

**FINDING OF NO SIGNIFICANT IMPACT
(FONSI)**

LC-06-019-FONSI

**Laughlin Regional Heritage Greenway Trails
North Reach**

U.S. Department of Interior
Bureau of Reclamation
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Based on a thorough review of the comments received and analysis of the environmental impacts presented in the Final Environmental Assessment (EA), Reclamation has determined that the proposed action to construct a system of trails, day-use facilities, and a regional park does not constitute a major Federal action significantly affecting the quality of human environment within the project area. Therefore, an Environmental Impact Statement is not required and Reclamation is issuing this FONSI. Furthermore, based on the EA and this FONSI, Reclamation authorizes the proposed action to be conducted subject to implementation of the mitigation measures mentioned in this FONSI.

This Finding of No Significant Impact has, therefore, been prepared and is submitted to document environmental review and evaluation of the proposed action in compliance with the National Environmental Policy Act of 1969, as amended.

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FINDING OF NO SIGNIFICANT IMPACT

Laughlin Regional Heritage Greenway Trails – North Reach

Summary: Reclamation as lead, with the National Park Service (NPS), and the Bureau of Land Management (BLM), as cooperating agencies, prepared the Environmental Assessment (EA). The EA is to evaluate the potential environmental impacts of a proposal by Clark County to develop Regional Park with a system of trails, a day-use area, a Golf Complex, and associated facilities located mainly on Reclamation lands near the town of Laughlin, Nevada. Laughlin is a fast-growing community that is experiencing growth in its residential and visitor populations. Annual visitation to the greater Laughlin/Bullhead City resort community has reached 5 million visitors per year and the residential population of Laughlin has increased at least 25 percent since 2000. Several sections of federal land border Laughlin, but the majority of this land is not easily accessible to the public. This project proposes to expand recreational use of these lands with a system of pedestrian and equestrian trails, trailheads, day-use areas, interpretive sites, fishing nodes and transportation improvements to facilitate non-motorized access. In addition, this project would remove a paved road and restrict off highway vehicles, re-vegetate riparian areas, protect cultural sites, and provide interpretive information about the natural and cultural history of the area, and protect some of the better habitat as open space.

Reclamation had a park below Davis Dam called the Sports Men Park Campground. When the park closed, Reclamation promised to look at options to reopen the area for public recreation in the future. Reclamation does not directly provide public recreation opportunities itself.

Reclamation does them though partnerships. Public law 89-72 as amended by public law 102-575 authorizes Reclamation to provide public recreation opportunities at all Reclamation projects as a secondary use of project lands and facilities.

The partnership with Clark County will meet the commitment from Reclamation to reopen the area in the future and will provide for enhanced resource protection and management.

Purpose and Need for Proposed Action: The purpose of this project is to diversify public recreation opportunities and protect natural and cultural resources on federal, state, and county lands in the vicinity of Laughlin, Nevada. The project is needed to improve public enjoyment of the recreational lands adjacent to the Colorado River, protect the cultural and natural resource values of these lands, and meet the recreational needs of the growing numbers of visitors and residents in the area.

Alternative Actions: In accordance with National Environmental Policy Act regulations, Reclamation, examined the following alternatives to the proposed action:

- No Action
- Alternative 1 (Trails, Day-Use Area) Trail system, day-use area, regional park and water trail
- Alternative 2 (Trails, Day-Use Area, and Water Trail
- Alternative 3 (Preferred Alternative) (Regional Park, Trails, Day-Use Area)

Reclamation and the cooperating agencies considered a range of actions when developing possible alternatives for the proposed project. The following actions were considered and analyzed, but ultimately dismissed because they did not fully satisfy the objectives of this planning effort and the communities' needs. Some of these alternatives were associated with

security concerns, others were economically infeasible, and others conflicted with environmental concerns.

- Recreational Vehicle Overnight Camping Facility
- Boat Storage and Launching Facility

The Recommended Alternative: The proposed action is to construct a Regional Park and trail system, day-use area, and park for the growing numbers of residents and visitors that come to the Laughlin area each year. The proposed Regional Park, trails, trailheads, day-use area, and golf complex would allow for public recreation on federal land that is currently difficult to access. In addition to constructing these facilities, this project proposes to remove a paved road, re-vegetate with native plants, and provide additional resource protection measures that would eliminate off-road vehicle use and other damaging activities that have adversely affected natural and cultural resources. The project will be constructed in phases as funds are available.

