

Chapter 5

Compliance, Consultation, and Coordination

5.1 Federal Laws and Regulations

5.1.1 National Environmental Policy Act of 1969, as Amended

The U.S. Fish and Wildlife Service has directed the preparation of the portion of this which serves as an Environmental Impact Statement to assess the impacts associated with the issuance of the Section 10(a) Permit and possible modifications to the General Management Plan of the NPS, to assure consistency between the GMP and the MSHCP. The Draft MSHCP/EIS was prepared in accordance with the provisions of the Endangered Species Act of 1973, as amended, and the National Environmental Policy Act of 1969, as amended (42 U.S.C. 432 et seq.).

5.1.2 Federal Land Policy and Management Act

The Federal Land Policy and Management Act of 1976 (FLPMA) directs the Secretary of the Interior to develop, maintain, and, where appropriate, revise plans for the use of public lands. Furthermore, the *Code of Federal Regulations* requires all resource management authorizations and actions to conform to an approved land use plan. Where a proposed action does not conform but warrants further consideration, the land use plan may be amended. At a minimum, plan amendments require an environmental assessment under NEPA and must comply with the public involvement, interagency coordination, and consistency requirements of Federal planning regulations.

FLPMA also requires the Secretary to report to Congress any management decision or action that excludes one or more principal land uses for two or more years on 100,000 acres or more of public lands. In addition, any permanent exclusion of principal uses of public lands on 100,000 acres or more must be approved in a land use plan.

5.1.3 National Historic Preservation Act of 1996, as Amended

This act outlines the National Historic Preservation Plan and establishes the National Register of Historic Places, Advisory Council on Historic Preservation, and State Historic Preservation Office. It requires Federal agencies to locate, document, and evaluate, under the National Register, all cultural resources within its jurisdiction. Section 106 requires that, prior to an undertaking, Federal agencies identify eligible properties and assess the effects of the undertaking in consultation with the State Historic Preservation Office and Advisory Council on Historic Preservation.

Additional laws and regulations provide protection for cultural resources. The Antiquities Act of 1906 and Archaeological Resource Protection Act of 1979 make damage or removal of objects of antiquity located on Federal property illegal unless permitted. The Historic Sites Act established the Historic American Buildings Survey, Historic American Engineering Record, and National Survey of Historic Sites and Buildings and authorized the designation of National Landmarks. The American Indian Religious Freedom Act of 1978 and Native American Graves and Repatriation Act of 1990 mandates Federal agencies be aware of and sensitive to Indian religious freedoms, identify culturally affiliated Native American groups, prepare summaries as to the disposition of Native American skeletal materials, funerary, ceremonial objects that may be subject to repatriation and consult with Native Americans as to activities that may disturb sites.

The MSHCP cooperating agencies have established programs to comply with the act. The MSHCP does not propose any actions that would conflict with ongoing implementation of the act.

5.1.4 Clean Air Act, as amended 1990

The Federal Clean Air Act, as amended, was enacted for the purposes of protecting and enhancing the quality of the nation's air resources to benefit public health, welfare, and productivity. The proposed MSHCP covers lands within the Las Vegas Valley, a Federal non-attainment air basin, through Section 10(a) of the Endangered Species Act. The project proposes no construction or management actions beyond those anticipated to occur without the project and would not further degrade air quality in the Las Vegas Valley. Therefore, there would be no exceedance of any priority pollutants. The proposed action to issue incidental take permits would not require additional review or compliance beyond that already proposed and evaluated in the EIS.

5.1.5 General Mining Law of 1872, as Amended

This act provides for exploration and development of locatable mineral resources on Federal lands, subject to protection of non-mineral resources, avoidance of unnecessary or undue degradation, and requirements for reclamation of areas disturbed by exploration and development. The proposed actions incorporated in the MSHCP would not restrict or preclude exploration or development of locatable mineral resources within Clark County.

5.1.6 Wild and Free-Roaming Horse and Burro Act of 1971, as Amended

BLM was mandated responsibility for the welfare and protection of unbranded and unclaimed horses and burros found on public lands at the time of the act's passage. The management of horses and burros requires their removal from adjacent private or state lands when requested, the development of Herd Management Area plans, maintenance of an existing herd inventory, and removal and disposal of excess animals to the public by adoption. Horses and burros on public land are maintained at the lowest level needed to maintain the herd's free-roaming character, health, and self-sustaining ability. All public lands inhabited by wild horses or burros are closed to grazing by domestic horses or burros.

