration and monitoring, limited construction and maintenance of passive recreation facilities, and low-impact recreational use.

3. Permit Area

The area covered by this permit includes all non-federal lands, or lands within existing disposal boundaries (as of the effective date of this permit) that may become non-federal, in Clark County, Nevada as defined and listed in Section 2.3 of the MSHCP. Lands within expanded or new disposal boundaries may be covered under this permit upon notice of completion of review under the National Environmental Policy Act.

Specific lands or populations excluded from coverage under this Permit include the following areas:

- All lands administered by the State of Nevada.

- Property adjacent to the North Las Vegas Airport (Figure 1) and property owned by the Las Vegas Valley Water District at the Las Vegas Springs Preserve (Figure 2), as defined in the 2001 "Conditional Permit for Disturbance and Destruction of Critically Endangered Species in Clark County, Nevada, Las Vegas Bearpoppy "*Arctomecon californica*". These properties will remain excluded from this permit unless and until populations are deemed locally extinct. NDF shall make the determination that populations are extinct, which will be defined by a lack of live *Arctomecon californica* individuals present onsite for at least 20 years (i.e., the estimated seed bank longevity for the species).
- Property on which the type locality<sup>1</sup> specimen was described for the Blue Diamond cholla, *Cylindropuntia multigeniculata*, located on Blue Diamond Hill, Clark County, Nevada. The boundary of this population that shall be excluded from the Permit is documented in Figure 3.

#### 4. Covered Species.

The following plant species are covered by this permit:

Common Name	Scientific Name	State Status
Las Vegas bearpoppy	<i>Arctomecon californica</i>	Fully protected
Threecorner milkvetch	<i>Astragalus geyeri</i> var. <i>triquetrus</i>	Fully protected
Blue Diamond cholla	<i>Cylindropuntia multigeniculata</i>	Fully protected
Sticky buckwheat	<i>Eriogonum viscidulum</i>	Fully protected

The State Forester has determined that the covered activities described in Section 2 will not appreciably reduce the likelihood of the survival and recovery of the above species in the wild.

To support continued monitoring of the species covered by this permit, the Permittees agree to fund development of Current Knowledge and Conservation Status Reports, as described in Exhibit A, for each species within the first two years following permit issuance. The Permittees agree to fund the update of each Report every five years thereafter, or as determined necessary by the Permittees in collaboration with NDF.

#### 5. Implementation Plan and Budget Process.

During each even-numbered year, staff within the Clark County Desert Conservation Program ("DCP") will prepare a biennial Implementation Plan and Budget ("IPB"). The general purpose of the IPB process is to determine available funding and to identify and recommend actions to be implemented over the next biennium that will further the purpose of the MSHCP. In accordance with the terms of this permit, NDF, at its discretion and upon notification to DCP, may participate in the IPB process as outlined below.

The MSHCP Plan Administrator will prepare an analysis of the private land development that occurred during the previous biennium, including an estimation of impacts to Covered Species habitat. Based on this analysis, the Plan Administrator shall prepare draft budget principles and a draft process and schedule which will be provided to NDF for review and comment. DCP and NDF shall then collaboratively develop project concepts and budgets to mitigate impacts to Covered Species listed in Section 4 based on the final budget principles. Draft project concepts and budgets shall focus on mitigation and minimization actions that have a rational nexus to the level and impact of take that is occurring and those species impacted. Project concepts and

<sup>1</sup>

A "type locality" for a species is defined by the International Code of Nomenclature for Algae, Fungi, and Plants as the geographic locality of capture, collection, or observation of the name-bearing type. The type locality of a species gives a reference point to understanding that species' original range and habitat. A type locality population is biologically important because the species description is defined by the morphology documented from this specific site, and is therefore scientifically relevant to the survival of the species.

budgets shall take into account recommendations from the Science Advisor, guidance provided in the Incidental Take Permit and MSHCP, previous budgets and expenditures, and needs anticipated during the upcoming biennium.