Environmental Impacts: For the Preferred Alternative, Reclamation has determined that both adverse and beneficial impacts would occur. The majority of these impacts are minor and with mitigation measures would not result in significant impacts to the environment or human health and safety. The following adverse and beneficial impacts have been identified:

- **Geology, Soils and Geologic Hazards** – There are no unique or special geologic resources in the area that would be affected by the proposed Regional Park, trail system and Day Use Area. During construction, soils would be subject to short-term, minor to moderate, localized adverse impact that would potentially increase erosion. Increased soil erosion could also cause increased river siltation as soil is washed into adjacent waterways. Overall, there would be short-term, minor adverse impacts to soils caused by construction activities. In the long-term, stabilization of soils in the project area, re-vegetation, and decrease in off-road vehicle use would have a long-term, minor, beneficial effect on soils.
- **Surface Water, Groundwater, and Jurisdictional Waters/Wetlands** – Impacts to surface water and groundwater are most likely to occur during the construction phase of the project. The impacts to surface water under the preferred alternative would be short-term, minor, and adverse. If shallow groundwater were encountered, there would be potential for chemical contamination from construction materials and vehicles. With Best Management Practices (BMPs) for water quality in place during construction, any impact to groundwater would be short-term, minor, and adverse. It is estimated that long-term, minor, adverse impacts to 0.34 acres of jurisdictional ephemeral washes and .69 acres of jurisdictional wetlands would result from the construction of the preferred alternative. In the Day-Use Area, the project is to pump up to 25 acre-feet per year from the mainstream of the Colorado River under Reclamations Colorado River Water entitlement for the proposed water body (lagoon).
- **Vegetation, Wildlife, and Special Status Species** – North Reach portion is within Sections 1 and 12. The removal of vegetation (primarily tamarisk) along the riverbank during construction may have a short-term adverse effect, as it temporarily removes riparian habitat. The area will be re-vegetated after construction is completed with native vegetation. The implementation of the Preferred Alternative would have an overall long-term, moderate, beneficial impact to vegetation and wildlife in the North Reach portion of the project area. No adverse effects are anticipated for special status species in the

North Reach area. No desert tortoises or dens were discovered in Sections 1 and 12 during tortoise surveys.

The development of recreation facilities on Sections 10 and 11 may potentially disturb suitable habitat for bicolored penstemon, a special status plant species, in desert wash areas. Any individual plants discovered during preconstruction surveys would be relocated to a suitable habitat on the project area or appropriate nursery, thus reducing the potential for direct impact. With the construction of the golf course complex within the Regional Park, there would be approximately 235 acres of desert tortoise habitat that would be impacted. The addition of the regional park in Sections 10 and 11 is expected to have a long-term, adverse impact on vegetation and wildlife.

- **Air Quality** – Potential impacts from the Preferred Alternative are expected to be localized in the immediate vicinity of the project area, short-term, minor, and adverse. However, compared with the No-Action Alternative, this alternative would reduce air pollutants in the project area in the long-term by eliminating impacts caused by informal off-road vehicle use and organized off-road vehicle racing. The Preferred Alternative, including the golf course and community facilities, is expected to have long-term, minor, and beneficial impact on air quality.
- **Soundscape** – During construction, the sounds from construction vehicles may raise the noise level in the project area slightly. However, due to the distance of the proposed recreational facilities from the Laughlin population, construction will have a minimal affect on the ambient noise experienced at local businesses and residences. Therefore, construction noise will be short-term, minor, adverse, and localized. The engine noise of boats and personal watercraft may affect individuals utilizing the proposed day-use area and trail system. The additional engine noise from vehicles at the proposed trailheads may likewise adversely affect soundscapes. However, the removal of motorized use (off-road vehicles and an existing paved road) throughout the project area would mean that any increase in engine noise associated with this alternative would be concentrated at the trailheads. In the context of Reclamation and NPS management goals for the project area, the anticipated increase in pedestrian, bicycle, and equestrian traffic would be considered a negligible adverse impact. Overall, the Preferred Alternative would have a long-term, negligible, adverse impact to soundscapes.
- **Cultural Resources** – Construction and use of the proposed trail system and associated recreational facilities will have direct and indirect adverse effects on sites that are eligible for NRHP listing. Direct impacts include those related to construction, road grading and other actions that will occur as the facilities are built. The Davis Dam contractor's camp will be adversely impacted by the proposed project and mitigation measures will be necessary. The penstock fabricating plant will also be adversely impacted by construction of the recreational facilities and impacts must be mitigated. If mitigation measures are completed, impacts to cultural resources would be reduced to acceptable levels. Four historical sites and one prehistoric site would be avoided through project design. The preferred alternative includes the development of a Treatment Plan to mitigate impacts on historic properties.
- **Access and Transportation** – It is anticipated an incremental increase in project-related traffic would not change the current level of service. Construction impacts will be short-term, minor, and adverse. After construction, the proposed trails, day-use area, and

