

**U.S. Department of the Interior
Bureau of Land Management**

Environmental Assessment

**Gold Butte, Mormon Mesa, and Bunkerville Flats
Temporary Land Closure, Placement of Temporary Corrals,
and Impoundment of Trespass Cattle**

March 7, 2014

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Environmental Assessment
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Trespass Cattle

Prepared by
U.S. Department of the Interior
Bureau of Land Management
Southern Nevada District Office
Las Vegas Field Office
Las Vegas, NV

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Chapter 1. Introduction

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1.1. Identifying Information

1.1.1. Title, EA number, and type of project:

Temporary Land Closure, Placement of Temporary Corrals, and Impoundment of Trespass Cattle.
DOI-BLM-NV-S010-2014-0020-EA. Environmental Assessment

1.1.2. Location of Proposed Action:

The Proposed Action is located on federal lands within the Gold Butte, Mormon Mesa, and Bunkerville Flats Areas in the northeastern portion of Clark County, Nevada and inclusive of lands managed by the Bureau of Land Management, within the legal description as follows:

Mount Diablo Meridian, Nevada

T. 13S., Rs. 67 thru 71E;

T. 14S., Rs. 67 thru 71E;

T. 15S., Rs. 67 thru 71E;

T. 16S., Rs. 67 thru 71E;

T. 17S., R. 67 and Rs. 69 thru 71 E;

T. 18S., R. 67 and Rs. 69 thru 71 E;

T. 19S., R. 67 and Rs. 69 thru 71 E;

T. 20S., Rs. 69 and 70 E.

1.1.3. Name and Location of Preparing Office:

Bureau of Land Management
Southern Nevada District
Las Vegas Field Office
4701 North Torrey Pines Drive
Las Vegas, NV 89130

1.1.4. Identify the subject function code, lease, serial, or case file number:

BLM Trespass Number: NV-050-3-647

1.1.5. Applicant Name:

Bureau of Land Management, Lead Agency
Bureau of Reclamation, Cooperating Agency

1.2. Introduction

The Bureau of Land Management (BLM), Southern Nevada District Office (SNDO) is proposing to capture, impound, and remove trespass cattle and limit public access through a temporary closure of the public lands that may be impacted by proposed impound activities in the Gold Butte, Mormon Mesa, and Bunkerville Flats areas during the spring of 2014. Additionally, the BLM is proposing to place temporary pens and corrals on public lands to capture and impound the trespass cattle and to remove any range improvements associated with cancelled permits.

Because of the proximity of Bureau of Reclamation (Reclamation) lands to the capture and impoundment area, it is possible that cattle may stray on to federal lands managed by Reclamation during the capture and impoundment. If these cattle need to be redirected from Reclamation lands to facilitate their impoundment by the BLM, a closure of Reclamation lands may be implemented, where necessary, as requested of Reclamation by the BLM and Incident Command staff.

The temporary closure would promote safety and welfare by protecting members of the public, as well as federal agency and contractor personnel conducting impoundment operations. Due to the sensitive nature of this trespass impoundment there may be an increased level of interest and involvement that can disrupt impoundment activities and poses potential safety hazards. The temporary closure is also necessary to protect members of the public from injury by the trespass cattle which are largely feral and could pose a threat to the public during the impound operation.

The impoundment operation includes the use of helicopters to herd trespass cattle from various portions of the closed Bunkerville Allotment and New Trespass Lands. It also includes the placement and use of temporary corrals to capture and hold trespass cattle. The helicopters will be assisted by BLM employees and contractors working on horseback or driving vehicles within the project area. Trespass cattle will be captured and held in temporary corrals before being transported to the primary holding/shipping pens at the incident command post (ICP). Trespass cattle will be held in the holding/shipping pens prior to being shipped to an auction facility.

Without this closure, the public could intentionally or inadvertently enter public lands in proximity to the impoundment operation and endanger themselves, as well as federal agency and contractor personnel. The proposed closure would be temporary in duration, would be limited to the period of impoundment operations, and would not affect all of the public lands within the project area simultaneously. Enforcement of the temporary closure by law enforcement personnel will be limited to certain geographic areas as determined by Incident Command staff, within the overall closure boundary, for the safety of the public, federal employees, and contractor personnel, as well as for the success of impound operations. Areas temporarily closed to public access will be posted at main entry points into each closure area with signs as well as copies of the temporary closure notice.

This Environmental Assessment (EA) contains the site-specific analysis of potential impacts that could result from implementation of the Proposed Action, as well as an analysis of the No Action Alternative. Based on the following analysis, a determination can be made whether to prepare an Environmental Impact Statement or issue a Finding of No Significant Impact (FONSI). A FONSI

documents why implementation of the selected alternative would not result in environmental impacts that significantly affect the quality of the human environment.

1.2.1. Project Background

The project area consists of approximately 802,571 acres (1,254 square miles) of public and federal land in the Gold Butte, Mormon Mesa, and Bunkerville Flats areas in the northeastern portion of Clark County, Nevada. For the purposes of an impoundment action, the area is divided into two sections, the closed Bunkerville Allotment and the New Trespass Lands. The closed Bunkerville Allotment consists of approximately 145,604 acres of federal land, of which 126,949 acres are public lands managed by the BLM, 6,959 are federal lands managed by the Reclamation, and 11,696 acres are National Park Service (NPS) lands within the Lake Mead National Recreation Area (NRA). There is currently no authorized grazing within the closed Bunkerville Allotment, as all grazing rights were purchased by Clark County and retired for the benefit and protection of the Mojave Desert tortoise (*Gopherus agassizii*), which is listed as threatened under the Endangered Species Act (ESA). The remaining acreage consists of the New Trespass Lands outside of the closed Bunkerville Allotment, of which 451,775 acres are BLM, 20,123 acres are Reclamation, and 185,069 acres are NPS lands. State, local government, and private lands are scattered throughout the project area. A map depicting the project area can be found in Appendix A.

In 1998, the United States (U.S.) initiated legal proceedings seeking injunctive relief from Cliven Bundy's trespass grazing on the closed Bunkerville Allotment. On November 4, 1998, the U.S. District Court for the District of Nevada permanently enjoined Bundy from grazing his cattle within the closed Bunkerville Allotment. Bundy appealed the District Court's decision to the U.S. Ninth Circuit Court of Appeals, which affirmed the permanent injunction and ordered the removal of cattle from the closed Bunkerville Allotment. Bundy did not comply with the permanent injunction or with a 1999 order enforcing the injunction. The most recent federal Court actions are as follows:

- Bunkerville Allotment: October 2013 - Federal District Judge Larry Hicks ordered Cliven Bundy to remove his trespass cattle from public land inside the closed Bunkerville Allotment.
- New Trespass Lands: July 2013 - Federal District Judge Lloyd George ordered Cliven Bundy to remove his trespass cattle from public land outside the former Bunkerville Allotment.

Despite the recent court orders, i.e., the permanent injunction issued by Judge George and the order to enforce the prior injunction by Judge Hicks, Bundy has continued to place or allow his cattle to graze within the closed Bunkerville Allotment and New Trespass Lands. In 2011, 2012, and 2013, the BLM conducted comprehensive counts of trespass cattle and documented that Bundy's cattle are grazing in the closed Bunkerville Allotment as well as the New Trespass Lands including parts of the Gold Butte Area of Critical Environmental Concern (ACEC) and the Lake Mead NRA. The grazing trespass is occurring within critical desert tortoise habitat, designated Wilderness, and has damaged vegetative, soil, and archeological resources. The BLM (together with the NPS) has exhausted all other administrative options to try to resolve this long-standing trespass, and is left only with the option of impounding the trespass cattle as authorized by the Court's order.

1.3. Purpose and Need For Action

The purpose of the Proposed Action is to impound and remove trespass cattle from the Gold Butte, Mormon Mesa, and Bunkerville Flats areas to protect critical desert tortoise habitat, in addition to vegetative, wildlife, recreation, Wilderness, and archeological resources, and where the cattle owner has failed to comply with two separate court orders that mandated the trespass cattle be removed within a specified time frame.

The need for the Proposed Action is to prevent unnecessary or undue degradation of the public and federal lands, and to protect biological, ecological, and cultural resources, including habitat for the threatened desert tortoise and southwestern willow flycatcher (*Empidonax trailii extimus*), from further deterioration associated with trespass cattle grazing within the project area.

Additionally, the purpose and need for the temporary closure is to promote safety and welfare, and protect members of the public, as well as federal agency and contractor personnel conducting impoundment operations. Due to the sensitive nature of this trespass impoundment there may be an increased level of interest and involvement that can disrupt impoundment activities and poses potential safety hazards. The temporary closure is also necessary to protect members of the public from injury by the trespass cattle which are largely feral and could pose a threat to the public-at-large during the impound operation.

1.4. Decision to be Made

The authorized officer would determine whether or not to implement the Proposed Action in order to prevent the further deterioration of habitat for threatened and endangered species, in addition to other biological, riparian, and cultural resources in the planning area and to promote the safety and welfare of members of the public, BLM and other agency staff, and contractor personnel.

The No Action Alternative would not achieve the identified Purpose and Need. However, it is analyzed in this EA to provide a basis for comparison with the other action alternatives, and to assess the effects of not conducting an impoundment at this time.

1.5. Scoping, Public Involvement and Issues

Internal scoping was conducted by an interdisciplinary team in January 2014. A planning and scoping meeting with BLM and Reclamation staff was held on January 13, 2014 to discuss resource issues if trespass cattle must be redirected from or across Reclamation lands by the BLM during the impound operation. The following resources were identified during internal scoping as potentially being affected by the Proposed Action: ACECs, Fish & Wildlife, Noxious and/or Invasive Weeds, Lands/Access, Livestock Grazing, Migratory Birds, Rangeland Health Standards, Recreation, Threatened and Endangered Animal Species, and Wild Burros.

The Reclamation will prepare a separate NEPA document evaluating temporary closure of federal lands under their control that may be impacted by the Proposed Action.

Coordination with the NPS was also conducted, however, the NPS has prepared a separate NEPA document (see NPS Categorical Exclusion PEPC No. 41685) for NPS lands within the Lake Mead NRA that are impacted by the Proposed Action.

Due to this project being primarily a law enforcement action to enforce a court order to end a long standing trespass issue and the sensitive nature of this project, no public scoping or 30-day comment period was conducted during the preparation of this EA. However, many aspects of the Proposed Action are similar in many respects to wild horse helicopter captures and the BLM has received a significant level of public comment on those gathers, which have provided the BLM with good insight's into the public's comments and concerns related to helicopter gathers.

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Chapter 2. Proposed Action and Alternatives

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2.1. Description of the Proposed Action

The Proposed Action consists of four components as discussed below:

Temporary Land Closure:

The BLM is proposing to limit public access through the temporary closure of public lands in the Gold Butte, Mormon Mesa, and Bunkerville Flats areas in the northeastern portion of Clark County, Nevada. As discussed above, the temporary closure of NPS and Reclamation lands that may be impacted by the Proposed Action will be evaluated in separate NEPA documents prepared by these agencies. The proposed temporary closure would limit public use of public lands within the Gold Butte, Mormon Mesa, and Bunkerville Flats areas during impoundment operations. State, local government, and private lands would not be subject to this temporary land closure and the BLM will maintain access for valid land owners and Right-of-Way holders.