5.1.7 Executive Order 11988, Floodplain Management

This order directs Federal agencies to avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modifications of the floodplains and to avoid direct and indirect support of floodplain development whenever there is a practicable alternative, except where Federal, state, public, and private institutions and parties have demonstrated the ability to maintain, restore, and protect the floodplain on a continuous basis or where transfer of lands, minerals, or subsurface estates is mandated by legislation or Presidential order. Conservation measures for aquatic and riparian habitats proposed for the MSHCP would be consistent with this order.

5.1.8 Executive Order 12898, Environmental Justice

This order, signed February 11, 1994, requires agencies to incorporate environmental justice into their missions by identifying and addressing disproportionately high and adverse human health or environmental effects of their programs and policies on minorities and low-income populations and communities. The MSHCP is focused upon conservation measures and management on public lands and would allow the orderly expansion and use of privately held lands throughout Clark County. Therefore, there will

not be any disproportionately adverse effects to any minority or disadvantaged communities.

5.1.9 Spring Mountains National Recreation Area Act, August 1993

The Spring Mountains National Recreation Area Act directed the USFS to prepare a “general management plan” for the Spring Mountains National Recreation Area as an amendment to the Toiyabe Forest Plan. Under the act, the SMNRA is managed to achieve six general purposes, which provide themes for organization of more specific goals, objectives, standards, and guidelines for the SMNRA as whole and for each of four management areas. It also supplements forest-wide standards and guidelines found in the existing Toiyabe FP and replaces direction for management areas 11 and 12 found in the existing Toiyabe FP.

5.1.10 Lake Mead National Recreation Area, October 1964

The Lake Mead NRA was established for the “general purpose of public recreation, benefit and use, and in a manner that will preserve, develop and enhance...the recreation potential and in a manner that will preserve the scenic, historic, scientific and other appropriate features of the area.” General recreation use such as boating, bathing, camping, picnicking, and other related activities may be permitted to the extent they are not inconsistent with reclamation purposes. Grazing, mineral leasing, and vacation cabin sites may be authorized subject to regulation, if not inconsistent with recreation and reclamation purposes. Hunting, fishing, and trapping shall be permitted in accordance with applicable state and Federal laws and regulations. A general management plan and resource management plan have been prepared by the National Park Service for the area.

5.1.11 Red Rock Canyon National Conservation Area Establishment Act of 1990 as Amended

Congress established the 83,100-acre Red Rock Canyon NCA in 1990 and expanded it to 195,600 acres in 1994. It encompasses Federal, state parklands, and private inholdings. BLM was directed to prepare a general management plan consistent with the enabling legislation. An Interim General Management Plan was approved in June 1995, with a GMP scheduled for 1996-1997. The proposed General Management Plan and Draft Environmental Impact Statement were released for public review in July 1999.

5.1.12 Military Lands Withdrawal Act of 1986

This act authorized continued use of about 3.1 million acres by Nellis Air Force Base until November 6, 2001. The act requires preparation of an EIS to review land reservation or withdrawal. A draft legislative EIS was published in September 1998.

5.2 Public Involvement

Discussions regarding the preparation of the MSHCP commenced in May of 1996 at a meeting of the Clark County Implementation and Monitoring Committee. The I & M Committee is a broadly based committee established by the Board of County Commissioners of Clark County to implement and monitor the provisions of the DCP for the desert tortoise. The I & M Committee consists of representatives from the Applicants, the Participants, and members representing the Southern Nevada Homebuilders Association, the Las Vegas Board of Realtors, mining interests, off-highway vehicle users, ranchers, environmental interests, and others. All meetings are publicly noticed, agendas posted as required by law, and open to the public. Everyone in attendance is invited to participate in the proceedings.

After significant discussions regarding the pros and cons of an ecosystem-based multiple species habitat conservation plan, the consensus of the group was to recommend to the Clark County Board of County Commissioners and each City Council of the cities located in Clark County that it begin preparation of the MSHCP. In August of 1996, at a public meeting, the Board of County Commissioners authorized the preparation of the MSHCP/EIS. Subsequently, each City Council took similar action by means of an amendment to the existing Interlocal Agreement among the County and the Cities.

The I & M Committee immediately began work on the plan. Approximately 19 public meetings of the I & M Committee have been held to discuss the substantive content of the MSHCP. In addition, the I & M Committee established a Biological Advisory Committee, meetings of which were attended by qualified biologists representing all interest groups. All meetings of the Biological Advisory Committee were publicly noticed and open to the public. Approximately 9 meetings of the Biological Advisory Committee have been held to discuss the biological issues of the MSHCP.

