LAS VEGAS VALLEY DISPOSAL BOUNDARY
FINAL ENVIRONMENTAL IMPACT STATEMENT

RECORD OF DECISION

FES 04-048

The approval of this Record of Decision for the Las Vegas Valley Disposal Boundary Final Environmental Impact Statement completes the environmental analysis process for this proposal. The action enables BLM to continue providing lands in the Las Vegas Valley Disposal Boundary for public purposes and organized community development.

This Record of Decision incorporates by reference the Las Vegas Valley Disposal Boundary Final Environmental Impact Statement and sets the foundation for land disposal and authorizations within the Las Vegas Valley Disposal Area.

This document meets the requirements of for a Record of Decision as provided in 40 CFR 1505.2 and follows the guidance in 40 CFR 1506.10(b)(2) which authorizes BLM to run concurrently the 30 day availability period with the 30 day appeal period.

Appeal procedures are identified at the end of this Record of Decision.

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Approved by: Angie Lara
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12/23/04
Date

RECORD OF DECISION

FINAL ENVIRONMENTAL IMPACT STATEMENT

LAS VEGAS VALLEY DISPOSAL BOUNDARY

FES-04-48

I. Introduction

This document constitutes the Record of Decision (ROD) of the Department of Interior, Bureau of Land Management (BLM), Las Vegas Field Office, Nevada, regarding the preferred alternative for the Las Vegas Valley Disposal Boundary Final Environmental Impact Statement (FEIS). The Las Vegas Field Office plans to dispose of BLM managed land in the Las Vegas Valley, consistent with the Southern Nevada Public Land Management Act of 1998 (SNPLMA), as amended by Title IV of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (Clark County Act). Land disposal and other land uses within the Las Vegas Valley are comprehensively analyzed in the FEIS, filed with the Environmental Protection Agency (FES-04-48) and noticed in the Federal Register on December 17, 2004. The FEIS was prepared pursuant to the Council of Environmental Quality regulations [Code of Federal Regulations (CFR) 1500-1508] for implementing the procedural requirements of the National Environmental Policy Act (NEPA), Department of Interior guidance, and BLM's NEPA Handbook.

The U.S. Air Force, Nellis Air Force Base; U.S. Fish and Wildlife Service, Desert National Wildlife Refuge Complex; Clark County Regional Flood Control District; Clark County Department of Comprehensive Planning; City of Henderson; City of Las Vegas; and City of North Las Vegas were cooperating agencies throughout the NEPA process.

BLM has issued this ROD concurrent with the FEIS as allowed by 40 CFR δ1506.10(b)(2), thus review of the FEIS and the time period to appeal this decision run concurrently. There will be no implementation actions approved during the 30-day concurrent review and appeal period of the FEIS and ROD.

II. BLM's Decision

BLM has decided to select the Conservation Transfer Alternative (CTA) as analyzed in the FEIS as the agency's preferred alternative. The CTA is also the environmentally preferred alternative. Selection of this alternative will allow BLM to dispose of approximately 46,700 acres of lands in the Las Vegas Valley. However, approximately 5,000 acres will be subject to a process of more study, collaboration, further NEPA analysis, as needed, and approval of a conservation agreement, if signed, prior to any transfer of title. Lands would be nominated under SNPLMA; however, any lands in the CTA would be disposed based on restrictions or

mitigation measures determined necessary through the conservation agreement process. It is intended that the boundary of the CTA be adaptable to the needs and concerns of interested parties that participate in the development of the conservation, including community land use planning.

The analysis contained in the FEIS is site specific for all lands falling within a rights-of-way alignment based on 10 acre parcels of BLM land. The analysis assessed impacts to all resources 100 feet inside the boundary and 100 feet outside the boundary of all10 acre parcels, contiguous or not. These impacts are quantified in the FEIS to allow BLM to approve future land use authorizations provided the entire action falls within the site specific areas analyzed in the FEIS. Documentation of actual resources impacts caused by each project would be documented in the project record.

The Hidden Valley grazing allotment boundary will be changed to conform to the SNPLMA disposal boundary, as amended by the Clark County Act and analyzed in the FEIS. BLM consulted, coordinated and cooperated with the current permit holder concerning the adjusted boundary of the Hidden Valley Allotment.

BLM further decides to approve the February 2, 2005 land sale auction to promote responsible and orderly development in the Las Vegas Valley. All lands identified for disposal in the February 2, 2005 sale fall within the site specific areas analyzed in the FEIS. Therefore, no further site specific analysis is required. The sale parcel nominated by the City of North Las Vegas as a part of the February 2, 2005 sale was removed at the request of the City to allow further study of the impacts to the Las Vegas buckwheat habitat which is a major component of the proposed sale parcel. Therefore, the auction will put up only 2,284.57 acres for sale.

