HABITAT CONSERVATION PLAN

for the

Issuance of an Incidental Take Permit Under Section 10(a)(1)(B)

of the Endangered Species Act

for the

Federally Threatened Mojave Desert Tortoise

on

Perez Home Development Project,

Mohave County, Arizona

PREPARED FOR:

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PREPARED BY

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EXECUTIVE SUMMARY

Mr. Alex Perez has applied for a permit from the U.S. Fish and Wildlife Service (Service) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), to incidentally take the federally threatened Mojave desert tortoise (*Gopherus agassizii*). The incidental take is anticipated to occur as a result of grading eight new residential lots and constructing the associated infrastructure (private road and utilities installation). The proposed project is located within an approximately 10-acre area of assessor parcel numbers (APN) 402-20-124, 402-20-125, 402-20-126, 402-20-127, and 402-20-128 in unincorporated Mohave County, Arizona.

The Habitat Conservation Plan for the Scenic Arizona Perez Home Development Project (HCP) includes measures to avoid, minimize, and mitigate impacts to the Mojave desert tortoise. Mitigation measures include the potential relocation of tortoises onto nearby land managed by the Bureau of Land Management and the in-perpetuity conservation, management, and monitoring of approximately four acres of occupied tortoise habitat.

The Habitat Conservation Plan has been prepared in consultation with the Service to fulfill the requirements of a section 10(a)(1)(B) permit application for the proposed project.

TABLE OF CONTENTS

SECTION 1:

INTRODUCTION

1.1 PURPOSE AND NEED

The Perez Home Development Project proposes to grade eight lots for residential homes and construct the associated initial infrastructure (private road and utilities installation). Lots will be developed (graded and homes constructed) one lot at a time, but the lots are available for buyers to purchase and construct homes themselves as well.

The proposed activities will occur within habitat occupied by the federally threatened Mojave desert tortoise. Alex Perez (Applicant) is seeking a permit to authorize incidental take of Mojave desert tortoises that may occur in the course of otherwise lawful activities associated with the proposed project. Such authorization is necessary because activities associated with the proposed project and mitigation measures may result in incidental take, the removal and modification of desert tortoise habitat, and through relocation of desert tortoises from the subject land.

1.2 REGULATORY REQUIREMENTS

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), provides for the protection and conservation of fish, wildlife and plants that have been federally listed as threatened or endangered. Activities otherwise prohibited by section 9 of the Act and subject to the civil and criminal enforcement provisions of section 11 of the Act may be authorized for Federal entities pursuant to the requirements of section 7 of the Act and for other persons pursuant to section 10 of the Act.

Section 10(a)(2)(A) of the Act states that no permit may be issued authorizing any taking referred to in section 10(a)(1)(B) unless the applicant submits to the Secretary (the Secretary of the Interior) a habitat conservation plan that specifies:

1. The impact which will likely result from such taking;
2. What steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;
3. What alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and
4. Such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

This Habitat Conservation Plan (HCP) has been prepared in consultation with the United States Fish and Wildlife Service (Service) to fulfill the requirements of section 10(a)(2)(A) of the Act as part of an application for a section 10(a)(1)(B) take permit being sought for the proposed project in Mohave County, Arizona.

The Applicant is proposing this plan be evaluated as a "low-effect" HCP. A low-effect HCP is one "involving: (1) minor or negligible effects on federally-listed, proposed or candidate species and their habitats; and (2) minor or negligible effects on other environmental values or resources. 'Low-effect' incidental take permits are those permits that, despite their authorization of some small level of incidental take, individually and cumulatively have a minor or negligible effect on species covered in the habitat conservation plan" (Service/NOAA 1996).

1.3 PERMIT APPLICANT/HOLDER

Mr. Alex Perez is the Applicant for the incidental take permit and, if a permit is issued by the Service, will be the permit holder.

1.4 PERMIT DURATION

The duration of the section 10(a)(1)(B) permit will be five years from the date of issuance of the incidental take permit. The permit would allow Alex Perez or his successors to incidentally take, either directly or indirectly, Mojave desert tortoise within the geographical boundaries identified in this HCP over that time period. The permit may only be transferred consistent with 50 CFR part 13 section 13.25, which requires that: (1) the permit holder and proposed transferee apply for a permit transfer (through the submission of an assumption agreement between the two parties); (2) the proposed transferee meets all the qualifications for holding a permit; (3) the transferee provides written assurances that it can meet the financial obligations and will implement the terms and conditions of the permit, including any outstanding mitigation requirements; and (4) that the transferee provides any additional information the Service deems necessary. After expiration of the permit, any "take" within the said geographic boundaries, would require re-authorization.