Temporary closure of public lands would be announced by a Temporary Closure Notice published in the Federal Register. Roads leading into the lands under notice would be posted to notify the public of the closure. The closure notice would be posted on the BLM web site, and the public rooms at the BLM Nevada State Office and the SNDO.

Inclusive of lands managed by the BLM, within the legal description as follows:

Mount Diablo Meridian, Nevada

T. 13S., Rs. 67 thru 71E;

T. 14S., Rs. 67 thru 71E;

T. 15S., Rs. 67 thru 71E;

T. 16S., Rs. 67 thru 71E;

T. 17S., R. 67 and Rs. 69 thru 71 E;

T. 18S., R. 67 and Rs. 69 thru 71 E;

T. 19S., R. 67 and Rs. 69 thru 71 E;

T. 20S., Rs. 69 and 70 E.

Without this temporary closure, the public could intentionally or inadvertently enter public lands in proximity to the impoundment operation and endanger themselves, as well as federal agency and contractor personnel. The proposed closure would be temporary in duration, would be limited to the period of impoundment operations, and would not affect all of the public lands within the project area simultaneously. Enforcement of the temporary closure by law enforcement personnel will be limited to certain geographic areas as determined by Incident Command staff, within the overall closure boundary, for the safety of the public, federal employees, and contractor personnel, as well as for the success of impound operations. Areas temporarily closed to public access will be posted at main entry points into each closure area with signs as well as copies of the temporary closure notice.

Under the Proposed Action, public access to the areas where active impound and holding operations are taking place will be limited to specifically scheduled and escorted media visitation

days when authorized members of the media will be allowed to view the operation, as well as where the trespass cattle are being temporarily held following impound.

To allow for transparency and to provide members of the public a place to express their views about the impoundment, a media observation site and first amendment site will be set up as part of the operation:

- A First Amendment Area will be set up in an existing disturbed area along State Route 170 at the intersection with New Gold Butte Road for individuals to express their First Amendment rights. Maps will be available to the site. Caution signs will be posted on BLM public lands to caution drivers of pedestrians. Public Information Officers (PIOs) will not be on-site at this location, however, law enforcement will staff as appropriate.
- A media information and interview area will be located approximately two miles south from the intersection of exit 112 (for State Route 170) and Interstate 15, where State Route 170 and a powerline dirt road intersect. PIOs, Agency Administrator(s), and/or Incident Commander(s) will be available daily to provide media interviews. This location will serve as primary point for media to conduct in-person interviews. Staffed times will be flexible based on media interest and return times of media from observation tours.
- If media visitation days are scheduled, escorted media viewing opportunities will be made available for BLM/NPS credentialed media during the impoundment operation. The goal is daily access; however, operations may preclude this on rare occasions. Media opportunities will be announced via media release and online. Credentialed media will travel in their own vehicles, lead by a law enforcement officer(s) and followed by PIO vehicle. All media will enter and depart site at the same time. The designated viewing site will offer an opportunity for media to obtain b-roll video and/or take photos of impound operations. This is not an open tour but a place where they can shoot a scene with the impoundment as a backdrop. No live/satellite trucks will be authorized. PIO will staff site and provide numbers, contact information, be on hand if an issue arises and keep media company. Full-scale interviews will not be given on site and contact information will be given for media information/interview area.

Placement of Temporary Corrals and Primary Holding/ICP Area:

The BLM will place up to six temporary pens and corrals, on public and other federal lands where trespass grazing is currently occurring, for the capture and holding of trespass cattle. These corrals will be located in previously disturbed locations and no new roads will be constructed. Once captured, cattle will be transported to and will be held and shipped out of a primary holding area and ICP, which will also be located in a previously disturbed area. No new disturbance is anticipated as a result of setting up temporary corrals, holding pens, and the ICP. Cattle being held in the temporary corrals will be fed only weed-free hay and water will be supplied via stock troughs that will be filled by a water tanker. Water from springs and other area water sources will not be used for this project.

Currently, there are three proposed locations for temporary corrals, as follows:

- Gold Butte Town Site Trap Site (BLM)
- Devil's Throat Trap Site (BLM)
- Overton Beach Trap Site (NPS)

Up to three additional temporary corral sites, that have yet to be determined, may be established in existing disturbed areas as necessary to facilitate capture and impoundment of trespass cattle. The ICP and holding/shipping pens will be located north of Interstate 15 at the Toquap Wash Sand & Gravel Pit.

Impoundment of Trespass cattle:

The impoundment operation includes the authorized use of helicopters to herd trespass cattle from various portions of the project area. BLM employees and contractors working on horseback or driving motor vehicles within the impoundment area will assist the helicopters in rounding-up and pushing cattle to the temporary corrals. Operational use of motor vehicles, including trucks and off-highway vehicles (OHVs), by agency and contractor personnel will be limited to existing designated routes only. Any off-route and/or cross-country activities will be on horseback or foot. The impoundment/capture crew will utilize two helicopters to assist in driving the cattle. The helicopters will only land in previously disturbed locations on BLM land, except in the case of an emergency. No new disturbance is anticipated as the result of motor vehicle use as part of the Proposed Action.

Impoundment operations would take approximately 17 days; however, operations may last longer due to the following factors:

- The area where trespass cattle may be located spans approximately 802,570 acres.
- Elevation in the project area ranges from 1,000 ft – 5700 ft, and terrain includes rugged mountains, valleys, and thick vegetation.
- Cattle in some cases will be driven by horse 5-10 miles to the nearest trap site and then trailered up to 60 miles to the holding facility on unimproved roads.
- Cattle along the Virgin River will require additional time to impound due to thick vegetation and private land parcels that will be avoided during the operation.

Removal of Range Improvements:

The BLM will remove structures and installations associated with cancelled range improvements located on public lands within the project area. Examples of range improvements to be removed include corrals, fences, and water improvements such as pipelines, troughs, earthen water impoundments, and spring boxes.

Range improvements that have been previously determined to be of historical significance by a BLM Archeologist will not be removed as a part of the Proposed Action. In addition, any improvements directly associated with a valid state-adjudicated water right (i.e., well casing), will not be removed.

2.2. Description of Alternatives Analyzed in Detail

No Action Alternative

Under the No Action Alternative, no temporary closure order would be issued, no temporary corrals or holding pens will be placed, range improvements would not be removed, and trespass cattle would not be impounded.

2.3. Alternatives Considered but not Analyzed in Detail

No other alternatives were considered.

2.4. Conformance

The Proposed Action is consistent with all federal laws and regulations; other plans, programs, and policies of affiliated Tribes; other federal agencies, state, and local government, to the extent practical within federal law, regulation, and policy.

This EA is in conformance with the goals, objectives, and decisions of the following BLM Land Use Plans: Record of Decision for the Approved Las Vegas Resource Management Plan and Final Environmental Impact Statement (Las Vegas RMP 1998).

Authority for a temporary closure of public lands by the BLM is found at 43 CFR 8364.1.

Chapter 3. Affected Environment and Environmental Consequences

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3.1. Introduction

The scope of this EA analysis comprises the Gold Butte, Mormon Mesa, and Bunkerville Flats areas located in northeast Clark County in the Mojave Basin and Range ecoregion. The BLM's NEPA Handbook (H-1790-1) require that all environmental documents address specific resources or concerns of the human environment. The following items have been evaluated for the potential for impacts to occur, either directly, indirectly, or cumulatively, due to implementation of the Proposed Action. Consideration of some of these items is to ensure compliance with laws, statutes, or Executive Orders that impose certain requirements upon all Federal actions. Other items are relevant to the management of public lands in general and to the BLM LVFO, in particular. Following the table, each analyzed resource/concern is organized into two parts, Affected Environment and Environmental Consequences. The resources/concerns identified for this analysis, along with the rationale for including or not including them in this analysis, are listed in Table 1. Resources not adversely affected will not be considered further in this document.

Table 3.1. Resources/Concerns Considered For Analysis

<i>Resource/Concern</i>	<i>Issue(s) Analyzed? (Y/N)</i>	<i>Rationale for Dismissal from Analysis or Issue(s) Requiring Detailed Analysis</i>
Air Quality	N	The Proposed Action would have no effect.
Areas of Critical Environmental Concern	Y	Impacts assessed in the EA.
BLM Natural Areas	N	There are no BLM Natural Areas within the Field Office.
Cultural Resources	N	The Proposed Action would have no effect.
Environmental Justice	N	The Proposed Action would have no effect.
Greenhouse Gas Emissions	N	Currently there are no emissions limits for suspected Greenhouse Gas (GHG) emissions, and no technically defensible methodology for predicting potential climate changes from GHG emissions. However, there are, and will continue to be, several efforts to address GHG emissions from federal activities, including BLM authorized uses.
Farmlands (Prime or Unique)	N	There are no prime or unique farmland designations in the area.
Fire Management	N	The Proposed Action would have no effect.
Fish and Wildlife (Excluding Federally Listed Species)	Y	Impacts assessed in the EA.
Floodplains	N	The Proposed Action would have no effect.
Geology/Mineral Resources/Energy Production	Y	The Proposed Action would have no effect on geology or energy production. Impacts on mineral resources are assessed in the EA.
Hydrologic Conditions	N	The Proposed Action would have no effect.
Invasive Non-Native Plant Species (includes noxious weeds)	Y	Impacts assessed in the EA.
Land/Access	Y	Impacts assessed in the EA.
Lands with Wilderness Characteristics	N	No lands with wilderness characteristics use allocation exists within the current RMP.
Livestock Grazing	Y	Impacts assessed in the EA.
Migratory Birds	Y	Impacts assessed in the EA.
Native American Religious Concerns	N	The Proposed Action would have no effect.

<i>Resource/Concern</i>	<i>Issue(s) Analyzed? (Y/N)</i>	<i>Rationale for Dismissal from Analysis or Issue(s) Requiring Detailed Analysis</i>
Paleontological Resources	N	The Proposed Action would have no effect.
Rangeland Health Standards	Y	Impacts assessed in the EA.
Recreation	Y	Impacts assessed in the EA.
Socio-Economics	N	The Proposed Action would have no effect.
Soils	N	The Proposed Action would have no effect.
Special Status Animal Species (Federally Protected and BLM Sensitive Species)	Y	Impacts assessed in the EA.
Special Status Plant Species (Federally Protected and BLM Sensitive Species)	N	The Proposed Action would have no effect.
Vegetation Excluding Federally Listed Species	N	The Proposed Action would have no effect.
Visual Resource Management	N	The Proposed Action would have no effect.
Wastes, Hazardous or Solid	N	The Proposed Action would have no effect.
Water Quality, Drinking/Ground	N	The Proposed Action would have no effect.
Wetlands/Riparian Zones	N	The Proposed Action would have no effect.
Wild and Scenic Rivers	N	The Proposed Action would have no effect.
Wild Horses	Y	Impacts assessed in the EA.
Wilderness/WSA	N	The planning area includes the Jumbo Springs Wilderness and Lime Canyon Wilderness. No impacts to untrammeled, natural, and undeveloped character would occur. Outstanding opportunities — specifically for primitive and unconfined recreation — may be negatively affected. This would occur as a result of the area closure which would deny access for wilderness recreation. However, impacts from this activity are temporary, localized to the area of active operations, and closures would be limited in timeframe. Impacts would be negligible and not occur to the degree in which detailed analysis is required. The Proposed Action would have no effect on WSAs or ISAs.
Woodland/Forestry	N	The Proposed Action would have no effect.
Indian Trust Assets	N	The Proposed Action would have no effect.