Regional Park will provide Laughlin visitors with additional recreational opportunities that are not expected to affect the existing highway access or transportation routes within the area. The addition of the pedestrian bridge over State Route 163 and trailheads within and south of the project area would greatly facilitate access to the day-use facilities and trails from Laughlin. The Riverwalk would also serve as a continuation of the existing Riverwalk in Laughlin, which would substantially increase the amount of contiguous trails in the area. The impact to access and transportation for pedestrians, equestrians, and other non-motorized users would be long-term, moderate, and beneficial.

- **Land Use and Recreation** – The proposed facilities will provide additional outdoor recreational activities for Laughlin residents and for visitors to the Laughlin area. These opportunities include trails, trailheads, day-use facilities, access to the river for fishing, and interpretive opportunities that would focus on the relationship between the land, the river, and historic use of the area. Many of these facilities meet or exceed what was recommended in the 2004 Master Plan. Construction and use of these facilities would constitute a long-term, moderate, and beneficial impact to the community.
- **Socioeconomic Conditions** – Construction of the proposed recreational facilities associated with the Preferred Alternative would have a long-term, minor to moderate and beneficial effect on the socioeconomic situation of Laughlin residents. By expanding the activities available to visitors, visitation is likely to increase at the Laughlin resorts. In turn, jobs would be created and businesses would increase their revenues.
- **Environmental Justice** – A significant percentage of the largest minority population in the Laughlin area (Hispanic or Latino) are living below the poverty level (44 percent). If the trail and day-use area are constructed, the improved public access and no-fee facilities may provide supplemental recreation opportunities for low-income and minority populations. These facilities are also expected to draw additional visitors and residents to the area, which may provide additional employment opportunities for the minority and low-income populations of Laughlin. This would be a long-term, negligible to minor, beneficial impact.
- **Visual Resources** – Because most of the day-use area and trail system designs would be a part of the natural landscape and would involve plantings of native vegetation and removal of pavement, no adverse impacts to the visual character of this area are anticipated. The visual character of some areas may be improved from existing conditions if the proposed habitat restoration is placed in areas that have previously been cleared of natural vegetation, or contain non-native plants. This would be a long-term, negligible, beneficial impact. Placement of the pedestrian bridge would constitute a long-term, localized, minor, adverse impact.
- **Odor** – The equestrian trailhead may be a source of odor from stock-related odors such as hay and other feed, leather, droppings and the animals themselves. Droppings along the trails will emit odor and are expected to dry quickly in the desert climate. It is anticipated that some recreational users and the equestrian users in particular, consider these odors a part of the western outdoor landscape, while others may find them disagreeable. This impact is considered long term, minor to moderate at times, and adverse. Also, odors may be noticeable at the Regional Park because the treatment facility is nearby. This could deter some individuals from using it and would constitute a long-term, minor, and localized adverse effect.

Public Involvement, Consultation, and Coordination

The project proposal was provided to the public and other agencies for comment during a 30 day scoping and comment period from July 2, 2006 through August 13, 2006. As part of the public involvement process, a Legal Notice was posted inviting public comment on July 2, 2006, in the newspaper of record, the Mohave Daily News. A copy of the meeting notice was posted at the Laughlin Town Manager's offices. The public was invited to comment via email, mail, comment form, and orally.

During this public comment period, a scoping meeting was held in Laughlin on July 13, 2006 to inform the public of this potential undertaking and to solicit public comments, questions, and concerns. At this meeting, comments, questions and concerns were received.

Draft EA Review

The Draft EA was provided to the public and other agencies for comment during a 30-day comment period from December 1, 2006 through December 30, 2006. In addition as part of the public involvement process, the agency prepared and published a Legal Notice inviting public comment on December 1, 2006 in the newspaper of record, the Mohave Daily News. A copy of the meeting notice was posted at the Laughlin Town Manager's offices. The public was invited to comment via email, mail, comment form, and orally.

During this public comment period, a Draft EA public meeting was held in Laughlin on December 15, 2006 to solicit public comment regarding the document.

A total of 11 comments were recorded from oral comments received during the Draft EA public meeting or on comment forms. No email or mail-in comments were received.

Mitigation Measure

The following mitigation measures required to reduce impacts to insignificant levels.