1.5 PROJECT BOUNDARY AND SITE DESCRIPTION

The proposed project will occur within the geographic boundaries (i.e., Plan Area) of an approximately 10-acre area of APNs 402-20-124, 402-20-125, 402-20-126, 402-20-127, and 402-20-128 located east of Interstate 15 and north of the intersection of Las Vegas Way and Mesquite Lane in the Scenic area in unincorporated Mohave County, Arizona (Figures 1 and 2 in Appendix A). Surrounding land uses include: residential development to the east, west, south, southwest, and southeast; and Bureau of Land Management (BLM) Land to the north and northeast.

The Plan Area is mostly flat, although the ground drops slightly along the site's northern boundary where a wash begins. A large, braided wash runs to the northeast and east of the Plan Area. The majority of the Plan Area is in native Mojave desertscrub habitat; however, signs of previous disturbance occur throughout the area. Existing single-family homes are located near the southern end of the property, but are located outside of the Plan Area. Areas of native upland vegetation are also found on lands adjacent to the Plan Area.

1.6 PROPOSED PROJECT/ACTIVITIES

The Applicant proposes to grade eight residential lots, install initial infrastructure improvements, and construct single-family homes and associated garages on each lot. The Applicant intends to

build homes one lot a time. However, if a buyer wishes to buy the lot and construct the home themselves, then Mr. Perez will not be building the home. Landscaping and associated improvements will be done by the future homeowner. If the Applicant constructs the home, he will be responsible for following the conservation measures below. However, if the lot buyer constructs their home, Mr. Perez will provide them with the measures described below to protect tortoises, but the lot buyer will not be provided take coverage through this permit. During construction, in order to ensure Mojave desert tortoises do not enter the development occurring on a lot, a temporary tortoise barrier fence will be constructed along the entire boundary of the development area prior to the initiation of any site improvements. The intention of this barrier is to temporarily exclude Mojave desert tortoises from the development area of the individual lot during construction activities. Following the conclusion of infrastructure improvements, the temporary tortoise fencing will be removed from the lot. If construction is occurring simultaneously on two or more lots, temporary barrier fencing will be constructed on each lot around the development area.

Because tortoises have continued to occupy nearby developed lots, activities associated with future improvements of the lots (i.e., landscaping) after implementation of the proposed project are not proposed for coverage under this HCP as we do not expect that take would occur from these activities.

SECTION 2:

MOJAVE DESERT TORTOISE

2.1 SPECIES ACCOUNT

The desert tortoise populations north and west of the Colorado River in Arizona and Utah (excluding the Beaver Dam slope population) were listed as endangered under an emergency rule on August 4, 1989 (54 FR 42270). Subsequently, the entire Mojave population of the desert tortoise west of the Colorado River in California and Nevada, and north of the river in Arizona and Utah, including the Beaver Dam slope, was listed as a threatened species on April 2, 1990 (55 FR 12178). Critical habitat was designated in 1994 (59 FR 5820-5846, also see corrections at 59 FR 9032-9036). The Desert Tortoise (Mojave Population) Recovery Plan (Recovery Plan) (USFWS 1994) was signed on June 28, 1994. A revised recovery plan was signed May 6, 2011 (USFWS 2011). The subject area is located within the Northeastern Mojave Recovery Unit, which is one of five recovery units throughout the range of the species (USFWS 2011).

The Mojave desert tortoise is an arid land reptile associated with desert scrub vegetation types, primarily creosote bush (*Larrea tridentata*) flats, washes, and hillside slopes or bajadas. A robust herbaceous component to the shrubs and cacti of the creosote bush vegetation type is an important component of suitable habitat. Within these vegetation types, desert tortoises potentially can survive and reproduce where their basic habitat requirements are met: a sufficient amount and quality of forage species; shelter sites for protection from predators and environmental extremes; suitable substrates for burrowing, nesting, and over-wintering; various plants for shelter; and adequate area for movement, dispersal, and gene flow. Further information

on the range, biology, and ecology of the desert tortoise can be found in the Revised Recovery Plan (USFWS 2011).

Desert tortoises are most active during the spring and early summer when annual plants are most common. Additional activity occurs during warmer fall months and occasionally after summer rain storms. In Arizona, tortoises are considered to be active from approximately March 15 through October 15. Desert tortoises spend the remainder of the year in burrows, escaping the extreme conditions of the desert. The size of desert tortoise home ranges varies with respect to location and year (Berry 1986) and also serves as an indicator of resource availability and opportunity for reproduction and social interactions (O'Connor *et al.* 1994). Females have long-term home ranges that may be as little as or less than half that of the average male, which can range to 80 or more hectares (200 acres) (Burge 1977; Berry 1986; Duda *et al*. 1999; Harless *et al*. 2009). Core areas used within tortoises' larger home ranges depend on the number of burrows used within those areas (Harless *et al*. 2009). Over its lifetime, each desert tortoise may use more than 3.9 square kilometers (1.5 square miles) of habitat and may make periodic forays of more than 11 kilometers (7 miles) at a time (Berry 1986).