3.2. Mandatory Items Analyzed

3.2.1. Areas of Critical Environmental Concern

Affected Environment

The Proposed Action occurs within the Gold Butte A, Gold Butte B, Devil's Throat, Gold Butte Townsite, Red Rock Spring, Virgin River, Virgin Mountains (Gold Butte C), and Whitney Pocket ACECs which were designated as such by the Las Vegas RMP (1998) to protect cultural sites, biological and scenic values, natural hazards, and desert tortoise (many contain critical desert

tortoise habitat). In addition to protecting resources and values, these ACECs provide excellent opportunities for recreation in some of the more remote areas of the Mojave Desert. A wide variety of casual recreational activities are engaged by the public within these ACECs including hiking, photography, OHV Use, bird and nature watching, hunting, exploration of historic areas, and camping.

Environmental Consequences

Impact of the Proposed Action

The Proposed Action will not result in any new disturbance and will benefit the overall health of the ACECs in the northeast portion of the LVFO because it will remove the current trespass grazing impacts on cultural sites, vegetation, wildlife, endangered and threatened species habitat, and recreation caused by the trespass cattle. The Proposed Action will also help habitat restoration success on current and future sites within these ACECs by removing impacts from trespass cattle.

Although there is a short-term negative effect on recreation access within these ACECs for the duration of the Proposed Action due to the temporary closure, there would be a positive effect over the long term. This positive effect would be due to the removal of the trespass cattle. The removal of the cattle would improve the recreation setting characteristics by allowing for the restoration of the natural ecosystem which in turn would improve the habitat for the native wildlife and avian species. In addition, the potential for conflict between cattle and recreationists on horseback, and ATV's would be removed.

Impact of the No Action

Under the No Action Alternative, grazing impacts from trespass cattle will continue to have adverse impacts on the overall health of the ACECs within the project area and will continue to negatively impact the success of restoration projects.

3.2.2. Fish and Wildlife (Excluding Federally Listed Species)

Affected Environment

The proposed project area supports and is adjacent to lands that support wildlife characteristic of the Mojave Desert. Biological diversity varies according to topography, plant community, and proximity to water, soil type, and season.

Several common species of reptiles that may be present in the vicinity of the proposed project site may include the western whip-tail (*Cnemidophorus tigris*), desert iguana (*Dipsosaurus dorsalis*), side-blotched lizard (*Uta stansburiana*), zebra-tail lizard (*Callisaurus draconoides*), desert tortoise, western shovel-nosed snake (*Chionactis occipitalis*) and garter snake (*Thamnophis* sp.).

Common bird species that may be present in the vicinity of the proposed project site may include the rock wren (*Salpinctes obsoletus*), black-throated sparrow (*Amphispiza bilineata*), turkey vulture (*Cathartes aura*), common raven (*Corvus corax*), phainopepla (*Phainopepla nitens*), red-tailed hawk (*Buteo jamaicensis*), and western burrowing owl (*Athene cunicularia hypugaea*).

Common mammal species include the black-tailed hare (*Lepus californicus*), the desert cottontail (*Sylvilagus audubonii*), coyote (*Canis latrans*), badger (*Taxidea taxus*), kit fox (*Vulpes macrotis*) and many species of rodents.

BLM sensitive species are species that require special management consideration to avoid potential future listing under ESA and that have been identified in accordance with procedures set forth in BLM Manual 6840. The following sensitive wildlife species are known to potentially occur within the project area: western burrowing owl, western chuckwalla, banded Gila monster, Mojave shovel-nosed snake, desert glossy snake, Mojave Desert sidewinder, and desert bighorn sheep (*Ovis canadensis nelsoni*).

Environmental Consequences

Impact of the Proposed Action

Wildlife species in the general area include small mammals, rodents, birds and reptiles. These species may be found on the adjacent undisturbed lands and could wander into the proposed project area. The direct adverse impact of the proposed action on wildlife would be mortality of individuals from vehicular traffic, cattle, and horses on existing roads and disturbed areas. Wildlife species in the general area are common and widely distributed throughout the area and the loss of some individuals and/or their habitat would have a negligible impact on populations of the species throughout the region.

Impacts to BLM Sensitive Species are not anticipated to lead to further decline of the species range wide as there is no habitat disturbance. Desert bighorn sheep may be temporarily disturbed by vehicles and people on horseback operating in their habitat. Animals may seek cover on steep slopes and ridges to avoid vehicular activity and associated noise pollution. Any potential impacts would be temporary as the Proposed Action is short-term in nature. Overall, the Proposed Action will have an positive, long-term benefit to the species by reducing competition for resources.

Upon completion of the Proposed Action, impacts associated with mortality from trespass cattle and associated activities will be reduced and habitat restoration will be more successful on current and future sites.

There would be no impact to fish and wildlife species as a result of the temporary closure of public lands.

Impact of the No Action

Under the No Action Alternative, there would be no short-term impacts on wildlife from activities associated with the proposed impoundment operation (e.g. increased vehicle activity). Native wildlife would continue to be adversely impacted by competition for resources from trespass cattle within the project area and vicinity under this alternative. Restoration projects would continue to be negatively impacts by the presence of trespass cattle grazing.

3.2.3. Invasive Non-Native Plant Species (includes noxious weeds)

Affected Environment

Invasive plants and noxious weeds are managed on public and federal lands by the BLM and Reclamation under the direction of the National Invasive Species Council (NISC) established in 1999 (Executive Order [EO] 13112). This statute defines invasive species as “...an alien (non-native) species whose introduction does, or is likely to cause, economic or environmental harm or harm to human health” (NISC 2008). In addition, much of the management of invasive plants and the listing of noxious weeds are regulated by the U.S. Department of Agriculture

(USDA) under the Federal Noxious Weed Act (7 U.S.C. 2801 et seq. 1974). Executive Order 13112 outlines the federal responsibility to “prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause...” Additionally, Nevada Revised Statutes, Chapter 555.05 defines “noxious weeds” and mandates the extent that land owners and land management agencies must control specific noxious weed species on lands under their jurisdiction.

Southern Nevada lands are impacted by the presence of noxious and invasive, non-native vegetation. The LVFO has prepared the LVFO Weed Plan that provides guidance for an active integrated weed management program using Best Management Practices (BMP). Portions of the proposed project area have been surveyed for noxious and invasive weeds for other projects.

The entire project area has not been inventoried for the presence of invasive, non-native species. However, of the 47 species designated as noxious by the State of Nevada, 22 species can be found in the SNDO, and 5 species have been documented within the proposed project area, Camelthorn (*Alhagi maurorum*), Malta Starthistle (*Centaurea melitensis*), Saltcedar (*Tamarix ramosissima*), Perennial Pepperweed (*Lepidium latifolium*), and Sahara mustard (*Brassica tournefortii*). In addition to the noxious weeds found in the project area, multiple invasive weeds and grasses can be found in the area, such as red brome (*Bromus madritensis*), cheatgrass (*Bromus tectorum*), Russian thistle (*Salsola tragus*), tumble mustard (*Sisymbrium irio*).

Environmental Consequences

Impact of the Proposed Action

Increased vehicle traffic and animal movement during implementation of the Proposed Action impact noxious and/or invasive weeds. Vehicles and animals are effective at introducing and/or spreading weeds by discharging weed seed along roadways, trails, and paths. Once noxious and invasive plant species are introduced to new areas they effectively compete with native species for sunlight, soil, water, nutrients, and space, thereby reducing forage productivity. Additionally, soil disturbance could reduce the native seed bank associated with the project area.

The increase in concentrated vehicle activity in the project area has the potential to spread non-native invasive annual grasses. Studies suggest that the Mojave Desert is threatened by the spread of non-native, invasive annual grasses which results in increased fire and loss of natural resources (Brooks 1999). The increase of fine fuels may result in ignitions and ultimately increase the number of wildfires. Mojave Desert wildfires are occurring at historically unprecedented frequencies and extents and have the potential to dramatically change the species composition in affected areas (Brooks and Matchett 2006). Therefore in addition to competing with native plant species, and reducing the productivity of rangelands, forest lands, riparian areas, and wetlands, the spread of invasive weed infestations, cheat grass and red brome in particular, increase fine fuels, thereby increasing the likelihood of fire. Although the non-native annual grasses are not legally designated as noxious by the State of Nevada, their role within the Mojave desert ecosystem is increasingly important with respect to their relationship to fire and future disturbance.

Aggressively managing invasive or noxious species will limit residual effects to manageable levels. This is made possible by maintaining discontinuous, dispersed native vegetation, nonflammable native species, propagation and planting of native species, or complete removal of all vegetation.

*Chapter 3 Affected Environment and
Environmental Consequences
Invasive Non-Native Plant Species (includes
noxious weeds)*

March 7, 2014

The Proposed Action occurs in existing disturbed areas with regards to vehicle routes, temporary corral locations, landing sites, and the ICP, and no new disturbance is expected. While disbursement of seed may be possible while moving cattle cross-country to capture locations, any new disturbance would be minimal as the cattle would generally move along existing disturbed pathways in the project area. There would be no impact as a result of the temporary closure of public lands.

Only certified weed-free hay would be utilized at the three temporary corrals used for capturing the trespass cattle during the proposed impoundment operation. The BLM prefers that certified weed-free hay is also utilized at the main shipping and holding pens co-located with the ICP in the Toquap Wash Sand and Gravel pit. If the contractor is unable to utilize certified weed-free hay at the main shipping and holding pens, then the BLM will initiate a weed monitoring program following the guidelines found in the LVFO Weed Plan.

If the following stipulations and BMPs are integrated throughout the implementation of the Proposed Action, the introduction and spread of noxious and/or invasive weeds may be mitigated and the impacts less significant to the project area and adjacent lands.

