

*Chapter 6.
Compliance, Consultation, and
Coordination with Others*



Wildflowers on Gass Peak at Desert National Wildlife Refuge

Chapter 6. Compliance, Consultation, and Coordination with Others

This chapter describes the efforts taken to ensure compliance with applicable laws, regulations, and federal guidance and to consult and coordinate with appropriate entities throughout the Comprehensive Conservation Plan (CCP) development process.

6.1 Compliance

The Environmental Impact Statement (EIS) is being prepared in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 United States Code [USC] 4321 et seq.) and Council on Environmental Quality (CEQ) Regulations Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] 1500–1508). The EIS scoping process was developed in accordance with the CEQ guidance for scoping under NEPA. Implementation of a CCP for the four refuges in the Desert National Wildlife Refuge Complex (Desert Complex) will require the U.S. Fish and Wildlife Service (Service) to comply with a variety of laws, Executive Orders (EOs), regulations, and other guidance pertinent to federal actions. A list of applicable regulations is provided in Appendix E.

6.2 Required Permits or Approvals

Prior to implementation of the various management actions, the Service may be required to obtain local, state, or federal permits or approvals. Typical permits or approvals that may be required include:

- Service—Ecological Services – Project level internal Section 7 consultations, as appropriate under the authorities of the Endangered Species Act (ESA), prior to the implementation of any actions that may affect federally listed endangered or threatened species.
- U.S. Army Corps of Engineers – Clean Water Act Section 404 Permits for wetland restoration projects or other actions that could discharge dredged or fill material into waters of the U.S.
- Nevada State Historic Preservation Office – Section 106 consultations under the authorities of the National Historic Preservation Act for any actions that may affect historic properties or cultural resources associated with listed properties (or those eligible for listing) on the National Register of Historic Places.
- Nevada Division of Environmental Protection – Construction Stormwater Permit for construction activities disturbing more than 1 acre; Section 401 Water Quality Certification or Waiver for projects requiring a Section 404 permit; and Air Quality Permits for various project types that result in emissions.

- Nevada Department of Transportation – Encroachment Permit for activities within state or U.S. highway rights-of-way; Sign Permit for directional signs within state or U.S. highway rights-of-way.
- State of Nevada – Air Quality Permits for ground-disturbance; Burn Permits for prescribed burns; Scientific Collection/Possession/Banding of Wildlife Permit; Conditional Permit for Disturbance or Destruction of Critically Endangered Species.
- Clark, Lincoln, and Nye Counties – Encroachment Permits for projects that encroach on county rights-of-way; Grading Permits for grading activities for facility construction.
- Clark County Department of Air Quality and Environmental Management – Dust Control Permits for construction activities in Clark County.

6.3 Consultation and Coordination with Others

6.3.1 Public Outreach

Federal Register Notices

The Service published a Notice of Intent (NOI) to prepare an EIS for the Desert Complex in the Federal Register on August 21, 2002. The NOI stated that the CCP/EIS process would help to identify potential issues, management actions, and concerns; significant problems or impacts; and opportunities to resolve them. The NOI also provided dates, times, and locations for the public scoping meetings. In addition, a public notice was published in the *Las Vegas Review Journal* on September 15, 2002, to announce the public scoping meetings and the initiation of the planning process for development of a CCP and preparation of an EIS for the Desert Complex.

Planning Updates

Planning updates were published to provide an update to the public on the status of the CCP process. Updates were made available to download from the Desert Complex Web site at <http://www.fws.gov/desertcomplex/ccp.htm>. The updates were published when certain milestones were achieved during the process.

The first planning update was made available in fall of 2002 to provide the public with background information on the refuges and CCP process and invite them to attend the public scoping meetings. It was mailed to 350 public citizens on September 3 and 4, 2002. The second planning update was made available in winter 2003 and provided a summary of the results of the public scoping meetings and a list of refuge activities occurring in 2003. This update was mailed out to interested members of the public in late February 2003. The third planning update was published in January 2007 to provide an update on the process and announce the preparation of a separate Environmental Assessment for the Desert National Wildlife Refuge (NWR) visitor center. A planning update will also be distributed prior to release of the public Draft EIS/CCP to inform the public of the anticipated release date and upcoming public meetings.

Public Scoping Meetings

Throughout the planning process, the public was invited to attend meetings, open houses, and workshops. The Draft EIS will be available to the public for a specified length of time (between 45 and 90 days) to allow interested individuals to comment on the document.