In addition, a public scoping meeting was held from 7 to 9 P.M. on March 11, 1997, in the cafeteria at the Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, NV, 89155-8270 to discuss the Clark County Multiple Species Habitat Conservation Plan and EIS.

Interested persons were encouraged to attend the public meeting to identify and discuss issues and alternatives that should be addressed in the EIS. The agenda for the public scoping meeting included a summary of the proposed action, status of and threats to subject species, tentative issues, concerns, opportunities, and alternatives. Issues of concern in the preparation of the EIS include effects of the plan on the fish and wildlife resources of Clark County, land use and activities on public and private lands, and growth and socioeconomic health of the county.

Persons attending the scoping meeting had an opportunity to present their comments and suggestions regarding the scope of issues to be addressed in the EIS. Submittal of independent written comments was encouraged.

One written comment was received from the U.S. Environmental Protection Agency on the scope of the EIS.

Participants in the scoping meeting and in publicly noticed meetings addressing the MSHCP and EIS are listed below.

Federal

Bureau of Land Management

Gayle Marrs-Smith

Dave Pulliam

Sid Slone

National Park Service

Denise Cobb

Jennifer Haley

Ross Haley

Jim Holland

Elizabeth Powell

Michael F. Gardner Jr.

Nellis Air Force Base

Susan B. Barrow

Colonel Mike Fukey

Joe Hines

Major Jeff Shea

Eric Watkins

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U.S. Department of Agriculture

Robert Beach

Jim Neveu

William O'Donnell

U.S. Environmental Protection Agency

David Bradford

U.S. Fish & Wildlife Service

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Michael Burroughs

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Jeff Knight
Thomas Smigel
Nevada Division of Forestry
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Nevada Division of State Lands
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Brad Hardenbrook
Elsie Sellars
Jon Sjoberg
Cris Tomlinson
Tony Wasley
Nevada Natural Heritage Program
Glenn Clemmer
Nevada State of
Lt. Gov. Lonnie Hammargren
University of Nevada, Reno, Biological Resources Research Center
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Richard Tracy
Joan Wright
University of Nevada, Las Vegas, Department of Bio Sciences
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Becky Holte
Jef Jaeger
Brett Riddle
Lloyd Stark
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Rick Fridell

Local

City of Boulder City
Steve Koons
John Sullard
City of Henderson
Wahidul Alam
City of Las Vegas
Teresa O'Donnell
Steve Van Gorp
City of Mesquite
Alan Bell
Arlene Stiffler
City of North Las Vegas
Leslie Long
Clark County
David Edwards
Christina Gibson
Jeff Harris
Rick Holmes
Alan Pinkerton
Christine Robinson
Bruce Sillitoe
Cynthia Truelove
Rose Tucker
Clark County Resource Conservation District
John Hunt

Lincoln County Honor Camp
Lt. Vell Washburn
Lincoln County Public Lands
Shelley Wadsworth
Nevada Power
John Bare
Southern Nevada Water Authority
Holly Williams

Companies/Organizations

Aquatic Ecology & Conservation
Donald Sada
Budd-Falen Law Offices
Karen Budd-Falen
Environmental Consultants
Mark Raming
Friends of Nevada Wilderness
Mark Saylor
Las Vegas Review-Journal
Keith Rogers
Las Vegas Sun
Mary Manning
Muddy River Regional Environmental Impact Alleviation Committee (MRREIAC)
Ann Schreiber
NECI
JJ Gregory
Nevada Trails Coalition
Christina Adams
Ogden Environmental
Mike White
Ranges West
Wayne Burkhardt
SAIC
Danny Rakestraw
Kurt R. Rautenstrauch
Selzer, Ealy, Hemphill & Blasdell
Paul Selzer
Sierra Club, Southern Nevada
David Brickey
Jane Feldman
Southern Nevada Horse and Burro Association (SNHBA)
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Charles La Bar

Dave Syzdek

SWCA Environmental Consultants

Ken Kingsley

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Elaine Ezra

The Environmental Conservation Consortium

Randy Robison

The Conservation Fund

David Kirk

The Nature Conservancy

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Teri Knight

Bruce Lund

Jim Moore

Reno Tur-Toise

Cheryl Darnell

Darlene Pond

Tortoise Group

Betty Burge

Individuals

Buddy Borden

Jack Borden

Jim Carlson

Lindsey Dalley

Don Dayton

Mary Feldman

Steve Ferrand

Bob Fletcher

Linda Gray

Julene Haworth

Barb Henderson

Hermi Hiatt

Karen Jones

Frank Maxwell

David McCullough

Ron Meek

Jeff Pordelove

Jennifer Schmidt

George Stephen
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