1. Project related vehicles, equipment, and machinery (this especially includes the nooks and crannies of undercarriages and wheel wells) will be cleaned of all mud, dirt, and plant parts before each tour using compressed air or high pressure water. During check-in to the operation, personnel will need to verify that their vehicles have had a weed wash prior to entering the area.
2. During initial training and briefing, all participants will be made aware of the weeds present in the project area, and the mitigation measures they need to follow to prevent the spread.
3. If weed infested sites are located near the travel routes during daily activities, they will be flagged and participants will be instructed to avoid those sites.
4. All involved project personnel (i.e. BLM, contractors, etc.) shall avoid or minimize all types of travel through weed- infested areas.
5. Project personnel shall locate corrals and staging areas in areas that are relatively weed-free.
6. If project related vehicles, equipment, or personnel travel through a weed infested area, the equipment, vehicles, and clothing of personnel will need to be cleaned of all seed and plant parts prior to moving to weed free areas. (This includes the nooks and crannies of undercarriages on vehicles). Seeds and plant parts will be collected, bagged and deposited in dumpsters destined for local landfills.
7. Only certified, weed-free hay shall be utilized in the temporary corrals used for capturing trespass cattle.
8. Certified, weed-free hay is preferred for use in the main holding and shipping pens located at the ICP location, however, if regular hay is used in this location, then weed monitoring will be implemented by the BLM during and after the implementation of the proposed project.

Impact of the No Action

*Chapter 3 Affected Environment and Environmental Consequences
Invasive Non-Native Plant Species (includes noxious weeds)*

March 7, 2014

There would be no short-term increase in the potential for spread of noxious and/or invasive weeds and grasses because the impoundment operation would not occur. However, overgrazing of native plants by trespass cattle would continue to increase mortality and loss of vigor in native plants, providing less competition for the unpalatable weed and invasive species.

3.2.4. Lands and Access

Affected Environment

The overall project boundary encompasses the Gold Butte, Mormon Mesa, and Bunkerville Flats areas in the northeastern portion of Clark County, Nevada. Within this area there are approximately 802,570 acres of public and federal lands. Management of these public and federal lands is as follows:

- Bureau of Land Management: approximately 578,723 acres
- National Park Service: approximately 196,765 acres
- Bureau of Reclamation: approximately 27,082 acres

Additionally, there are approximately 46,200 acres of NPS lands on the west side of the Overton Arm of Lake Mead, south of the southern boundary of Township 18 South, that are located within the overall project boundary, but are not considered to be a part of the lands impacted by the Proposed Action.

In addition to these public and federal lands, the project area also contains lands under the ownership of the state of Nevada, Clark County, and private landowners. The state of Nevada through its Division of State Parks and the Nevada Department of Wildlife manages approximately 31,175 acres of land within the project area. Clark County owns approximately 79 acres of land and approximately 31,874 acres is held by private landowners within the project area. Access to portions of these non-federal lands requires crossing through public and federal lands affected by the Proposed Action.

The Mormon Mesa utility corridor crosses public lands in the northwest portion of the project area and numerous powerline Rights-of-Ways are also located on public lands in the northern half of the project area.

Environmental Consequences

Impact of the Proposed Action

The Proposed Action involves the temporary closure of some public lands within the planning area during impoundment operations. Impoundment operations are expected to take approximately 17 days; however, operations may last longer due to the following factors:

- The area where trespass cattle may be located spans approximately 802,570 acres.
- Elevation in the project area ranges from 1,000 ft – 5700 ft, and terrain includes rugged mountains, valleys, and thick vegetation.
- Cattle in some cases will be driven by horse 5-10 miles to the nearest trap site and then trailered up to 60 miles to the holding facility on unimproved roads.

- Cattle along the Virgin River will require additional time to impound due to thick vegetation and private land parcels.

The proposed temporary closure during impoundment operations will have a temporary, short-term impact on access for public land users such as recreationists and researchers. The proposed closure would be temporary in duration, would be limited to the period of impoundment operations, and would not affect all of the public lands within the project area simultaneously. Enforcement of the temporary closure by law enforcement personnel will be limited to certain geographic areas as determined by Incident Command staff, within the overall closure boundary, for the safety of the public, federal employees, and contractor personnel, as well as for the success of impound operations. Areas temporarily closed to public access will be posted at main entry points into each closure area with signs as well as copies of the temporary closure notice.

The temporary closure would promote safety and welfare by protecting members of the public, as well as federal agency and contractor personnel conducting impoundment operations. Due to the sensitive nature of this trespass impoundment there may be an increased level of interest and involvement that can disrupt impoundment activities and poses potential safety hazards. The temporary closure is also necessary to protect members of the public from injury by the trespass cattle which are largely feral and could pose a threat to the public during the impound operation. Without this closure, the public could intentionally or inadvertently enter the lands in proximity to the capture and holding locations endangering themselves, as well as federal agency and contractor personnel.

Under the Proposed Action, public access to the areas where active impound and holding operations are taking place will be limited to specifically scheduled and escorted media visitation days when authorized members of the media will be allowed to view the operation, as well as where the trespass cattle are being temporarily held following impoundment.

Private landowners must be given access to their private land if the temporary restriction or closure would possibly bar their means of ingress/egress per 43 CFR 9239.2-5. The BLM will ensure that access to non—federal lands within the proposed closure area is maintained for the duration of the temporary land closure. Access will also be maintained during the proposed temporary closure to holders of valid Rights-of-Ways on public and federal lands within the project area.

Impact of the No Action

Under the No Action Alternative, there would be no impacts on access in the project area for public and federal lands users, private landholders, and Rights-of-Ways holders.

3.2.5. Livestock Grazing

Affected Environment

The proposed project area is within the closed Bunkerville, Gold Butte, Billy Goat Ridge, Hen Springs, Toquop Sheep and Upper Mormon Mesa grazing allotments. Each of these allotments were closed by the 1998 Las Vegas RMP and there are no authorized permittees or use in these allotments.

Grazing preference and range improvements for the Bunkerville allotment were conveyed to Clark County on December 29 and 31, 1998 by four willing sellers. The BLM cancelled the interest of the fifth allotment permittee due to trespass and other legal issues. The grazing preference and

range improvements for Gold Butte allotment were conveyed to The Nature Conservancy (TNC) on or before July 12, 1994 by willing sellers. The grazing preference and range improvements for the Hen Springs allotment were conveyed to Clark County on December 22, 1998 by all three willing sellers. The grazing preference and range improvements for the Toquop Sheep allotment were conveyed to Clark County by willing sellers on or before November 9, 2000. The grazing preference and range improvements for the Upper Mormon Mesa were conveyed to Clark County by willing sellers on or before May 17, 2000.

Environmental Consequences

Impact of the Proposed Action

Removal of the trespass livestock and temporary closure of public lands will not affect authorized livestock grazing use as there is currently no authorized or permitted livestock grazing use within the closed Bunkerville, Gold Butte, Billy Goat Ridge, Hen Springs, Toquop Sheep and Upper Mormon Mesa grazing allotments. The Proposed Action would remove trespass cattle that have been grazing unauthorized within these closed allotments.

Impact of the No Action

Impacts under the No Action Alternative would be similar to the Proposed Action as there is no authorized grazing allotments within the proposed project area. However, impacts associated with trespass livestock grazing within these closed allotments would continue to have adverse impacts on rangeland health, wildlife, vegetation, and other resources in the area.

3.2.6. Migratory Birds

Affected Environment

Under the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711), it is unlawful to take, kill, or possess migratory birds. Numerous bird species travel through Nevada during spring and fall migrations. A list of the protected bird species can be found in 50 C.F.R. §10.13. The list of birds protected under this regulation is extensive and the proposed project area has potential to support many of these species, including the BLM sensitive species the western burrowing owl (*Athene cunicularia*). Typically, the breeding season is when these species are most sensitive to disturbance, which generally occurs from February 15 through August 31st.

Environmental Consequences

Impact of the Proposed Action

As there will be no new surface or vegetation disturbance associated with the Proposed Action, there will be no adverse impacts on migratory birds. Upon completion of the Proposed Action, the overall health of the habitat in the project area will improve as the removal of trespass cattle will have a positive impact on restoration success at current and future sites within the project area.

Impact of the No Action

Under the No Action Alternative, continued degradation of the native vegetation in the area may adversely impact migratory birds over the long-term through continued loss of habitat.

3.2.7. Mineral Resources

Affected Environment

Salable minerals, also known as mineral materials, consist of common varieties of sand, stone, gravel, cinders, clay, pumice and pumicite as described under the Materials Act of 1947 and the Surface Resources Act of 1955. No mining claims are required for their extraction. There are two main types of salable minerals, decorative and aggregate, that are disposed of in the SNDO. Decorative rock is used as ground cover for xeriscaping or as a grass alternative and is sold in smaller quantities. Aggregate, such as common variety limestone and sandstone, and sand and gravel, are typically sold from community pits which are located around many of the population centers of the SNDO. These materials are used typically for a variety of construction purposes. Salable minerals are found in widespread locations in the SNDO, including within the project area.

Locatable minerals include hard-rock minerals such as gold, silver, molybdenum, and uranium, and other minerals such as gypsum, silica, and specialized clay products. Miners locate claims in order to acquire the right to develop the mineral values in a specified area, under the provisions of the General Mining Law of 1872 as amended. Locatable minerals include both metallic minerals (precious and base metals) and non-metallic minerals (gemstones and industrial minerals). Non-metallic minerals are the primary forms of locatable minerals found within the SNDO, with industrial materials such as silica sand and gypsum forming the bulk of locatable minerals found within the SNDO.

Currently, there are four commercial permittees within the project area that have authorized rights to salable mineral and non-metallic (industrial) locatable mineral resources on public lands.

Environmental Consequences

Impact of the Proposed Action

The Proposed Action, specifically the temporary land closure may have significant impacts on the four commercial operations that are permitted by the BLM to access mineral resources on public lands. Restricting access to mineral rights for valid permittees would have an adverse economic impact on these operators and would constitute a Federal Taking on authorized operations.

The following mitigation measure shall be implemented by the BLM to limit negative impacts on authorized mineral operations within the project area:

1. Issue a special authorization to the mining operations allowing them access to the closed areas where they are authorized to operate. Without this measure (or authorization), the BLM would be willfully doing a Federal Takings on authorized operations.

Impact of the No Action

Under the No Action Alternative, there would be no interference with authorized mineral resource operation from a temporary land closure.

3.2.8. Rangeland Health Standards

Affected Environment

*Chapter 3 Affected Environment and Environmental
Consequences
Mineral Resources*

March 7, 2014

Trespass grazing occurring after 1998 has prevented the recovery of rangelands within the Bunkerville, Gold Butte, Billy Goat Ridge, Hen Springs, Toquop Sheep and Upper Mormon Mesa grazing allotments which were closed under the 1998 Las Vegas RMP. BLM land health assessments completed in 2011, 2012, and 2013 indicate native plant communities within these closed allotments have not recovered and continue to show a significant departure from reference ecological sites.

Environmental Consequences

Impact of the Proposed Action

The removal of trespass cattle under the Proposed Action will allow recovery of degraded rangelands and improve rangeland health. Reduced competition between trespass cattle and wildlife and wild burros for the available forage and water would result. Indirect impacts would include an increase in the quality and quantity of the available forage in the short-term. Over the longer-term, improved vegetation resources would lead to a thriving natural ecological condition. The proposed removal and impoundment of trespass livestock would lead to increased production and availability of desirable plants, for use by wildlife, wild burros, and for soil production and protection.