General Considerations

1. Subject to the conditions and stipulations agreed to in the Biological Opinion (BO) and Finding of No Significant Impact (FONSI) by Reclamation, Reclamation will enter into an agreement with Clark County, which will allow Clark County to develop the Trails and Regional Park that includes a golf complex on federal land. The land use agreement will include and incorporate the BO and FONSI as part of the agreement, and will require Clark County to complete or pay for the compliance of all mitigation measures in the BO and FONSI under the guidance of Reclamation.
2. Ensure that the project remains confined within the parameters established in the compliance documents and that mitigation measures would be properly implemented.
3. Construction zones would be identified and flagged before beginning the construction work and all disturbances would be confined to the flagged areas. All project personnel would be instructed that their activities must be confined to locations within flagged areas and all equipment and materials must remain within these areas. Disturbance beyond the

- actual construction zone would be prohibited. This does not exclude necessary temporary structures such as erosion-control fencing.
4. All tools, equipment, barricades, signs, surplus materials, and rubbish would be removed from the project work limits upon project completion. Any asphalt or concrete surfaces damaged due to work on the project would be repaired to original condition. All demolition debris would be removed from the project site, including all visible concrete and metal pieces. All debris will be placed within an existing landfill approved by Reclamation.
 5. (BMPs) to reduce spills would be utilized during refueling and other activities that may release petroleum products into the environment.
 6. A hazardous spill plan would be in place, stating what actions would be taken in the case of a spill and preventive measures to be implemented such as the placement of refueling facilities, storage, and handling of hazardous materials, etc.
 7. All fuel, transmission, or brake fluid leaks, or other hazardous waste leaks, spills, or releases would be reported immediately to the designated Environmental Manager. The Environmental Manager would be responsible for spill material removal and disposal to an approved offsite landfill and, if necessary, would notify Mr. Jeff Smith with the Bureau of Reclamation at 702-293-8060, or Ms. Nancy Rolfe at 702-293-8382.
 8. All equipment on the project would be maintained in a clean and well-functioning state to avoid or minimize contamination from automotive fluids; all equipment would be checked daily.
 9. Staging for construction vehicles and equipment would be located in previously disturbed area, outside of high visitor use areas, would be clearly identified in advance, and would be approved by Reclamation.
 10. Impacts and potential compaction and erosion of bare soils would be minimized in all disturbed areas by salvaging the top 4 inches of topsoil before construction begins, storing that topsoil in a designated area with construction fence around it, and then placing the salvaged topsoil on restoration areas. After topsoil is replaced, it would be given a fine spray of water to help settle the soil and uncover rock in the soil, and bring up the soil fines to create a crust to help prevent wind and water erosion. The salvaged material may be windrowed as well to assist with erosion prevention. Only soils known to be free of weeds and invasive species would be used during restoration.
 11. No vehicle or equipment tracks would be allowed to remain after construction is complete. At a minimum, all disturbed areas would be raked out prior to water sprinkling to reduce the appearance of vehicle tracks and discourage future re-disturbance.

Water Quality

1. BMPs for drainage and sediment control would be implemented to prevent or reduce nonpoint source pollution and minimize soil loss and sedimentation in drainage areas. Use of BMPs in the project area for drainage area protection would include all or some of the following actions, depending on site-specific requirements:

2. Keep disturbed areas as small as practical to minimize exposed soil and the potential for erosion.
3. Locate waste and excess excavated materials outside drainages to avoid sedimentation.
4. Install silt fences, temporary earthen berms, temporary water bars, sediment traps, stone check dams, or other equivalent measures (including installing erosion-control measures around the perimeter of stockpiled fill material) as necessary, prior to construction.
5. Conduct regular site inspections during the construction period to ensure that erosion-control measures were properly installed and are functioning effectively.
6. Store, use, and dispose chemicals, fuels, and other toxic materials in an appropriate manner.
7. Re-vegetate disturbed areas as soon as possible after construction is completed.

Flooding

Construct stormwater control facilities

Filing Jurisdictional Waters

1. Comply with all mitigation measures mentioned in the Army Corps of Engineer Permit.
2. Re-vegetation of all disturbed sites using native plants.
3. BMP's to prevent or reduce non-point source pollution and minimize soil loss and sedimentation into wetlands associated with the proposed lagoon and other shoreline features would include all or some of the following actions, depending on site-specific requirements:
 - a. Keep disturbed areas as small as practical to minimize exposed soil and the potential for erosion.
 - b. Locate waste and excess excavated materials outside drainages to avoid sedimentation.
 - c. Install silt fences, temporary earthen berms, temporary water bars, sediment traps, stone check dams, or other equivalent measures (including installing erosion-control measures around the perimeter of stockpiled fill material) as necessary, prior to construction.
 - d. Conduct regular site inspections during the construction period to ensure that erosion-control measures were properly installed and are functioning effectively.