The Plan Administrator shall compile a Draft IPB Report, including draft project concepts and budgets. The Draft IPB Report shall be provided to the Permittees, the Science Advisor, U.S. Fish and Wildlife Service, and NDF for review and comment. The Plan Administrator shall then revise the Draft IPB Report based on feedback provided and shall publish the report for public review and comment for a period of not less than 14 days. The Plan Administrator shall then respond to public comment and finalize the IPB Report for Board of County Commissioners approval. Once approved and adopted by the Board of County Commissioners, the Final IPB Report shall go into effect on July 1 of each odd-numbered year.

6. Duration and Withdrawal.

This permit shall become valid when signed by all parties and shall remain in full force and effect for the term of the MSHCP and associated federal Incidental Take Permit, which expires on February 1, 2031, unless terminated by mutual agreement of all the parties or is otherwise suspended or revoked in accordance with Section 7 of this permit.

At any time a Permittee may withdraw from this permit upon 30 days notice to the other parties without affecting the validity of this permit as to the remaining parties.

7. Suspension, Reinstatement, and Revocation.

NDF may suspend or revoke this permit, in whole or in part, for cause if the Permittees are found to be in violation of applicable provisions of the MSHCP. However, NDF may not suspend or revoke the permit without first requesting that the Permittees take appropriate remedial actions within a specified, reasonable amount of time (90 days or another time period agreed upon by NDF and the Permittees), and second, by providing the Permittees with written notice of the facts or conduct which may warrant the suspension or revocation, and an adequate and reasonable opportunity for the Permittees to demonstrate why the suspension or revocation is not warranted.

If the State Forester makes a preliminary determination that continuation of the covered activities described in Section 2 would be detrimental to the maintenance or recovery of the population of the affected fully protected species, identified in Section 4, the State Forester may revoke that part of the permit applicable to the species, upon a final determination, after providing the Permittees an adequate and reasonable opportunity to review and comment on the preliminary determination (30 days or another time period agreed upon by NDF and the Permittees).

If NDF suspends the permit, in whole or in part, NDF shall confer with the Permittees no later than ten (10) days after such suspension concerning how the suspension can be lifted. After conferring with the Permittees, NDF shall identify and notify the Permittees of reasonable specific actions, if any, necessary to effectively redress the suspension. Upon performance of such actions by the Permittees and review and approval of the sufficiency of the Permittees' performance by NDF, NDF shall immediately reinstate the permit. It is the intent of the parties that in the event of any total or partial suspension of the permit, all parties shall act expeditiously and cooperatively to reinstate the permit.

8. Notice.

For NDF:

Kacey KC, State Forester  
Nevada Division of Forestry  
2478 Fairview Drive  
Carson City, NV 89701  
(775) 684-2501

For Clark County and other Permittees:

Marci Henson, Director  
Desert Conservation Program  
Clark County Department of Air Quality  
4701 West Russell Road  
Las Vegas, Nevada 89118  
(702) 455-3118

9. Termination of the Conditional Permit for the Las Vegas Bearpoppy.

In July 2001, the State Forester issued a "Conditional Permit for Disturbance or Destruction of the Las Vegas bearpoppy in Clark County, Nevada" (2001 Permit) to Clark County. Once this permit becomes valid pursuant to Section 5, the 2001 Permit will be rendered null and void.

In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.

Signed:

NEVADA DIVISION OF FORESTRY

  
\_\_\_\_\_  
Kacey KC  
State Forester/Firewarden

  
\_\_\_\_\_  
Date

In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.

Signed:

CLARK COUNTY, NEVADA

By: Marilyn Kirkpatrick 6/4/19  
Marilyn Kirkpatrick  
Chair  
Board of County Commissioners  
Date

ATTEST:

By: Lynn Marie Goya 6/4/19  
Lynn Marie Goya  
County Clerk  
Date

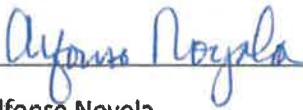
APPROVED AS TO FORM:  
Steven Wolfson, District Attorney

By: Catherine Jorgenson 6/4/19  
Catherine Jorgenson  
Deputy District Attorney  
Date

In witness whereof, the Permittees have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.