Impact of the No Action

Under the No Action Alternative, rangeland health will continue to be degraded by the presence of trespass cattle which will continue to have an adverse impact on the recovery of native plant communities. Forage available for utilization by wildlife and wild burros has been directly impacted due to the current excess use by trespass cattle. The indirect impacts of No Action Alternative would be continued excessive forage use by trespass cattle, and continuing competition between trespass cattle, wild burros, and wildlife for the available forage and water, resulting in reduced quantity and quality of forage and water.

3.2.9. Recreation

Affected Environment

Gold Butte

The Gold Butte region receives over 70,000 recreational visitors annually, with most recreation use and visitation occurring in the mild spring and fall months. Recreation activities include OHV driving, camping, hunting, hiking, wildlife watching, and sightseeing of cultural resources. A majority of visits occur on weekends, however, use is popular during weekdays, holidays, and hunting season. There are no commercial recreation permittees in the Gold Butte area.

Logandale Trails

Logandale Trails are a highly used OHV area that is on the edge of the Valley of Fire State Park. The area has the red sandstone rock formations associated with Valley of Fire State Park without the OHV restrictions. Many of the OHV users camp either near the fist vault toilets or in the wash below them. The area also gets hikers and horseback riders on occasion.

Besides the casual users, the area has three commercial tour operators, one of which runs tours seven days a week. The other two commercial tour operators are out in the area three to four

times a week. All three tour operators hold commercial Special Recreation Permits (SRPs) issued by the BLM. The primary use of the area occurs in the fall, winter, and spring months between October and May.

Environmental Consequences

Impact of the Proposed Action

Within the Gold Butte Area, the Proposed Action would temporarily displace recreationists traveling to the Gold Butte area to view the native flora, and avian species. Although there is a negative effect on recreation for the duration of the Proposed Action, there would be a positive effect over the long term. This positive effect would be due to the removal of the trespass cattle. The removal of the cattle would improve the recreation setting characteristics by allowing for the restoration of the natural ecosystem which in turn would improve the habitat for the native wildlife and avian species. In addition, the potential for conflict between cattle and recreationists on horseback, and ATV's would be removed.

Additionally, the temporary land closure would reduce the potential risk of injury to recreationists if trespass cattle were to be inadvertently driven through an area where the public is actively recreating and where there is a potential for cattle to charge at or trample members of the public. The temporary closure would also protect recreational users from dangers associated with low-flying helicopters operating within the closed area.

The closure of the Logandale Trails area would have an adverse impact on casual use of the area since it falls during the primary use season. The closure would also have an even greater negative impact on commercial touring operators who operate in the Logandale Trails area under commercial SRPs. The short window for informing the operators would not give them time to adjust their tour schedules. One of the commercial SRP holders is only permitted to operate tours within the Logandale Trails, although he uses adjacent private property to stage from. The impact for this tour operator alone would be over \$8000 per day. The economic impact to the other two may be at least as much per day until they could shift use to their other areas outside the closure area that are permitted under their SRPs.

To limit adverse impacts to commercial SRP holders, the BLM shall implement the following mitigation measure:

1. Issue a special authorization to the commercial permittees allowing them access to the closed areas where they are authorized to operate.

Impact of the No Action

Without implementation of the Proposed Action, there would be no interference with recreational activities and commercial SRP tour operators from a temporary land closure and/or cattle impoundment operations. The potential for conflict between cattle and recreationists on horseback, foot, and OHVs would continue to exist at present levels.

3.2.10. Threatened, Endangered or Candidate Animal Species

Affected Environment

*Chapter 3 Affected Environment and Environmental Consequences
Threatened, Endangered or Candidate Animal Species*

March 7, 2014

Threatened and endangered (T&E) species are placed on a federal list by the USFWS and receive protection under the Endangered Species Act of 1973, as amended.

The threatened Mojave Desert tortoise is known to occur across the Mojave Desert region, including the proposed project area which contains critical habitat for this threatened species. In the Mojave Desert region, the desert tortoise occurs primarily on flats and bajadas with soils ranging from sand to sandy-gravel characterized by scattered shrubs and abundant inter-shrub space for herbaceous plant growth. They are also found on rocky terrain and slopes. The Proposed Action is within Gold Butte A, Devil's Throat, Gold Butte Townsite, Red Rock Spring, and Whitney Pocket ACECs which are designated desert tortoise critical habitat. Historical survey data indicates that the areas surrounding the project sites are very low to very high density tortoise habitat.

Additionally, the proposed project area includes the Virgin River ACEC and surrounding lands which contain habitat for the federally endangered Virgin River chub (*Gila seminude*), Moapa speckled dace (*Rhinichthys osculus moapae*), woundfin (*Plagopterus argentissimus*), and the southwestern willow flycatcher (*Empidonax trailii extimus*).

Environmental Consequences

Impact of the Proposed Action

The Proposed Action has a may affect determination for the threatened desert tortoise. Although this project will not create new surface disturbance, it is adjacent to undisturbed, contiguous habitat wherein potential corridors for desert tortoise entry exists. Since desert tortoise signs have been found in the vicinity and undisturbed habitat exists in the area, there is potential for tortoises to wander into the project area. If not noticed and avoided during impound operations, desert tortoises could be either injured or killed (by crushing) or harassed (by being moved out of harm's way).

The Proposed Action has a no affect determination for the federally endangered Virgin River chub, Moapa speckled dace, woundfin, and the southwestern willow flycatcher as only minimal activities will occur within the Virgin River ACEC and will not remove or disturb vegetation within suitable habitat for the species. This project will have no affect on any other federally listed species or designated critical habitat.

The BLM is the lead federal agency for Section 7 Consultation for this project which is covered under the Programmatic Biological Opinion File No. 84320-2010-F-0365.R001 and is contingent on compliance with the attached terms and conditions in Appendix B. Federal lands managed by Reclamation and the NPS within the proposed project area are covered concurrently under the BLM's Programmatic Biological Opinion File No. 84320-2010-F-0365.R001. In addition, compliance with the special stipulations below will help to ensure that no further impacts to the species occur.

1. The BLM and its contractor(s) will be provided educational information on the desert tortoise which includes the legal protection and consequences for the violation of the Endangered Species Act.
2. Should a desert tortoise be seen in the road or adjacent to it, the animal will be left alone and allowed to leave the area of its own accord.

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Threatened, Endangered or Candidate
Animal Species*

3. The ground beneath all vehicles and the area around all tires will be inspected for tortoises prior to moving.
4. Areas of intensive use including but not restricted to, capture sites, incident command post, and helicopter, landing sites shall be cleared of tortoises by a BLM or other federal agency wildlife biologist prior to use.
5. Vehicle use is restricted to existing roads, trails, large sandy washes and ways and a speed limit of 25 mph on all unposted roads.
6. Weed free hay will be used in all temporary corrals used for capturing trespass cattle, except for the holding pens located in the gravel pit.
7. If water is being applied to the ground, tortoises may be attracted to the site. Extra precaution should be taken to minimize pooling of water. There should be an increase search effort for tortoises.
8. During impoundment operations, the on-call BLM (or other federal agency) Wildlife Biologist should be immediately contacted if a tortoise is found or enters areas of active operations (i.e. corrals, staging areas) and needs to be moved to allow operations to continue without harm caused to the tortoise.

Minimization measures above and the terms and conditions from the BLM's Programmatic Biological Opinion File No. 84320-2010-F-0365.R001 (see Appendix B) contain measures to reduce potential impacts to desert tortoise.

The Proposed Action will have an overall benefit to the desert tortoise, southwestern willow flycatcher, and other endangered species in the project area listed above, in addition to their habitat. Upon completion of the Proposed Action, impacts associated with mortality from the trespass cattle and associated activities will be reduced and habitat will be enhanced and less fragmented. The Proposed Action will also help habitat restoration success on current and future sites within critical habitat in the project area by removing negative impacts from trespass cattle.

Impact of the No Action

Under the No Action Alternative, potential impacts on the threatened desert tortoise due to the proposed impoundment operation, including a short-term increase in vehicular traffic, would not occur. However, critical habitat for desert tortoise and the endangered species listed above (i.e. southwestern willow flycatcher) will continue to be adversely impacted by the presence of trespass cattle over the long-term.

3.2.11. Wild Horse and Burro

Affected Environment

The project area includes the Gold Butte Herd Management Area (HMA). The Gold Butte HMA encompasses approximately 271,000 acres of BLM public land. The wild burros generally rely on some portion of either the BLM or NPS public lands to provide their required habitat throughout the year.

Environmental Consequences

*Chapter 3 Affected Environment and Environmental Consequences
Wild Horse and Burro*

March 7, 2014

Impact of the Proposed Action

The Proposed Action has the potential to directly impact wild burros due to vehicle noise, helicopter use, and the presence of humans. Wild burros would not be restricted from forage or water due to the multiple locations of those resources throughout the Gold Butte HMA. There would be no loss of forage in the project area and no impacts to the available forage within the HMA because individuals will remain on the existing trails, roads, and disturbed areas. Capturing and removing the trespass cattle would have a positive effect on the wild burros in the Gold Butte HMA. Removal of the cattle would reduce competition for the available forage and water in the Gold Butte HMA.

All participants must adhere to the following mitigation measures and stipulations:

1. Individuals will not exceed 25 mph speeds throughout the HMA, especially from March to June, as this is the primary foaling season.
2. All horses associated with the impoundment operation will be required to have a negative Coggins test on file. A negative Coggins test will ensure that the horses being used on the impoundment do not carry the Equine Infectious Anemia virus and will ensure that the wild burros in the HMA will not be exposed to that potentially fatal disease.
3. Participants should also remain at least 0.25 miles from water sources in the HMA, to prevent unnecessary stress on the animals.
4. Individuals involved in the trespass cattle impoundment setup and operation, protestors, or spectators will not harass (feed, pet, chase, etc.) wild burros.
5. If wild burros are near the cattle being captured, the helicopter will make all attempts to not herd the burros or stress them. Hay used in the impoundment operation will be secured and inaccessible to the wild burros.

Impact of the No Action

Under the No Action Alternative, wild burros would not be impacted by vehicle noise, helicopter use, and the presence of humans associated with impoundment operations. Because trespass cattle would not be removed and impounded under the No Action Alternative, the trespass cattle would continue to compete with wild burros for available forage and water within the Gold Butte HMA.

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Chapter 4. Cumulative Impacts

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4.1. Cumulative Impacts

The purpose of the cumulative impacts analysis for the Proposed Action is to evaluate the combined, incremental effects of human activity within the scope of the project. The Council on Environmental Quality (CEQ) regulations define scope and state that connected actions, cumulative actions, and similar actions should be included in the impact analysis (40 CFR 1508.25). The planning area is within a limited geographic range consisting of the Gold Butte, Mormon Mesa, and Bunkerville Flats areas, as defined in Chapter 1, and lands immediately adjacent. The CEQ formally defines cumulative impacts as follows:

“...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7).”