- e. Store, use, and dispose chemicals, fuels, and other toxic materials in an appropriate manner.
- f. Re-vegetate disturbed areas as soon as possible after construction is completed.

Desert Tortoise (*Gopherus agassizii*)

I. Amount of Take

Based on the analysis of effects provided above, measures proposed by Reclamation, and anticipated project duration; the Service anticipates that the following take could occur as a result of the proposed action:

1. The Service estimates that no more than one desert tortoise would be killed or injured as a result of the proposed project including visitor use after construction is completed.
2. All desert tortoises located in harms way in work areas may be captured and moved by an authorized biologist. Based on the timing and duration of the project and desert tortoise survey data, the Service estimates that no more than two desert tortoises will be taken (i.e. other than killed or injured) as a result of project activities.
3. No desert tortoise eggs may be destroyed during project activities, although an unknown number of tortoise eggs may be affected (i.e. moved off the action area into undisturbed habitat by the authorized biologist).
4. An unknown number of desert tortoises may be preyed upon by ravens or other subsidized desert tortoise predators drawn to trash in the project area.

II. Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species.

III. Reasonable and Prudent Measures

The Service believes that the following reasonable and prudent measures are necessary and appropriate to minimize take of desert tortoise:

1. Reclamation shall ensure that Clark County implement measures to minimize injury or mortality of desert tortoises as a result of project activities.
2. Reclamation shall ensure that Clark County implement measures to minimize predation on desert tortoises by predators drawn to the project area.
3. Reclamation shall ensure that Clark County implement measures to minimize destruction of desert tortoise habitat, such as soil compaction, erosion, introduction of non-native invasive

plants, or crushed vegetation, due to project activities.

4. Reclamation shall ensure that Clark County implement measures to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements in this biological opinion.

IV. Terms and Conditions

In order to be exempt from the prohibitions of Section 9 of the Act, Reclamation will ensure that Clark County must fully comply with the following terms and conditions, which implement the reasonable and prudent measures described above.

1. To implement Reasonable and Prudent Measure Number 1, Reclamation shall ensure that Clark County implement the following measures to minimize mortality or injury of the desert tortoise:
 - a. Reclamation shall ensure that Clark County obtain an authorized desert tortoise biologist is on-site during construction activities, with exception of work activities in the proposed day-use area, river walk trail, and any other areas in Sections 1 and 12 that do not have desert tortoise habitat, for the duration of the project. In accordance with Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise (Service 1992), an authorized desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields as determined by the Service. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign, which should include a minimum of 60 days field experience. All tortoise biologists shall comply with the Service approved handling protocol (DTC 1994, revised 1999). In addition, the biologist shall have the ability to recognize and accurately record survey results and must be familiar with the terms and conditions of the biological opinion. Potential biologists and monitors shall submit a resume to Reclamation for review and approval.
 - b. A desert tortoise education program shall be presented to all personnel onsite during construction of the proposed project. The program will include information on the biology and distribution of the desert tortoise, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties, the measures designed to minimize the effects of construction activities, methods employees can use to implement the measures, and reporting procedures to be used when desert tortoises are encountered. The program shall instruct participants to report all observations of listed species and their sign during construction activities to the authorized biologist. Personnel also will be instructed to check under vehicles before moving them as tortoises often seek shelter under parked vehicles.
 - c. All areas to be disturbed shall have boundaries flagged before beginning the activity and all disturbances shall be confined to the flagged areas. All project personnel will be instructed that their activities must be confined to locations within flagged areas. Disturbance beyond the actual construction zone will be prohibited.