Eight burrows have been documented on the project site. Of these eight burrows, six appear to have recent activity associated with tortoise use (USFWS 2016a, Young 2016). Observation data indicates that both adult and juvenile tortoises have been observed on the property. Burrows are located on nearby developed residential property and adjacent undeveloped land and tortoises are known to move to and from the subject property. Based on these data, the number of burrows, and tortoise behavior, we are estimating that three to five individuals (adult and juvenile) are on the property.

2.2 CRITICAL HABITAT

The Plan Area does not contain critical habitat for the Mojave desert tortoise.

2.3 ASSESSMENT OF INCIDENTAL TAKE

The 10-acre Plan Area supports approximately 9.5 acres of suitable Mojave desert tortoise habitat. Approximately 0.5 acres has been developed into an access road to the site and an access road to a water well pump house. The activities covered by the HCP will permanently impact approximately 5 acres of Mojave desert tortoise habitat. Approximately half of each parcel will remain undeveloped as intact tortoise habitat. Four burrows are located on the back half of three of the parcels and will likely not need to be excavated (parcels 402-20-124, 402-20-125, and 402-20-12). Four of the burrows that may require excavation and tortoise relocation are located on two parcels (parcels 402-20-125 and 402-20-126). Mojave desert tortoises are known to occupy some of the burrows, although we do not know how many tortoises are present. Six of the eight burrows have activity associated with them; however, individual tortoises are known to use multiple burrows, and multiple tortoises are known to use one burrow (Bullova 1994). Additionally, tortoises are known to occupy burrows on adjacent developed land (USFWS 2016a, Young 2016). Site visit observations indicated that at least two tortoises are occupying burrows in developed lots immediately south of the subject parcels (USFWS 2016a). These tortoises are likely using the same burrows on the subject property and moving back and forth between burrows. It is anticipated that development of the subject parcels will be similar to those currently existing south of the area; therefore, it is reasonable to assume that tortoises will

not be subjected to take upon completion of the development. Furthermore, limited data exists that tortoises can exist and thrive in some forms of development (Lovich 2013). Therefore, the number of Mojave desert tortoises present within the Plan Area that will be harmed, injured, or killed by permanent and temporary habitat impacts is anticipated to be low (3-5 tortoises). The overall permanent loss of 10 acres of occupied Mojave desert tortoise habitat will have a negligible impact on the long-term conservation of Mojave desert tortoise populations within the Northeastern Mojave Recovery Unit given the extensive amount of upland habitats of higher quality that occurs on adjacent lands. The amount of lethal take will also be low if tortoises are successfully translocated to nearby BLM land that will not be developed and will be maintained in perpetuity. Even if translocation is unsuccessful, loss of up to 5 desert tortoises would constitute less than 0.0003% of the estimated population in the recovery unit and would result in a negligible effect to the continued survival and recovery of the species.

2.4 ASSESSMENT OF CRITICAL HABITAT

Implementation of the HCP will result in no impacts to designated Mojave desert tortoise critical habitat with PCEs because critical habitat does not occur within the plan area.

SECTION 3:

HABITAT CONSERVATION PLAN

This HCP has been prepared to mitigate for unavoidable permanent impacts to 10 acres of occupied Mojave desert tortoise habitat during project construction through the implementation of onsite minimization measures, as well as the potential off-site relocation of tortoises to nearby BLM land.

3.1 ACTIONS TO AVOID AND MINIMIZE IMPACTS

The following measures will be implemented in order to minimize direct impacts to Mojave desert tortoises during construction activities:

1. The first phase of project construction will include the installation of a temporary, 18-inch minimum height tortoise barrier fence (i.e., orange construction fence) between the development area and the parts of the parcel (lot) to remain undeveloped. The fence is intended to keep tortoises from entering the construction areas and should be inspected daily to ensure there are no significant gaps tortoises could get through. Fencing will remain in place until all construction activities (houses, garage, etc.) for each parcel are completed.

2. During grading and construction activities, a 5 mile per hour speed limit will be placed on all vehicles in order to minimize the possibility of vehicle strikes of Mojave desert tortoises.