Signed:

CITY OF BOULDER CITY

  
\_\_\_\_\_  
Alfonso Noyola  
City Manager


5-6-19  
\_\_\_\_\_  
Date

Attest:

  
\_\_\_\_\_  
Lorene Krumm  
City Clerk

5/6/2019  
\_\_\_\_\_  
Date

Approved as to Form

  
\_\_\_\_\_  
Steven Morris  
City Attorney

5-6-19  
\_\_\_\_\_  
Date

In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.

Signed:

CITY OF HENDERSON



Richard A. Derrick  
City Manager/CEO

5/1/19  
Date



In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.

Signed:

CITY OF LAS VEGAS



\_\_\_\_\_  
Scott D. Adams  
City Manager

3-27-19

\_\_\_\_\_  
Date

In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.

Signed:

CITY OF MESQUITE



Andy Barton  
Mesquite City Manager



Date

In witness whereof, the Permittees hereto have executed this Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada, to be in effect as of the date when all parties have signed.


Signed:

CITY OF NORTH LAS VEGAS,  
a Nevada municipal corporation

By:   
Bryan Juden  
City Manager


3/20/19  
Date

ATTEST:

By:   
Catherine A. Raynor  
MCC, City Clerk

3/28/19  
Date

APPROVED AS TO FORM:

By:   
Micaela Rustia Moore  
City Attorney

3/27/19  
Date

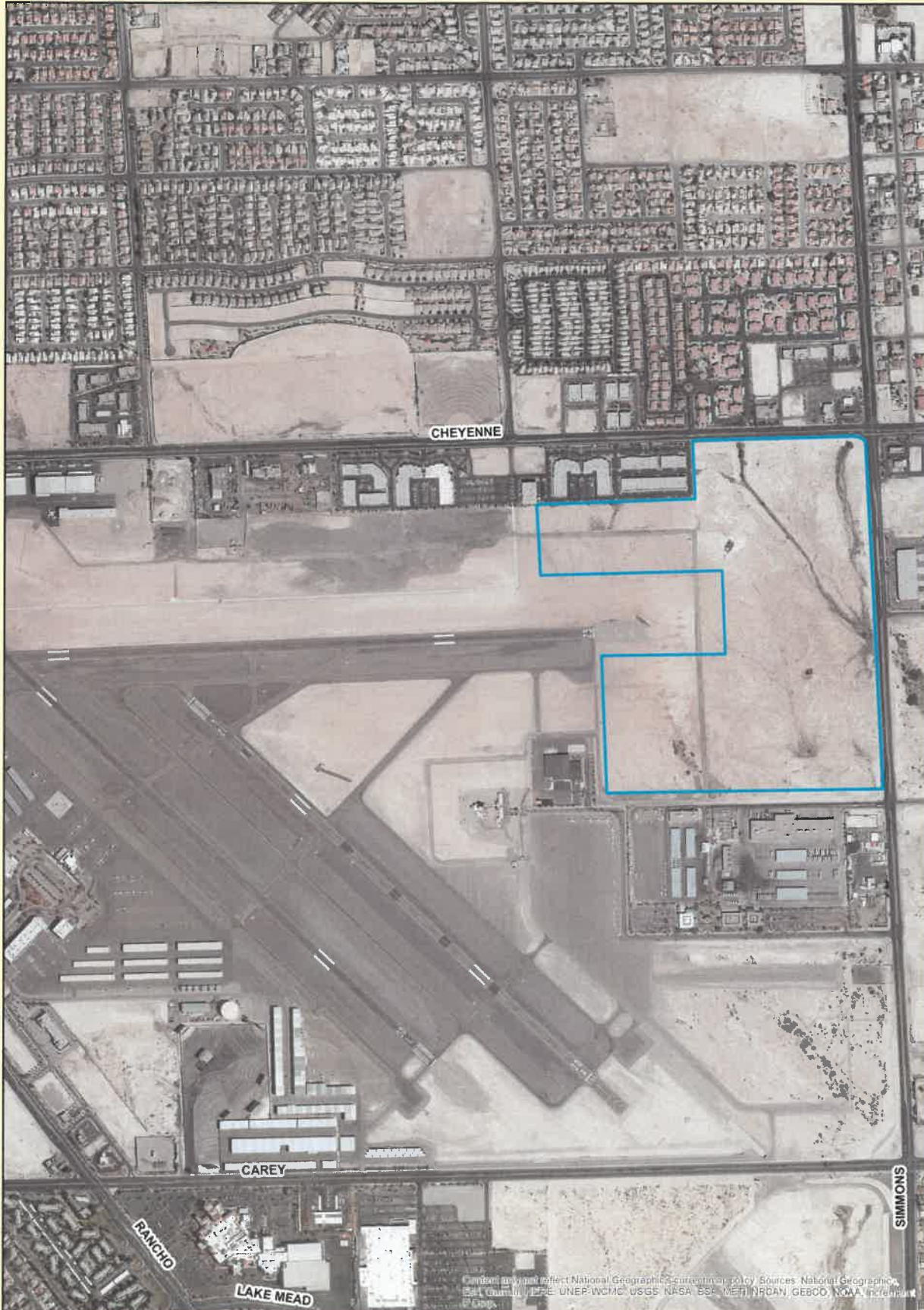
**Exhibit A**  
**Current Knowledge and Conservation Status Reports**