In addition, according to the 1997 CEQ Handbook Guidelines for Assessing and Documenting Cumulative Impacts, the analysis can be focused on those issues and resource values identified during scoping that are of major importance. The relevant issues identified during scoping for the Proposed Action relate to the following: ACECs, fish and wildlife, lands/access, livestock grazing, migratory birds, non-native and/or invasive weeds, rangeland health, recreation, T&E animal species, and wild horse & burro.

Past Actions

Prehistoric rock art and habitation sites in the general area indicate a human presence in the region before settlers arrived. Europeans first entered the vicinity in the early to mid-1800's traveling along the Old Spanish Trail. Mining activities in the Gold Butte region date back to the 1800s, when mica was mined in the area. Gold was discovered in 1906 and a mining boom continued until 1909. Other mining activities continued in the region throughout the 20th century.

Ranching and livestock operations were another historically significant activity in the general area as evidenced by numerous corrals, water developments, and range fencing. Permitted grazing allotments continued through the 1990s, but have since been discontinued within the ACECs to benefit the threatened desert tortoise. However, trespass grazing has been occurring within the planning area since 1994.

In 2007, the BLM completed route designations for selected ACECs within the planning area. This planning process resulted in an OHV designated route transportation network and road closures with subsequent restoration with native vegetation. Suppression of wildland fires occurred in 2005, 2006, 2010, 2012, and 2013. A number of wildlife water developments have been constructed to benefit big and small game wildlife populations. These actions have also allowed small game and big game species to expand their range into unoccupied habitat with an increase in numbers.

Present Actions

The analysis encompasses many land uses on public and private land within the proposed project area. Recreation use includes OHV use on approximately 577 miles of designated routes in the Gold Butte region. Numerous communities are located within the planning area and adjacent to public and federal lands within the project area, including the City of Mesquite, Nevada and the

towns of Bunkerville, Overton, and Logandale. Trespass grazing by cattle continues across the entire planning area.

Translocation of Mojave desert tortoise is authorized within both wilderness and non-wilderness lands in southern Nevada, and is authorized to occur within the planning area. Translocation is being performed as part of the Desert Tortoise Recovery Plan implementation which seeks to increase Mojave desert tortoise populations in areas with depleted populations including the Eastern Mojave, Northeastern Mojave, and Colorado Desert recovery units in southern Nevada.

A bill has been recently introduced to Congress calling for the creation of a National Conservation Area (NCA) that would encompass the Gold Butte region. The bill would incorporate both Jumbo Springs Wilderness and Lime Canyon Wilderness, in addition to designating additional wilderness.

The Nevada Department of Wildlife has submitted a proposal to the BLM and Reclamation to install multiple wildlife water developments within the planning area. This proposal is currently undergoing evaluation by the BLM and Reclamation.

Reasonably Foreseeable Future Actions

Other reasonably foreseeable future actions include: suppression of wildland fires, proactive fuels reduction projects, integrated weed management activities, wild burro management, and habitat restoration projects. The BLM Las Vegas RMP is currently undergoing a revision and therefore overarching land use allocations in the analysis area may change in the future.

ACECs

Seven ACECs are located within the analysis area. They include Gold Butte A, Gold Butte B, Devil's Throat, Gold Butte Townsite, Red Rock Spring, Virgin River, Virgin Mountains (Gold Butte C), and Whitney Pocket ACECs which were designated as such by the Las Vegas RMP (1998) to protect cultural sites, biological and scenic values, natural hazards, and threatened and endangered species habitat. Special designations may be affected by future actions but the impacts would be offset by mitigation measures.

Individual tortoises may be affected negatively in the short-term by the displacement or disruption of normal behavior patterns due to implementation of the Proposed Action. In addition, some of these projects and actions could increase vehicle traffic and competition among any displaced individuals for habitat. However, the Proposed Action enhances or maintains special designation values and therefore does not incrementally add to the cumulative effects.

Fish & Wildlife; Migratory Birds; and T&E Animal Species

The cumulative impacts are common to fish and wildlife, migratory birds, and T&E animal species resources.

Individual wildlife may be affected negatively by the displacement or disruption of normal behavior patterns due to construction, project operations and maintenance, and site rehabilitation stemming from future actions. In addition, some of these projects and actions could increase vehicle traffic, human and wildlife conflicts, and competition among any displaced individuals for habitat. They may result in increased traffic on designated routes in the vicinity and thus increase pressure on resources.

Implementation of the Proposed Action is designed to preserve and protect resources by removing trespass cattle from the planning area and is part of a long-term plan to protect, preserve, and improve natural and cultural resources in the area. Specifically, removal and impoundment of trespass cattle will remove competition of forage and water, in addition to contributing to other efforts to restore and enhance vegetation communities and habitat for wildlife, including threatened and endangered species. The Proposed Action and other habitat restoration projects within the analysis area, would result in cumulatively beneficial impacts to wildlife, maintaining and improving habitat in which these species can flourish and resulting in greater habitat complexity, diversity, and productivity. These projects would result in an overall increase in the availability, and ultimately the quality of habitats.

Lands/Access

The Proposed Action will have a short-term, negative impact on access to certain public lands within the project area. However, these impacts will last no more than the days needed to complete impoundment operations, therefore, no long-term cumulative impacts are expected as a result of the Proposed Action. Access for private landholders, state and local government, and Rights-Of-Ways holders will be maintained.

Livestock Grazing

Livestock grazing occurred in the planning area into the 1990s, however, permitted grazing allotments have since been discontinued in the area for the benefit of the threatened desert tortoise. Currently, trespass grazing continues to occur across the planning area, impacting ACEC, cultural, wildlife, and vegetation resources. The Proposed Action will remove trespass cattle from the project area and no long-term cumulative impacts to livestock grazing will occur due to the fact that no authorized grazing is permitted in planning area allotments.

Mineral Resources

While the temporary closure may have a short-term, adverse impact on authorized mineral operations on public lands, this impact will be mitigated through the implementation of mitigating measures, therefore, there will be no cumulative impacts from the closure on mineral resources.

Noxious and/or Invasive Weeds

The Proposed Action, in conjunction with other projects, may result in cumulative impacts on native vegetation communities, including the potential spread of noxious and/or invasive weeds with the potential to adversely affect the Project area and adjacent lands. This project is occurring in addition to land uses such as recreation, equestrian use, Right Of Ways, and ongoing OHV activity. The combined effects of these land uses have the potential to increase the rate at which the noxious and invasive weeds colonize BLM lands. The effects will be considered negligible if stipulations are met to identify, prevent, and treat the spread of noxious and/or invasive species.

Rangeland Health

The Proposed Action, in conjunction with other projects (i.e. habitat restoration), will allow recovery of degraded rangelands and improve rangeland health. Reduced competition between trespass cattle, wildlife, and wild burros for the available forage and water would result. Indirect impacts would include an increase in the quality and quantity of the available forage in the short-term. Over the longer-term, improved vegetation resources due to the removal of trespass cattle grazing would lead to a thriving natural ecological condition and would lead to increased

production and availability of desirable plants, for use by wildlife, wild burros, and for soil production and protection.

Recreation

Impounding and removing the trespass cattle would have a long-term positive effect on recreation in the project area. The removal of the trespass cattle would improve the recreation setting characteristics by allowing for the restoration of the natural ecosystem which in turn would improve the habitat for the native wildlife and avian species. In addition, the potential for conflict between cattle and recreationists on horseback, foot, and OHVs would be removed. While the temporary closure will have a short-term, adverse impact on recreational users, this impact will only last as long as the impound operation and there will be no cumulative impacts from the closure on recreation. Impacts to commercial SRP operations will be mitigated through the implementation of mitigation measures, resulting in no cumulative impacts as a result of the temporary land closure.

Wild Horse & Burro

Impounding and removing the trespass cattle would be have a long-term positive effect on the wild burros in the Gold Butte HMA due to the reduction in competition for the available forage and water in the HMA.

Conclusion

In combination with past and present actions, and those that are reasonably foreseeable in the future, the Proposed Action does not add substantially to cumulative impacts.

Chapter 5. Monitoring and Mitigation Measures

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The BLM Contracting Officer's Representative (COR) assigned to the gather would be responsible for ensuring contract personnel abide by contract specifications, standard operating procedures, and the mitigation measures provided in this document. In addition to the mitigation measures and stipulations provided in the analysis in Section 3.2, general mitigation measures and stipulations for resources that were not analyzed in detail in this EA are provided below.

5.1. General Mitigation Measures and Stipulations

The following are general mitigation measures and stipulations for resources not carried forward for analysis (from Table 1) in this EA.

1. All motorized vehicle travel in the project area is restricted to designated routes only. Use is not permitted on any roads that access will modify the condition of the road. A speed limit of 25 mph will be maintained on all unposted designated routes.
2. Cross-country travel is restricted to foot and horseback only.
3. The planning area includes the Million Hills Wilderness Study Area and Virgin Peak Instant Study Area, which are managed to the non-impairment standard, specifically: activities must be temporary and not create surface disturbance. Vehicle travel within these areas is restricted to existing designated routes. Cross-country travel by foot and stock are recognized as acceptable within a WSA.
4. The BLM and its contractor(s) shall immediately notify the COR, in addition to the BLM Hazardous Material Coordinator or the Reclamation Hazardous Materials Coordinator (depending on location), of any release of hazardous substances, toxic substances, or hazardous waste on or near the study area. As required by law, the contractor(s) shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the project area.
5. It is unlawful to disturb any archaeological and historical sites, including, but not limited to, petroglyphs, ruins, historic buildings, and artifacts. Any cultural artifacts or vertebrate paleontological materials (including fossil trackways) discovered through permitted operations must be left in place and the BLM or Reclamation notified immediately depending upon location.
6. Participants are required to comply with seasonal fire restrictions which can go into affect anytime between May 1 to October 15.
7. Upon completion of the impoundment operation, the contractor(s) shall remove all equipment from the project site.

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Chapter 6. Tribes, Individuals, Organizations, or Agencies Consulted

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Table 6.1. List of Persons, Agencies, and Organizations Consulted

Name	Purpose & Authorities for Consultation or Coordination
Jessie Stegmeier, Biological Services Coordinator, Bureau of Reclamation	Served as point of contact at Reclamation for this project. NEPA coordination and request for Section 7 concurrence with BLM as the lead agency.
Michael Boyles, Environmental Protection Specialists, National Park Service	Request for Section 7 concurrence with BLM as the lead agency.
Nancy Zahedi, Office of the Solicitor, U.S. Department of the Interior	Technical review of the EA document.