- d. The project area, with the exception of the proposed day-use area, river walk trail, and any other areas that do not have desert tortoise habitat, shall be surveyed by an authorized biologist for desert tortoises and their burrows immediately prior (within 24 hours) to the onset of construction. The surveys will provide 100 percent coverage of the project construction area. All potential tortoise burrows will be identified and flagged for avoidance or excavation. All desert tortoise surveys, handling of desert tortoises, and burrow excavation will be performed only by an authorized biologist.
- e. Special precautions shall be taken to ensure that desert tortoises are not harmed as a result of their capture and movement during extreme temperatures (i.e. air temperatures below 55 F or above 95 F). Under such adverse conditions, tortoises captured will be monitored continually by an authorized biologist until the tortoise exhibits normal behavior. If a desert tortoise shows signs of heat stress, procedures will be implemented as identified in Service approved protocols (Desert Tortoise Council 1994, revised 1999).
- f. All burrows located within areas proposed for disturbance, whether occupied or vacant, shall be excavated by a qualified biologist and collapsed or blocked to prevent desert tortoise re-entry. All burrows will be excavated with hand tools to allow removal of desert tortoises or desert tortoise eggs. All desert tortoise handling and excavations, including nests will be conducted by a qualified desert tortoise biologist in accordance with Service approved protocol (Desert Tortoise Council 1994, revised 1999).
- g. All located desert tortoises and desert tortoise eggs shall be relocated offsite into undisturbed habitat. Reclamation will work with the Service to identify an appropriate site north of Highway 163.
- h. The onsite biologist shall record each observed or handled desert tortoise. Information will include the following: Location, date and time of observation, whether the tortoise was handled, general health and whether it voided its bladder, location tortoise was moved from and location moved to, and unique physical characteristics of each tortoise.
- i. Project activities that may endanger a tortoise shall cease if a tortoise is found on a project site. Project activities will resume after the qualified biologist removes the tortoise from danger or after the tortoise has moved to a safe area.
- j. A speed limit of 25 miles per hour shall be maintained while on the construction site, access roads, and storage areas. This effort will reduce dust and allow a safe speed at which personnel can observe desert tortoises in the road.
- k. Any pipe, culverts, or similar structures with a diameter greater than 3 inches that are stored on the construction site (within desert tortoise habitat), for one or more nights, shall be inspected for tortoises before the material is moved, buried or capped. As an alternative, all such structures may be capped before being stored on the construction site.

1. During the period of highest tortoise activity (approximately March 1 through October 31), all trenches and other excavations with side slopes steeper than a 1 ft rise to 3 ft length, shall be immediately backfilled prior to being left unattended, or: (1) fenced with tortoise proof fencing, (2) covered with tortoise proof fencing, (3) covered with plywood or a similarly impassable material, or (4) constructed with escape ramps at each end of the trench and every 1,000 ft in between (at a minimum). All coverings and fences will have zero ground clearance. If alternative (4) is selected, the trench or other excavation will be inspected periodically and following periods of substantial rainfall to ensure structural integrity and that escape ramps are functional. An open trench or other excavation will be inspected for entrapped animals immediately prior to backfilling. If, at any time, a tortoise is discovered within a trench, all activity associated with that trench will cease until an authorized biologist has removed the tortoise in accordance with Service approved guidelines (Desert Tortoise Council 1994, revised 1999).
2. To implement Reasonable and Prudent Measure Number 2, Reclamation, shall ensure that Clark County implement the following measures to minimize predation on tortoises by ravens or other desert tortoise predators attracted to the project area:

Trash and food items shall be disposed properly in predator-proof containers with resealing lids. Trash containers will be emptied and waste will be removed from the project area daily. Trash removal reduces the attractiveness of the area to opportunistic predator such as desert kit fox, coyotes, and common ravens.
3. To implement Reasonable and Prudent Measure Number 3, Reclamation, shall ensure that Clark County implement the following measures to minimize loss and long-term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, crushed vegetation, introduction of weeds or contaminants as a result of construction activities:
 - a. Where feasible, disturbance shall be avoided by moving the trail footprint around sensitive areas. If disturbance is unavoidable, Reclamation, will, if possible, either minimize the area of disturbance or replace affected vegetation in-kind onsite.
 - b. All construction, operation and maintenance activities shall be conducted in a manner that minimizes disturbance to vegetation and drainage channels.
 - c. Cross-country travel and travel outside construction zones shall be prohibited.
 - d. Prior to surface disturbing activities associated with the proposed project, Reclamation shall ensure payment by the project proponent of remuneration fees to be deposited into the Desert Tortoise Public Lands Conservation Fund (account number 730-9999-2315) (section 7 Account) for compensation of desert tortoise habitat loss.
 - e. The proposed project will disturb 235 acres of desert tortoise habitat on federal lands. The compensation rate for disturbance to desert tortoise habitat in project area is \$723 per acre. These fees will be indexed for inflation and will be adjusted accordingly for the year the fees paid. Fees for disturbance of federal lands are paid into the Clark County Section 7 account. The next rate adjustment will occur on March 1, 2008. If

paid prior to March 1, 2008, the total section 7 fees due for disturbance of federal lands would be \$169,905. The Section 7 payments shall be accompanied by the Section 7 Fee Payment Form, and completed by the payee. The project proponent or applicant may receive credit for payment of such fees and deduct such costs from desert tortoise impact fees charged by local government entities. Payment shall be by certified check or money order payable to Clark County and delivered to:

Clark County Desert Conservation Program
c/o Dept. of Air Quality and Environmental Management
Clark County Government Center
500 S. Grand Central Parkway, first floor (front counter)
Las Vegas, Nevada 89106
(702) 455-5821

4. To implement Reasonable and Prudent Measure Number 4, Reclamation shall ensure that Clark County implement the following measures to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirement, and reinitiation requirements contained in this biological opinion:
 - a. Reclamation shall designate an authorized desert tortoise biologist who will be responsible for overseeing compliance with protective stipulations for the desert tortoise and coordinating with the Service. The authorized biologist shall have the authority to halt activities that may be in violation of the stipulations.
 - b. The Authorized biologist shall record each observation of desert tortoise handled. Information shall include the following: Location, date and time of observation; whether tortoise was handled, general health and whether it voided its bladder; location tortoise was moved from and location moved to; and unique physical characteristics of each tortoise. A final report shall be submitted to the Service's Southern Nevada Field Office in Las Vegas, Nevada, within 90 days of completion of the project.

V. Conclusion

The Service estimates that no more than one desert tortoise would be killed or injured as a result of the proposed project including visitor use after construction is completed. The Service also estimates that no more than two tortoises may be taken by capture and moved out of harms way during the project; an unknown number of desert tortoises are anticipated to be taken in the form of indirect mortality through predation by ravens drawn to the project area; and no desert tortoise eggs may be destroyed during project activities, although an unknown number of tortoise eggs may be affected (i.e. moved off the action area into undisturbed habitat by the authorized biologist).

In addition, up to 235 acres of low-density desert tortoise habitat may be lost as a result of project activities. The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize the impact of incidental take that might otherwise result from the proposed action. If, during the course of the action, the level of incidental take or loss of habitat identified is exceeded, such incidental take and habitat loss represents new information requiring reinitiation of

consultation and review of the reasonable and prudent measures provided. Reclamation must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measures.

VI. Reporting Requirements

Upon locating a dead or injured, endangered or threatened species, initial notification must be made to the Service's Southern Nevada Field Office in Las Vegas, Nevada, at (702)515-5230. Care should be taken in handling sick or injured desert tortoises to ensure effective treatment; care should be taken for the handling of dead specimens to preserve biological material in the best possible state for later analysis of cause of death. In conjunction with the care of injured desert tortoises or preservation of biological materials from a dead animal, the finder has the responsibility to carry out instructions provided by the Service to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed. All deaths, injuries, and illnesses of desert tortoises, whether associated with project activities or not, will be summarized in an annual report.

The following actions should be taken for injured or dead tortoises if directed by the Service:

1. Injured desert tortoises shall be delivered to any qualified veterinarian for appropriate treatment or disposal.
2. Dead desert tortoises suitable for preparation as museum specimens shall be frozen immediately and provided to an institution holding appropriate Federal and State permits per their instructions.
3. Should no institutions want the desert tortoise specimens, or if it is determined that they are too damaged (crushed, spoiled, etc.) for preparation as a museum specimen, then they may be buried away from the project area or cremated, upon authorization by the Service.
4. Reclamation or the project proponent shall bear the cost of any required treatment of injured desert tortoises or cremation of dead desert tortoises.
5. Should injured desert tortoises be treated by a veterinarian and survive, they may be transferred as directed by the Service.

Migratory Bird Act of 1918

1. In compliance with the Migratory Bird Act of 1918, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the breeding season generally occurs between March 15 and July 30.
2. For work occurring during the nesting period, a qualified biologist will survey the area for nests within 15 days prior to initial grading and vegetation removal. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, a 500-foot buffer area would be avoided until the young birds fledge.

Southwestern Willow Flycatcher

1. Existing healthy riparian vegetation and mature trees present in the Sportsmen's Park area would be protected from construction disturbance.
2. Vegetation clearing activities associated with riparian habitat adjacent to the Colorado River would occur outside the Southwestern Willow Flycatcher breeding season. The Flycatcher's breeding season is May through August.
3. Surveys for the Southwestern Willow Flycatcher would be conducted by a qualified biologist one to three days prior to the removal of riparian vegetation. If nesting Flycatchers were detected in the action area, work activities would temporarily stop until the chicks have fledged.