As a condition of the Special Permit for the Removal or Destruction of Plant Species in Clark County, Nevada (Permit), the Nevada Division of Forestry requests that the Clark County Desert Conservation Program make funding available for the development of Current Knowledge and Conservation Status reports for each of the four state-listed plant species covered by the Permit. Those species include:

- Las Vegas bearpoppy (*Arctomecon californica*)
- Threecorner milkvetch (*Astragalus geyeri* var. *triquetrus*)
- Sticky buckwheat (*Eriogonum viscidulum*)
- Blue Diamond cholla (*Cylindropuntia multigeniculata*)

The purpose of the reports is to comprehensively compile background information about the species to give a clear picture of the ecological information, habitat requirements, historical range in Clark County, current threats and impacts, and predicted threats and impacts under proposed development scenarios. Additionally, the reports will serve as a knowledge assessment to evaluate and compile available data sources for current and former population sites. Specifically, the reports and datasets will include:

- Ecological descriptions and habitat characteristics
- Current and historical population ranges (linked with geospatial datasets)
- Compilation of known occurrence data, including identifying data sources currently unknown or not submitted to the Nevada Natural Heritage Program databases
- Identification of current threats to known populations and threats to potential habitat
- Interpretations of current population health
- Assessments of the effectiveness of current and former conservation activities in protecting populations and preventing decline in species ranges
- Recommendations for future conservation needs
- Identification of future data needs



**Legend**

Excluded Property Identified by the 2001 Permit



**NDF Exclusion Area  
North Las Vegas  
Bearpoppy Conservation Area**

**Figure 1**

0      0.125      0.25  
Miles

**Projection:** Transverse Mercator  
**Coordinate System:** UTM Zone 11  
**Datum:** NAD83  
**Date:** 6/29/2016

This information is provided as a service to the user. It is not intended to be used as a substitute for professional engineering or architectural services. The user assumes all liability for any use of this information.