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Chapter 7. List of Preparers

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Table 7.1. List of Preparers

Name	Title	Responsible for the Following Section(s) of this Document
Lauren Brown	Weeds Management Specialist	Noxious and Invasive Weeds
Kirsten Cannon	Public Affairs Specialist	Public Affairs
Fred Edwards	Botanist, Rangeland Lead	Livestock Grazing, Rangeland Health, Vegetation, Woodland/Forestry
Susan Farkas	Planning & Environmental Coordinator	Environmental Justice, Socioeconomics
Matt Hamilton	Wildlife Biologist	Fish & Wildlife, Migratory Birds, T&E Animal Species
Krystal Johnson	Wild Horse & Burro Specialist	WH&B
Sendi Kalcic	Wilderness Specialist	Wilderness/WSAs
Katie Kleinick	Natural Resources Specialist (Great Basin Institute)	Vegetation, Fish & Wildlife
Ben Klink	Rangeland Specialist (Great Basin Institute)	Weeds, Fuels/Fire
Randy Kyes	Wilderness Planner (Great Basin Institute)	NEPA Lead
Chris Linehan	Outdoor Recreation Planner	Recreation, W&SR
Kerri-Anne Thorpe	Realty Specialist	Lands/Access
George Varhalmi	Geologist	Geology, Minerals

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Chapter 8. References

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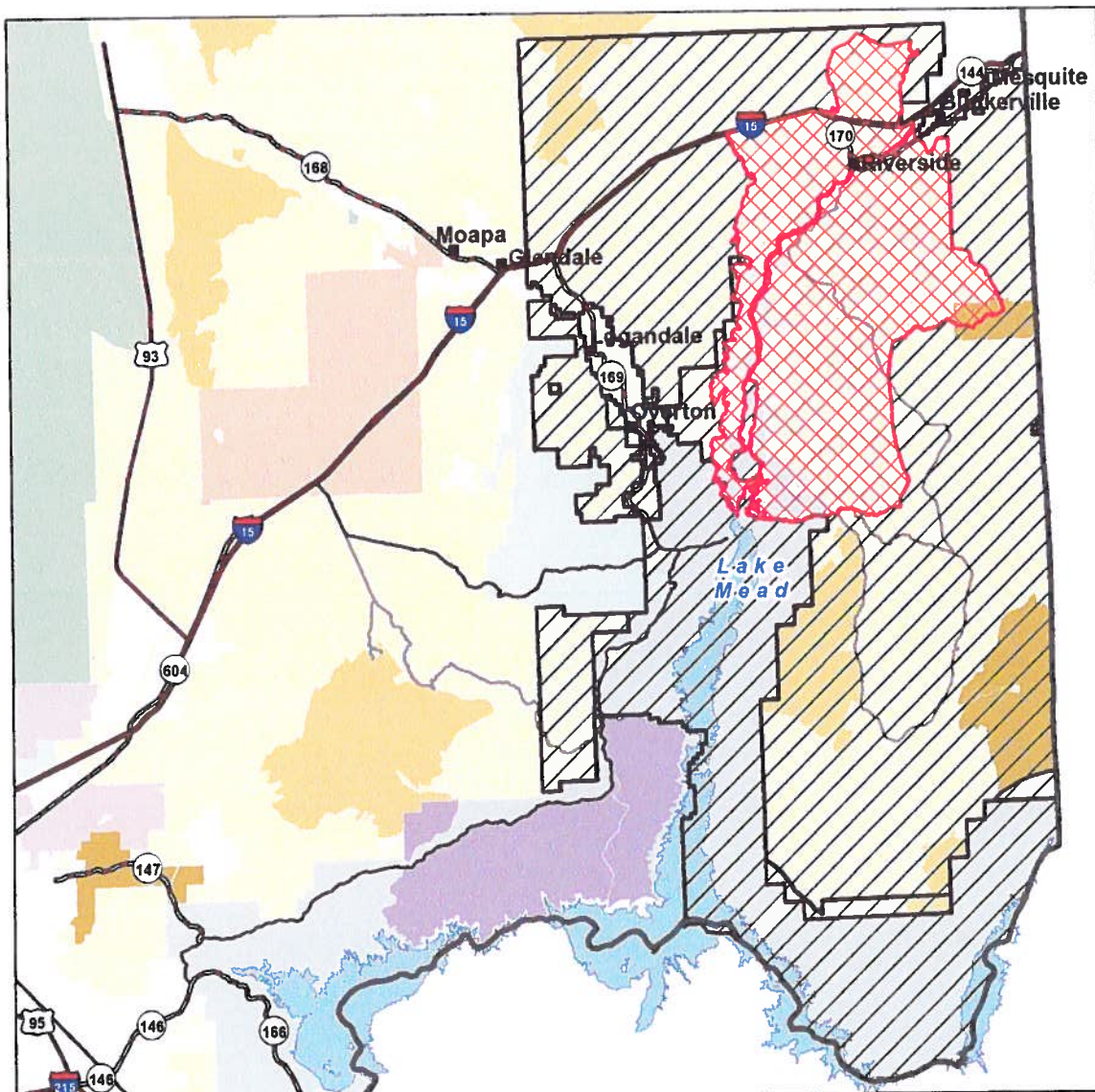
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Appendix A. Map of the Project Area



- Legend**
- Former Bunkerville Allotment
 - New Trespass Land
 - State Boundary
 - Lake Mead
 - City Location
 - Major Road**
 - Interstate
 - US Highway
 - State Highway
 - Arterial
 - Back Country Byway
 - BLM Wilderness
 - BLM Wilderness Study Area
 - National Park Wilderness
 - Land Status**
 - Bureau of Indian Affairs
 - Bureau of Land Management
 - Bureau of Reclamation
 - Department of Defense
 - Fish and Wildlife Service
 - National Park Service
 - Nevada State Lands
 - Private



No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual or aggregate use with other data. Original data were compiled from various sources. This information may not meet National Map Accuracy Standards. This product was developed through digital means and may be updated without notification.

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Appendix B. Terms and Conditions for Desert Tortoise

Case Number: NV-053-3-647
NEPA Project #: DOI-BLM-NV-S010-2014-0020-EA
Sec. 7 Log #: NV-052-14-056

TERMS AND CONDITIONS for Non-Speed SRPs: BO File No. 84320-2010-F-0365

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*—BLM shall ensure a Field Contact Representative (FCR) (also called a Compliance Inspection Contractor) is generally designated for each contiguous stretch of construction activity for linear projects or isolated work areas for non-linear projects. The FCR will serve as an agent of BLM and the Service to ensure that all instances of non-compliance or incidental take are reported. BLM has discretion over approval of potential FCRs; however, those who also may be acting as authorized desert tortoise biologists, and must also be approved by the Service (see Term and Condition 1.c). All FCRs will report **directly** to BLM and the Service.

The FCR, authorized desert tortoise biologist, and monitors (see Term and Condition 1.c.) shall have a copy of all stipulations when work is being conducted on the site and will be responsible for overseeing compliance with terms and conditions of the ROW grant, including those for listed species. BLM shall ensure the FCR and authorized desert tortoise biologists have authority to halt any activity that is in violation of the stipulations. The FCR shall be on site year-round during all project activities.

Within 3 days of employment or assignment, the project proponent and BLM shall provide the Service with the names of the FCR.

- 1.b. *Authorized desert tortoise biologist* – Not required. See Term and Condition 1.i. and 1.j. for Handling of desert tortoise.
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.

1.e. *Desert tortoise education program*—A desert tortoise education program shall be presented to all personnel on site during event activities by an authorized desert tortoise biologist, BLM, FCR or their designee. 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, 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). 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 event 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. All vehicles and construction equipment will operate in groups of no more than three vehicles.

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, desert tortoise monitor BLM personnel or BLM contractors experienced or trained in the handling of desert tortoises according to current Service-approved protocol (Service 2009) 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, desert tortoise monitor (see restrictions in Term and Condition 1.d.), BLM personnel or BLM contractors experienced or trained in the handling of desert tortoises according to current Service-approved protocol (Service 2009) solely for the purpose of moving the tortoises out of harm's way. During event activities, an authorized desert tortoise biologist shall pen, capture, handle, and relocate desert tortoises from harm's way as appropriate and in accordance with the most current Service-approved guidance. No tortoise shall be handled by more than one person. Each tortoise handled will be given a unique number, photographed, and the biologist will record all relevant data on the Desert Tortoise Handling and Take Report (Appendix E) to be provided to BLM in accordance with the project reporting requirements.

Desert tortoises that occur aboveground and need to be moved from harm's way shall be placed in the shade of a shrub, 150 to 1,640 ft from the point of encounter. In situations where desert tortoises must be moved more than 1,640 ft (500 m), translocation procedures may be required. Translocation would likely result in a level of effect to the desert tortoise that would require the

appended procedures.

If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40 ° F or greater than 95° F), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of an authorized biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be discarded after one use and never hold more than one tortoise. If any tortoise active nests are encountered, the Service must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action.

Desert tortoises located in the project area sheltering in a burrow during the less-active season may be temporarily penned in accordance with Term and Condition 1.k. at the discretion of an authorized desert tortoise biologist. Desert tortoises should not be penned in areas of moderate to heavy public use, rather they should be moved from harm's way in accordance with the most current Service-approved guidance (currently Service 2009).

Desert tortoises shall be handled in accordance with the Desert Tortoise Field Manual (Service 2009). Equipment or materials that contact desert tortoises (including shirts and pants) shall be sterilized, disposed of, or changed before contacting another tortoise to prevent the spread of disease. All tortoises shall be handled using disposable surgical gloves and the gloves shall be disposed of after handling each tortoise. An authorized desert tortoise biologist shall document each tortoise handling by completing the Desert Tortoise Handling and Take Report (Appendix E).

- 1.k. *Penning*—Penning shall be accomplished by installing a circular fence, approximately 20 ft in diameter to enclose and surround the tortoise burrow. The pen should be constructed with 1-inch horizontal by 2-in vertical, galvanized welded wire. Steel T-posts or rebar should be placed every 5 to 6 ft to support the pen material. Pen material will extend 18 to 24 in aboveground. The bottom of the enclosure will be buried 6 to 12 in or bent towards the burrow, have soil mounded along the base, and other measures implemented to ensure zero ground clearance. Care shall be taken to minimize visibility of the pen by the public. An authorized desert tortoise biologist or desert tortoise monitor shall check the pen at a frequency to ensure that the desert tortoise is secure and not stressed. No desert tortoise shall be penned for more than 48 hours without written approval by the Service. Because this is a new technique, all instances of penning or issues associated with penning shall be reported to the Service within 3 days (see Appendix E).
- 1.o. *Dust control*—Water applied to for dust control shall not be allowed to pool outside desert-tortoise fenced areas, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks will be repaired to prevent pooling water.

There is to be an increased search effort for tortoise in areas where water is being applied to the ground.

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 event 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.

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*—BLM shall ensure that the applicants develop and implement an approved fire prevention and response plan approved by BLM prior to surface disturbance.
- 3.b. *Restoration plan*—if new disturbance occurs the BLM shall ensure that the applicant develop and implement a restoration/reclamation plan. The plan will describe objectives and methods to be used, species of native plants and/or seed mixture to be used, time of planting, success standards, actions to take if restoration efforts fail to achieve the success standards, and follow-up monitoring. The plan will be prepared and approved prior to the surface disturbance phase of the project. Reclamation will be addressed on a case-by-case basis.
- 3.c. *Minimizing new disturbance*—Cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and event 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 event activities 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*—As proposed there will be no new surface disturbance. Any unauthorized disturbance resulting from the proposed action will require the BLM to collect remuneration fees to offset residual impacts to desert tortoises from project-related disturbance to desert tortoise habitat.