All actions authorized in the CTA are in conformance with the Las Vegas Resource Management Plan/Final Environmental Impact Statement (RMP/FEIS) approved October 5, 1998. In addition all actions are consistent with the Federal Land Management and Policy Act (FLPMA), and SNPLMA, as amended.

III. Background

The 1998 Las Vegas RMP/FEIS provides guidance for land disposal actions throughout the area managed by the BLM Las Vegas Field Office. Shortly after approval of the RMP/FEIS, Congress enacted SNPLMA on October 19, 1998. The disposal boundary adopted by Congress is slightly larger than, and supersedes, the disposal boundary identified by BLM in the RMP/FEIS. SNPLMA authorizes BLM to dispose of lands within the boundary of the area under the jurisdiction of the Director of the Bureau of Land Management in Clark County, Nevada, in accordance with the Federal Land Policy Management Act of 1976 (FLPMA) and other applicable law and subject to valid existing rights. SNPLMA does not authorize BLM to transfer title of land if such transfer would not conform to other laws, including, but not limited to, the Endangered Species Act, the Clean Air Act and the Clean Water Act.

On November 6, 2002, Congress enacted an amendment to the SNPLMA disposal boundary to include an additional approximately 22,000 acres for disposal. These additional acres further increase, and supersede, the disposal boundary identified by BLM in the RMP/FEIS. The majority of this land was released from further wilderness consideration by Congress. This EIS was completed to make current BLM's NEPA analysis of SNPLMA land sales and other BLM authorized land uses, and to analyze impacts of disposing and authorizing uses of federal public lands within the new disposal boundary adopted by Congress.

IV. Alternatives Considered

Two action alternatives and the No Action Alternative were evaluated in the FEIS. All alternatives provide for continuation of other land uses such as right-of-way (ROW) grants, Recreation and Public Purpose Act (R&PP) leases, permits, and licenses even if land disposal actions cannot move forward for any reason.

1. Proposed Action: The Proposed Action was developed to analyze the disposal of all remaining BLM managed lands authorized to be disposed in accordance with SNPLMA and development on about half of the lands disposed. All BLM lands within the disposal boundary area would be available for disposal unless the disposal would violate other applicable law, such as the Endangered Species Act, regardless of any impacts to those resources. A review of Master Title Plats maintained by BLM identified 46,701 acres of public land within the disposal boundary area as of March 2004 that would be available for sale or transfer to the holder of a lease issued under the Recreation and Public Purposes Act.

   Under the Proposed Action, BLM would continue to implement realty actions such as issuance of ROW grants, R&PP leases, permits, and licenses. The annual rate of R&PP leases and ROW grants issued was determined by reviewing the number issued since 2001. It was determined that approximately 0.8 percent of available land is leased for R&PP uses and 2.5 percent of land is covered by ROW grants each year.

2. Conservation Transfer Alternative: The CTA was developed to analyze the impacts of selling certain lands only if disposal can occur with protection of sensitive environmental resources and mitigation of significant impacts to those resources. Field surveys were conducted to identify the presence of sensitive biological, cultural, and paleontological resources on BLM lands within the disposal boundary area. The survey results indicated that special status species, cultural resources, natural flood control, and unique paleontological resources are predominantly located in the vicinity of the Upper Las Vegas Wash, which is a natural drainage that could affect development of many acres due primarily to the incised valley floor. The CTA was developed to provide protection and mitigation for these sensitive resources while continuing to dispose of lands as authorized. Currently the CTA contains approximately 5,000 acres of public land that would be available for disposal.

3. No Action Alternative: The No Action Alternative analyzes the continuation of BLM's management of lands as stipulated in the 1998 RMP/FEIS. The RMP/FEIS analyzed the

impacts of disposal and development of approximately half of the acres identified as the Las Vegas Valley Disposal Area in the RMP/FEIS. This is because the RMP/FEIS analyzed only disposal actions considered reasonably foreseeable in 1998. Under the No Action Alternative, no additional lands within the disposal area defined by SNPLMA, as amended, would be sold or transferred during the remainder of the RMP planning period, which continues through 2018.

V. Management Considerations

The preferred alternative achieves the objectives and meets the purpose and need of land disposal in an environmentally sensitive manner. The northern portion of the disposal boundary area and the Upper Las Vegas Wash contain sensitive resources as well as provide open space for public recreation. Many community members are aware of the sensitive resources in the CTA and expressed their concern for the numerous resources located in this unique area. The BLM has a responsibility to ensure valuable resources are protected.