**Legend**

Excluded Property Identified by the 2001 Permit


## NDF Exclusion Area Springs Preserve

**Figure 2**

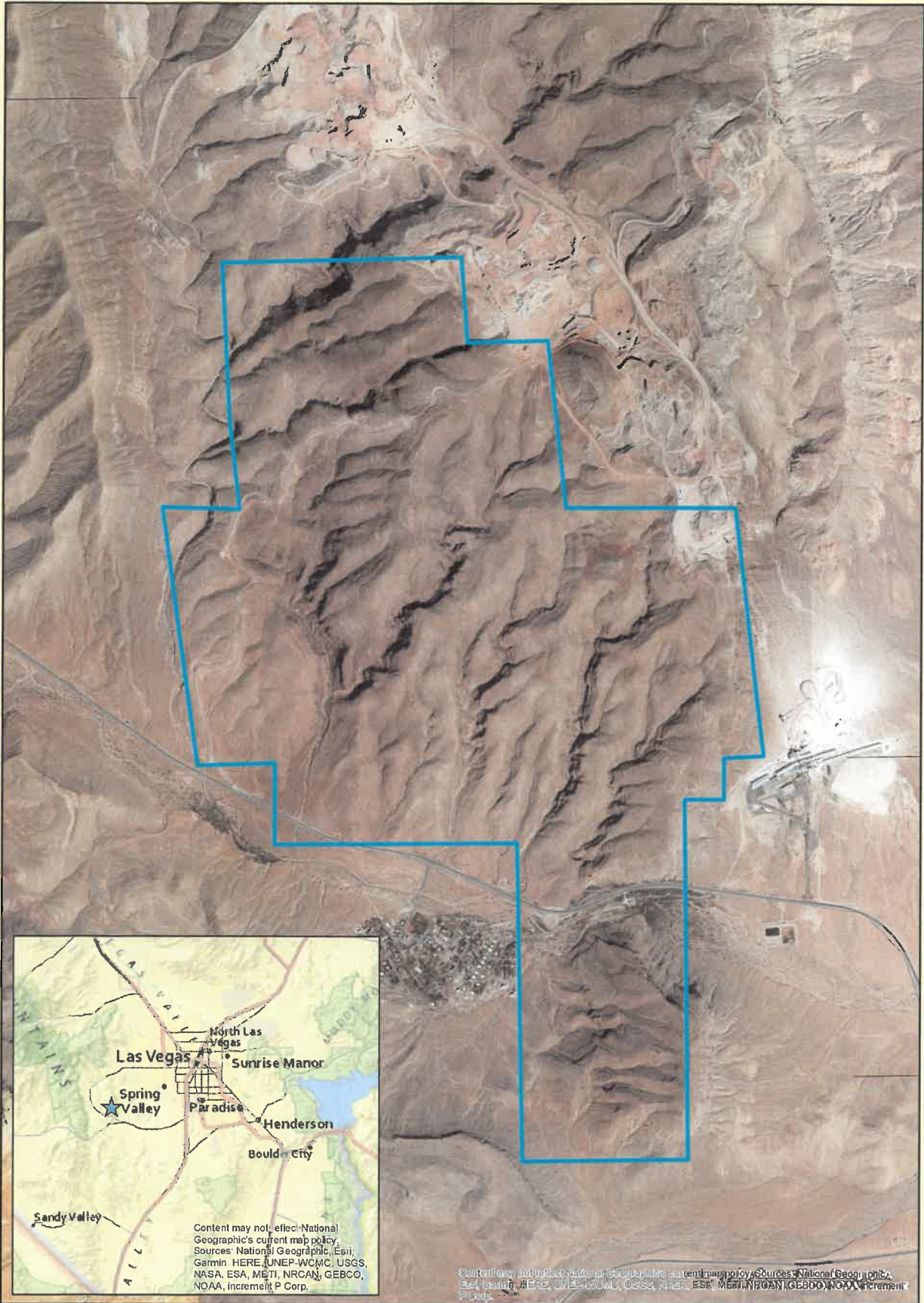
0      0.125      0.25  
Miles

Projection: Transverse Mercator  
 Coordinate System: UTM Zone 11  
 Datum: NAD83  
 Date: 6/29/2018


This information is provided for informational purposes only. It is not intended to be used as a basis for any legal action or as a substitute for professional advice. The user assumes all liability for any use of this information.







**Legend**



 Recommended Exclusion from NDF Permit to the Clark County MSHCP

## NDF Exclusion Area Blue Diamond Cholla Type Locality Population

**Figure 3**

0 0.125 0.25 0.5 0.75 Miles

**Projection: Transverse Mercator**  
 Coordinate System: UTM Zone 11  
 Datum: NAD83  
 Date: 6/29/2018

desert conservation PROGRAM