RPM 5: Livestock Grazing—*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 effects to the desert tortoise as a result of permitting livestock grazing.*

Terms and Conditions:

- 5.a. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to project sites (e.g., range improvements, water hauls, etc). This program will include the use of covered, raven-proof trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and the proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program will apply to all actions. A litter-control program will be implemented by the responsible Federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.
- 5.b. Livestock grazing in desert tortoise habitat shall be managed consistent with the most current version of the Desert Tortoise Recovery Plan, including allotments or portions of allotments that become vacant and occur within desert tortoise critical habitat outside of ACECs.
- 5.e. All vehicle use in listed species habitat associated with livestock grazing, with the exception of range improvements, shall be restricted to existing roads and trails. Permittees and associated workers will comply with posted speed limits on access roads. No new access roads will be created.
- 5.f. Use of hay or grains as a feeding supplement shall be prohibited outside designated areas (e.g., in and near corrals and watering areas). Where mineral and salt blocks are deemed necessary for livestock grazing management, they will be placed in previously-disturbed areas at least 0.5 mi from riparian areas. In some cases, blocks may be placed in areas that have a net benefit to tortoise by distributing livestock more evenly throughout the allotment, and minimizing concentrations of livestock that result in habitat damage.

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, biological monitor, BLM personnel or BLM contractors to be in non-compliance with this biological opinion shall be immediately documented by an authorized desert tortoise biologist or FCR. 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.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*— if new disturbance occurs vegetation restoration success shall be monitored by project proponent and reported to BLM and the Service. Monitoring will include both qualitative and quantitative data collection and analysis. Monitoring frequency and parameters for restoration success will be described in the required restoration/reclamation plan.

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. 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 not be created. 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.
- 8.c. Temporary or permanent fences/boundary markers shall be installed around corral, holding and Incident Command Post areas to clearly delineate the boundaries of these areas from adjacent desert habitat, using sturdy materials such as rope and T-posts. Monitor(s) will be placed at each corral, holding and Incident Command Post areas to ensure that spectators remain within the designated boundary.
- 8.d. For all events: Any desert tortoises found on or adjacent to the event course shall be moved into undisturbed desert within 1,000 ft by BLM personnel experienced or trained in the handling of tortoises, or authorized desert tortoise biologists. Tortoises shall be moved solely for the purpose of moving them out of harm's way (see Term and Condition 1.i. and 1.j.). Desert tortoises shall not be placed on lands not under the ownership of BLM without the written permission of the landowner. All personnel involved in tortoise capture shall obtain appropriate permits from

NDOW prior to handling any desert tortoise. All road repair and course cleanup crews shall be accompanied by BLM personnel or their designee to ensure that no tortoises or tortoise burrows are harmed during repair and cleaning operations.

- 8.e. BLM will inspect the project area after the event activities to document any observable instances of “take” to desert tortoise from implementation of the proposed action. Timing of the inspection will be determined for each event.
- 8.f. Corrals, holding and Incident Command Post areas will be returned to pre-event conditions within one week of the event. Should pre-event conditions not be restored, the applicant will be responsible for reimbursement of costs accrued during clean-up or restoration.
- 8.g. Only weed-free hay will be used if supplemental feeding is required and is available.
- 8.h. Any livestock that move into areas closed to grazing shall be promptly captured, ear-tagged with BLM-issued tags, and moved back to the allotment within 72 hours of notification of straying. The authorized officer may approve some other time frame based on extraordinary circumstances whenever the permittee independently discovers cattle have strayed or when notified by BLM or other entity. The ear-tag numbers of these cattle will be recorded and submitted in writing by the permittee to the SNDO and the Service’s Nevada Fish and Wildlife Office in Las Vegas within 5 days of tagging. If offending livestock are identified in critical habitat a total of three times, they shall be permanently removed from the allotment. If straying of livestock becomes problematic, BLM, in consultation with the Service, shall take measures to ensure straying is prevented.
- 8.i. Areas of intensive use including but not restricted to, capture sites, coarrals, holding areas, Incident Command Post, and helicopter landing sites shall be cleared of tortoise by a BLM wildlife biologist prior to use.

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: Gold Butte Temporary Closure, Placement of Temporary Corrals and Impoundment of Trespass Cattle NEPA No.: DOI-BLM-NV-S010-2014-0020-EA Case File No./SRP No.: NV-053-3-647 BLM Section 7 log no.: NV-052-14-056	Report Date:
Fish and Wildlife Service Append File No.- 84320-	
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) 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.:

Gold Butte Temporary Closure, Placement of Temporary Corrals and Impoundment of Trespass Cattle

NEPA no.: DOI-BLM-NV-S010-2014-0020-EA

Case File no./SRP no.: NV-053-3-647

BLM Section 7 log no.: NV-052-14-056

Annual Report

Project Completion Report

1. Date: _____

2. Fish and Wildlife Service File No (for appended actions): 84320-_____

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 tortoises 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: _____)

The Threatened Desert Tortoise

Life History

The desert tortoise is the largest reptile and the only wild land tortoise found in the southwestern United States. The tortoise occurs in southern Nevada, western Arizona, southeastern California, and northwestern Mexico. Desert tortoises are typically found in creosote bush, cactus and shad scale scrub, and Joshua tree woodland habitats below 5000' elevation.

Tortoise populations are patchily distributed and densities range from a few per square mile to 200 per square mile. A tortoise will live in the same general area of less than one square mile during its lifespan of 50 to 100 years. This slow-moving desert reptile ranges in size from 2 to 15 inches long and is soil colored. Because of their color and shape, tortoises can be very difficult to see.

There are several clues that can be used to tell male and female tortoises apart. However, only tortoises greater than seven inches long can be sexed reliably. Males tend to be larger than females, have a longer tail, have longer upward curving gular horns, have larger chin glands, and have a concave plastron (bottom portion of shell).



Tortoises are well adapted to their desert environment and spend up to 98% of their time in burrows they dig. Burrows are crescent shaped and are most often found at the base of desert shrubs or in wash banks. A

tortoise may excavate and use many burrows during the year. Some burrows are used for only a short period of time and others may be used for several years. Some researchers believe that some winter dens on the Beaver Dam Slope in Utah may be 5000 years old. Many mammals, birds, reptiles, and invertebrates utilize tortoise burrows. Burrows and tortoises are most often found on valley floors and slopes, but they may also be found on the less precipitous slopes and ridges of desert mountain ranges.

Besides burrows, and remains; another method that biologists use to determine if tortoises exist in an area is the presence of scat (feces). Fresh scat is dark brown or black, but turns gray as it weathers. Scat length varies, from one half to four inches, depending on the size of the tortoise. Scats usually contain coarse plant fibers.

Tortoises are inactive from mid November until February. The activity period for desert tortoises is from March until late October when they usually spend part of each day above ground. Tortoises are especially active during warm days when it is overcast or raining, when they seek water that collects in natural depressions or in depressions the tortoises dig themselves. Available drinking water is essential to tortoise survival. The diet of tortoises, which are vegetarians, includes a wide variety of herbs, grasses, cacti, and flowers. Since droughts are common in the desert that tortoises inhabit, they rely on the erratic years of good rainfall and the ensuing growth of palatable plants.



Sexual maturity for tortoises occurs at 15-20 years of age. Breeding occurs in March and April and egg laying is from May to July. Nests are almost always located at the entrance of burrows. Clutches 1 to 14 eggs and a mature female may lay 0 to 3 clutches annually. The eggs are covered with soil and hatch after 80 to 130 days in August or September.

Predators are usually only a problem for young tortoises. Predation is the greatest cause of mortality for hatchlings. Eggs are eaten by Gila monsters, foxes, coyotes, snakes, and badgers. The shell of juvenile tortoises does not harden for five or more years and young tortoises may fall prey to ravens, hawks, eagles, coyotes, foxes, bobcats, badgers, skunks, and feral dogs and cats. Up to 200 young tortoise carcasses have been found under raven perches and nests. While successful predation on adults is rare; coyotes, foxes, bobcats, eagles, and feral dogs have been known to prey on adult tortoises. Habitat quality can affect predation in certain habitats.

Research

The Bureau of Land Management will be actively involved ongoing research projects that are addressing various aspects of tortoise management and physiology. Research is being conducted on disease, livestock grazing, predator-prey relationships, genetics, tortoise translocation/relocation, and habitat restoration.

Legal Status

The desert tortoise (*Gopherus agassizii*) in the Mojave Desert was federally listed under the Endangered Species Act of 1973 as a threatened species on April 2, 1990. The tortoise was listed because of direct losses and threats to tortoise populations and habitat. Desert tortoises are directly impacted by increased raven predation on juveniles, collection by humans, vandalism, losses on roads and to off-highway vehicle (OHV) activities, and Upper Respiratory Tract Disease (URTD). Tortoise habitat is lost directly to urbanization, agriculture, road construction, military activities, and other uses. OHV use, rights-of-way, and grazing degrade habitat. All of these activities fragment tortoise habitat, which may reduce a tortoise population below the level necessary to maintain a minimum viable population.

The U.S. Endangered Species Act makes it illegal to harass, collect, or harm tortoises and provides for penalties of up to **\$50,000 in fines and one year in prison for each count**. State laws and Fish and Game Codes also afford protection to the desert tortoise.



Legal Status continued..

The Endangered Species Act allows for individuals of and endangered or threatened species to be taken incidentally to an otherwise lawful activity; as long as the conditions of the Fish and Wildlife Service's (Service) Biological Opinion are followed. "Take" includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing or collecting, or attempting to engage in any such conduct. Harm includes significant habitat modification or degradation that impacts a listed species by interfering with breeding, feeding, or sheltering behavior. The threatened listing of the desert tortoise occurred because of widespread habitat destruction and degradation, illegal collection, disease, raven predation, and other factors.

Tortoises in captivity prior to the initial listing of August 4, 1989 are not protected by the Act. If you are interested in having a pet tortoise, you may obtain one from an adoption group or from someone that has acquired their pet legally and gifted them to you. Tortoises can offer a unique alternative to more traditional family pets but please do not turn them loose or allow your tortoises to breed.



Tortoise Handling

Handle all tortoise carefully and only if authorized to do so! Tortoises can be injured and can die from improper handling. Do not approach tortoises unless absolutely necessary, as your presence can induce stress in the animal. When you must approach a tortoise, move slowly and approach from the rear of the animal. Pick up the tortoise gently and keep it level at all times. When handling large tortoises, grasp the animal with both hands, one at each side of the animal. When moving tortoises longer distances, a plastic tote or cardboard box should be used. Containers should be thoroughly cleaned between tortoises or only used for one tortoise. All personnel handling tortoises will wear surgical type gloves to inhibit the transmission of diseases among tortoises. Not more than one tortoise can be handled

Remember to always check under your vehicles!!

Southern Nevada District