The CTA provides habitat for two particular plants identified as BLM sensitive plant species – the Las Vegas bearpoppy and Las Vegas buckwheat. The bearpoppy is listed as a State of Nevada Critically Endangered Species and the buckwheat was proposed for such listing in October 2004. Field surveys located concentrations of the buckwheat within the CTA and in areas nominated for the February 2005 land sale. Recent scientifiNe19.41 -d Speci415 concer

Approximately 11,251 acres of former WSA lands in the disposal boundary area was released from further wilderness consideration. The Clark County MSHCP identified these

(2) Require holders of all ROW grants, R&PP leases, permits, and licenses that cause any surface disturbance to obtain and comply with storm water construction discharge permits and temporary discharge permits issued by the Nevada Department of Environmental Protection (NDEP). This will include implementing best management practices as defined by NDEP in the permit.

(3) Implement the terms and conditions set forth in the Biological Opinion issued by the USFWS specific to the disposal actions. Lands transferred to private ownership will be subject to the terms and conditions of the Clark County Multiple Species Habitat Conservation Plan (MSHCP).

(4) Bank the soil and collect the seed of the two-toned penstemon prior to land disposal.

(5) Implement seed collection and salvage and relocation of bearpoppy and buckwheat, as deemed appropriate.

(6) Prepare a Historic Properties Treatment Plan in consultation with the State Historic Preservation Officer (SHPO) for the nine sites determined eligible for listing on the National Register of Historic Places and for lands within the boundaries of the Tule Springs National Register Site. Place deed restrictions on the title to lands with these sites, as necessary, to implement the Treatment Plan before or after the land is sold.

(7) Implement specific measures to treat the paleontological resources, including:

(a) Field recovery of exposed resources and associated contextual data identified during the field survey;

(b) Implement data recovery program to identify and permanently preserve the resources including stabilization of large remains and screen washing of fossiliferous sediments to recover microfossil remains;

(c) Conduct scientific analysis of recovered fossils, including interpretation of species abundance, diversity and age;

(d) Preserve and curate recovered significant fossil resources, including all associated contextual data at the Nevada State Museum and/or at a federally recognized, accredited repository with long term retrievable storage; and,

(e) Disseminate information on the resources including publication in professional journals, public presentations, classes, and other forms of outreach and education.

(8) Complete environmental site assessments for hazardous materials on specific parcels as the parcels are nominated for sale.

Specific mitigation measures for the CTA are expected as a result of the development of a conservation agreement. These measures will be defined collaboratively among the BLM, USFWS, NDF, Clark County Department of Air Quality and Environmental Management (representing the MSHCP), and the local governments, with input from members of the mitigation strategy committee. These specific mitigation requirements to protect sensitive resources will be included as a condition of any future land title transfer. The need for future

site-specific environmental impact analysis under NEPA for affected parcels in the CTA to address the mitigation measures developed under a conservation agreement is not precluded. The Notice of Realty Action for future land sales will include the specific mitigation requirements for applicable parcels in the CTA.

VII. Public Involvement and Appeal Rights

The public scoping notice was mailed out on September 23, 2003. Three scoping meetings were held in late September and early October 2003. A sixty day comment period for the Draft EIS began on September 10, 2004 and ended on November 9, 2004 based on the EPA Notice of Availability. The comment period was extended one week for EPA, as well as other interested parties that needed additional time to comment.

BLM conducted a mitigation strategy meeting, November 1, 2004 for the area identified as the CTA because irrespective of the alternative selected, additional mitigation measures would be required for uses and disposal of the lands located in the and around the Upper Las Vegas Wash ecosystem. Based on information of the Las Vegas Buckwheat habitat and individual plant locations, BLM identified the CTA as the preferred alternative. BLM announced the preferred alternative at the November 1, 2004 meeting based on this information, as part of the EIS process. BLM submitted the Federal Register Notice identifying the preferred alternative and determined it would be appropriate to notify those in attendance of this decision.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 and Form 1842-1 (copy can be found at www.nv.blm.gov/lvdiseis). If an appeal is taken, your notice of appeal must be filed in this office, BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV, 89130-2301, within 30 days from EPA's Notice of Availability printed in the Federal Register, as per 40 CFR 1506.10 (b)(2). The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below.

Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

(1) The relative harm to the parties if the stay is granted or denied,

(2) the likelihood of the appellants' success on the merits,

(3) the likelihood of immediate and irreparable harm if the stay is not granted, and

(4) whether the public interest favors granting the stay.

If you appeal this decision your Statement of Reasons must be provided.