Bonytail chub and Razorback sucker

Construction-generated runoff or silt from vegetation removal could affect Bonytail chub and Razorback sucker populations in the river segment adjacent to the project and downstream unless mitigated. Other potential affects include the increase in access and use of the river for recreation, and thus direct disturbance to the chub and sucker. Reclamation proposes the following minimization measures for the Bonytail chub and Razorback sucker:

1. During construction, keep disturbed areas as small as practical to minimize exposed soil and the potential for erosion.
2. Locate and properly dispose of waste and excess excavated materials outside wash drainages to avoid sedimentation.
3. Install silt fences, temporary earthen berms, temporary water bars, sediment traps, stone check dams, or other equivalent measures (including installing erosion-control measures around the perimeter of stockpiled fill material) as necessary, prior to construction.
4. Conduct regular site inspections during the construction period to ensure that erosion-control measures were properly installed and are functioning effectively.
5. Store, use, and dispose chemicals, fuels, and other toxic materials in an appropriate manner.
6. Vegetation removal along the riparian habitat adjacent to the Colorado River would be scheduled to occur between October and April to the greatest extent practicable to avoid late summer thunderstorm/flood events, and minimize the potential for work activities to result in runoff to the river. Alternatively, if vegetation removal is conducted between October and April, sedimentation barriers would be used between the work site and the Colorado River to minimize runoff to the river. Native vegetation would be planted in disturbed areas as soon as possible after construction is completed.

7. No construction below the ordinary high water line during the spawning season of each species (January -June).
8. If the Lagoon is connected to the river then nets would be used as barriers between the construction site and the Colorado River. These nets would remain in place for the duration of construction work adjacent to the river occurring in the vicinity of the day-use area.
9. All vehicles, fuels, and other hazardous materials would be stored away from the Colorado River in such a way that any spills of toxic materials would not drain into the river.
10. Equipment for dredging, placement of substrate materials, or other construction activities would be in good condition with no significant leaks of fuel or other substances that could be toxic to fish.
11. Washing of equipment would not be conducted where wash water could drain into the river. This is especially important for equipment involved with pouring concrete. Washing stations would be set back away from the river and suitably diked to prevent runoff.
12. Materials to absorb small spills of toxic materials would be available on site.
13. Two interpretive panels would be placed near fishing piers and along the river walk trail. The interpretive panels would include the description of the Bonytail chub and Razorback sucker, the reasons why these species are federally endangered, and how the public can help protect these species.

Noxious Weeds

1. Re-vegetation work would require the contractor to place desert soil, conserved during construction, along the corridor. The contractor would be responsible for collecting seeds of native species in the project area for propagation purposes. The propagated plants can then potentially be used to re-vegetate disturbed areas.
2. When necessary, desert soil replacement techniques would be used to re-establish desert crust surfaces and minimize impacts from invasive plant species that often become established in disturbed soils along the roadway.
3. Reclaimed areas would be monitored after construction to determine if Reclamation efforts are successful or if additional remedial actions are necessary. Remedial actions could include installation of erosion-control structures and controlling nonnative plant species.

Particulate Matter

Application of water to construction areas to control dust and particulates.

Dust

Construction activities would be coupled with water sprinkling or a palliative, as needed, to reduce fugitive dust plumes.

Emissions

Idling of construction vehicles would be limited to reduce construction equipment emissions.

Cultural Resources

1. Archaeological and historical period sites.
 - a. Data recovery at two known historical sites affected by the proposed project. Interpretive information and monitoring after construction to assess visitor impacts.
 - b. A Memorandum of Agreement for the recovery of significant information from sites 26CK6658 and 25CK6650 and the avoidance of sites 26CK6922B, 26CK6922D, and 26CK6922E will be executed between Reclamation, the Nevada State Historic Preservation Officer, the Advisory Council on Historical Preservation, Clark County, and other parties, agreeing to develop and implement a treatment plan for these historic properties. All fieldwork will be completed to Reclamation's satisfaction, prior to any ground disturbing actions around any known cultural sites.
 - c. Should unknown archeological resources be uncovered during construction, work would be halted in the discovery area, the site secured, and Reclamation would consult according to 36 CFR 800.13 and, as appropriate, provisions of the Native American Graves Protection and Repatriation Act of 1990. In compliance with the Native American Graves Protection and Repatriation Act of 1990, Reclamation would also notify and consult representatives of American Indian tribes, likely to be culturally affiliated, for the proper treatment of human remains, funerary, and sacred objects should these be discovered during the project.
 - d. Construction crews should be educated regarding procedures if subsurface cultural resources are encountered during construction.
2. Native American Religious Concerns

Consult with the appropriate Native American tribes who have religious and cultural ties to sites within the project area.

Soundscape

1. Construction activities will take place during daylight working hours. Contractors would be required to properly maintain construction equipment (i.e., mufflers) to minimize noise.
2. Restrict boat and personal watercraft access in vicinity of lagoon and fishing nodes.