Prior to preparation of the EIS and CCP, a 60-day public comment period was initiated beginning August 21 and ending October 19, 2002, to identify issues important to the public. A news release was issued on September 4, 2002, to provide the public with information on the CCP. On September 15, 2002, a public notice was printed in the *Las Vegas Review Journal* with information on the dates and locations of the public scoping meetings. These meetings allowed the Service to provide the public with information on the CCP process and the refuges and allowed the public to provide input on the process and important resources or issues that should be addressed in the EIS. Five public meetings were held in 2002 in southern Nevada to solicit input from the public:

- September 16, 2002, 7–9 p.m., Moapa Community Center, Moapa Valley, Nevada
- September 17, 2002, 7–9 p.m., U.S. Fish and Wildlife Service Office, Las Vegas, Nevada
- September 18, 2002, 4–6 p.m. Amargosa Valley Multi-Purpose Building, Amargosa Valley, Nevada
- September 18, 2002, 7–9 p.m., Bob Ruud Community Center, Pahrump, Nevada
- September 19, 2002, 7–9 p.m., Alamo Annex Building, Alamo, Nevada

The public scoping meetings started with a presentation by the Service and their consultant. The presentation discussed the Service's role in the planning process, provided a description of the Desert Complex, and explained the CCP/EIS process. An open forum followed the presentation, allowing the public to ask questions and voice comments and concerns. Public comment forms were made available, and the public was urged to complete them and return them to the Service. Attendance at the five scoping meetings included members from the public and local, state, and federal agencies.

More than 400 comments were solicited from 53 members of the public during the public meetings. All attendees were asked to sign in upon entering the meeting and were provided a packet of information that included an agenda, information on each refuge, and a blank comment sheet for written comments. A public scoping report was prepared following the meetings to describe the methodology used to solicit and analyze input and to provide a summary of the results of the meetings. This report is available on the Desert Complex Web site at <http://www.fws.gov/desertcomplex/ccp.htm>.

6.3.2 Agency Coordination

The Service coordinated with several agencies to receive input on important resources that would need to be analyzed in the EIS. Two letters were mailed to federal, state, and local agencies having responsibility for, or special interest in, refuge resources and/or land use management strategies. The first letter was a notice of the Service's intention to prepare the CCP/EIS. The second letter was an invitation to the interagency scoping meeting, which was held on August 28, 2002, at the Service office in Las Vegas, Nevada. The interagency scoping meeting identified issues for each refuge as well as issues that encompass all four refuges. An additional meeting was held with staff members of the Nevada Department of Wildlife (NDOW) on September 23, 2002, at their headquarters in Reno, Nevada. The purpose of this meeting was to discuss coordination during the planning process and other topics relative to the Service's CCP efforts in Nevada.

An Interdisciplinary Team was formed among the lead and cooperating agencies, the project proponents, and the EIS preparers. The team met periodically to discuss the EIS, review interim work products, and provide guidance and direction for preparing the EIS. The team was formed with individuals from the following entities:

- U.S. Fish and Wildlife Service
- U.S. Air Force, Nellis Air Force Base
- Nevada Department of Wildlife, Las Vegas, Nevada

Members of the extended planning team, which provided input on the scope of the EIS and issues to be addressed, met periodically throughout the process. The planning team includes individuals from the following entities:

- U.S. National Park Service, Death Valley National Park
- U.S. National Park Service, Lake Mead National Recreation Area
- U.S. Bureau of Land Management, Region Three, Las Vegas, Nevada
- U.S. Department of Energy, Las Vegas, Nevada
- U.S. Forest Service, Spring Mountains National Recreation Area
- U.S. Department of Transportation, Federal Highway Administration, Central Federal Lands Division
- Nevada Division of Forestry, Las Vegas, Nevada
- Nevada State Historic Preservation Office
- Clark County Desert Conservation Program
- Clark County Federal Lands Program
- Lincoln County Commission
- Nye County
- Southern Nevada Water Authority
- City of Las Vegas
- City of North Las Vegas

6.3.3 Tribal Consultation/Coordination

Under the auspices of various federal laws and other legislation, the Service, as with all other federal agencies, is mandated to consult with affiliated Native American tribes to assure that Native American tribal governments and organizations whose interests might be affected have a sufficient opportunity for productive participation in planning and resource management decision-making. The development of the Desert Complex CCP and EIS provides an excellent opportunity for the Service to promote cooperation and participation by their Native American neighbors and thus strengthen their government-to-government relationships with the affiliated tribes.

A Native American Tribal Consultation Plan was developed in August 2000 to identify strategies that would allow more in-depth opportunities for participation of interested affiliated tribes in the planning process and during the reviewing and commenting periods for the CCP and EIS. The goals of the Native American Tribal Consultation Plan are to:

- Inform and educate interested affiliated Native American tribes about the CCP and the EIS process by providing clear, easily understood, factual information;
- Invite as many interested affiliated tribes as possible to participate in both the comprehensive conversation planning and environmental review processes;
- Provide meaningful and timely opportunities for tribal input;
- Identify key resource and land use issues relative to each refuge;
- Identify and eliminate from detailed study the cultural issues that are not significant;
- Consider and evaluate issues raised by interested affiliated tribes to assist in the preparation of the CCP;
- Consider tribal comments throughout the decision-making and review process; and
- Strengthen the government-to-government relationships between the Service and the affiliated tribes.

Tribal contact during the planning process has included the mailing of an initial consultation letter on June 26, 2002, which briefly discussed the Desert Complex CCP and EIS and invited the affiliated tribes to participate in the development process. This letter was mailed out to the Las Vegas Paiute Tribe, Pahrump Band of Paiutes, Big Pine Band of Owens Valley Paiute-Shoshone Indians, Bishop Paiute Tribe, Yomba Shoshone Tribe, Kaibab Paiute Tribe, Fort Mojave Tribe, Colorado River Indian Tribes, Timbisha Shoshone Tribe, Paiute-Shoshone Indians of the Lone Pine Community, Las Vegas Indian Center, Duckwater Shoshone-Paiute Tribe, Benton Paiute Indian Tribe, Chemehuevi Indian Tribe, Ely Shoshone Tribe, Moapa Paiute Tribe, Paiute Indian Tribes of Utah, and the Fort Independence Indian Community. Follow-up telephone calls were also made to all of the tribal representatives.

Following the consultation letter of June 26, 2002, the Service scheduled two public information/scoping meetings: one between November and December 2002 and the other between February and March 2003. Invitations were mailed out in September for the first public scoping meeting. The tribal governments responded by requesting separate meetings outside of the scheduled general public scoping meetings. The first of these meetings was held on January 29 and 30, 2003. The primary purpose of the first Native American Tribal Scoping Meeting, as well as individual presentations at tribal council meetings, was to 1) inform the affiliated tribes about the CCP/EIS process, 2) present options to the affiliated tribes regarding opportunities for participating in the process, and 3) scope out issues relative to refuge management actions and cultural resources protection and interpretation. The meetings also included a field trip to Corn Creek Field Station, where the inventory and testing work at Corn Creek was discussed.

A second tribal consultation meeting was held on May 8, 2003, as part of the annual Consolidated Group of Tribes and Organizations (CGTO) meeting sponsored by Nellis Air Force Base and Nevada Test and Training Range (NTTR). The primary purpose of the second meeting was to inform the affiliated tribes about the progress of the CCP/EIS process and other cultural resource conservation efforts and to encourage comments from tribal participants on the Draft CCP/EIS document. Another meeting was held June 22 and 23, 2006, to update the CGTO on the progress of the EIS/CCP and obtain input and recommendations on Service projects and planning efforts.

Affiliated tribes were also invited to participate at the biological and visitor services reviews. During the week of April 14–18, 2003, a biological review for Desert NWR and Ash Meadows NWR was held. The biological review for Moapa Valley NWR and Pahrangat NWR was held on May 27 and 28, 2003. A visitor services review was held on May 27 and 28, 2003. Various affiliated tribes participated in the reviews.

From July 15–17, 2003, Scott Aiken, the former regional Native American tribal liaison, met individually with various affiliated tribes. During the meetings, Mr. Aiken spoke with tribe members about the role of Native Americans in the review and editing of the Draft CCP/EIS cultural resources sections.

The CGTO's Document Review Committee participated in reviews of the Desert Complex's Cultural Resources Overview and Administrative Draft CCP/EIS. Comments received during these reviews have been addressed in the Draft CCP/EIS, as appropriate.

6.4 Comment/Response Process on Draft CCP/EIS

A Notice of Availability (NOA) will be published in the Federal Register to initiate the public comment and review period for the Draft CCP/EIS. The NOA and notification of public comment meetings will be mailed to those identified on the general mailing list (see Appendix D). The purpose of the public comment meetings is to solicit feedback on the Proposed Action, alternatives analysis, and issues addressed in the Draft CCP/EIS.

6.5 Future Coordination with Others

As part of implementation of the CCP, the Service will coordinate closely with other agencies, affiliated tribes, and other entities to help manage the refuges. For example, the Service will work with affiliated tribes to develop strategies or actions to protect, recover, or monitor cultural resources and wildlife, as appropriate. For projects involving wildlife, the Service will work with NDOW to use their knowledge of the resources in southern Nevada, such as bighorn sheep and fish. Per the Memorandum of Understanding with the U.S. Air Force (USAF) for the Desert NWR, the Service will coordinate with the USAF regarding any management activities in the portion of the Refuge within the NTTR. In addition, because the Pahranaagat NWR is under the Military Operations Area where military aircraft fly down to 100 feet above ground, the Service will coordinate with the USAF on projects that could increase bird populations higher than 100 feet above ground.