3. To avoid and minimize impacts to the Mojave desert tortoise, the Permittee will ensure that the following conditions are implemented during project construction:

   i. Employees will strictly limit their activities, vehicles, equipment, and construction materials to the project footprint.

   ii. Open trenches will be covered to prevent tortoises and other wildlife from falling in or have a ramp installed to facilitate tortoises and other wildlife escaping the trench.

   iii. A Service-approved biologist will conduct a training session for all project personnel prior to the start of the proposed activities. The training will include a description of the Mojave desert tortoise and its habitat and the general measures that are being implemented to conserve the listed species as they relate to the project and construction site boundaries, including how to relocate a tortoise from the project site.

   iv. Prior to the start of daily activities, the project area will be inspected, including under parked vehicles and any open trenches, for tortoises. All tortoises will be relocated by trained project personnel to undeveloped land outside of the project area.

   v. All parked vehicles will be checked for tortoises that might be sheltering underneath them. If a desert tortoise is found sheltering under a parked vehicle, the tortoise will be allowed move out from under the vehicle on its own, without intervention, before the vehicle can be moved.

   vi. To avoid attracting predators of the Mojave desert tortoise, the project area will be kept as clean of debris as possible. All food-related trash items will be enclosed in sealed containers and regularly removed from the project area.

   vii. No pets will be allowed in the project area during construction.

   viii. All equipment maintenance, staging, and dispensing of fuel, oil, or coolant, will occur within the project area. Fueling and maintenance of trucks and other vehicles will occur only within a predetermined staging area. Contractor equipment will be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" will be designated on construction plans.

3.2 ACTIONS TO MITIGATE IMPACTS

Alex Perez proposes to mitigate impacts to the Mojave desert tortoise by not grading and/or constructing on approximately half of each lot, all of which is suitable tortoise habitat. Four of

the known burrows are located on the back half of three of the eastern parcels (parcels 402-20-124, 402-20-125, and 402-20-128). By not grading and/or developing these portions of the lots, the number of burrows that need to be excavated will be minimized and, therefore, the number of tortoises that may need to be relocated to off-site BLM land. If possible, avoidance of two other burrows close to the front of each parcel (402-20-125 and 402-20-126) will be implemented. This will depend on the location of the development on these parcels and will be at the discretion of the permittee. Construction design will include avoiding these areas and leaving that portion of each parcel intact to further minimize the number of burrows to be excavated. As previously discussed, tortoises are currently occupying burrows on adjacent developed properties and moving back and forth from those burrows to burrows on the subject property. Avoiding burrows and leaving habitat undisturbed on approximately half of each parcel will provide for Mojave desert tortoise foraging areas, additional burrow habitat, and, potentially, areas to construct nests. However, even if burrows cannot be avoided, the Applicant will take efforts to avoid injury or fatality to tortoises by relocating tortoises that are occupying the burrows, as described below.

Plans are being developed to relocate any Mojave desert tortoises occupying burrows that cannot be avoided. Experts knowledgeable in tortoise burrow excavation will conduct the excavations, and any tortoises found in burrows will be temporarily stored in Utah in a sterile holding facility managed by Washington County, Utah under their existing county-wide HCP. When favorable conditions occur, which includes appropriate ambient temperature (less than 95 degrees Fahrenheit), time of year (mid-March through May and mid-August through September), and weather (sunny and warm) and suitable new burrows have been located on the BLM land, tortoises being temporarily held will be released by USFWS, Arizona Game and Fish Department (AGFD), and BLM personnel near the existing burrows on BLM land in Arizona, according to recent draft revised translocation guidance from the Service (USFWS 2016b).

Additionally, the USFWS and AGFD personnel will work with Alex Perez to develop an educational pamphlet regarding living with Mojave desert tortoises. These pamphlets will be used to educate homeowners on the subject property (both those that buy lots already constructed and those that purchase only the lot) and adjacent properties on the Federal protection status of tortoises, how to provide sufficient sheltering and foraging habitat, and general conservation actions to ensure the survival of Mojave desert tortoises.

3.3 REPORTING

A one-time post-construction report will be prepared by the Permittee and provided to the Service immediately following the conclusion of all construction activities (grading, home construction, and utilities installation). The report will summarize all avoidance, minimization, and mitigation measures that were implemented during grading and construction and their effects on Mojave desert tortoises, including an assessment of known or potential incidental take of tortoises. Incidental take of tortoises will include the number of tortoises relocated to BLM land as well as any tortoises that need to be relocated from the immediate project site. The report will include a map showing the locations of any Mojave desert tortoises observed during construction and will list the dates, times, and other relevant information regarding these sightings. Photos depicting the required avoidance, minimization, and mitigation measures (i.e., temporary barrier fencing, relocation activities) will be part of the report.

3.4 FUNDING

As the permit holder, Alex Perez will provide the funds necessary to implement all work associated with the initial construction, fencing, etc. of the project, including all temporary and permanent measures as necessary to comply with the requirements of this HCP. The Applicant is committed to the carrying out the HCP requirements and the funds to accomplish the plan will not overly burden the Applicant. These costs include minimal materials expenses and time already allocated to the development of these parcels. Some costs incurred by the Applicant, such as those charged for outside services or third party consultants, may also be incorporated into the sales price of the parcels.

SECTION 4:

CHANGED CIRCUMSTANCES

"Changed circumstances" means changes in circumstances affecting the Mojave desert tortoise or the geographic area covered by the HCP that can reasonably be anticipated by the permit holder and reasonably be planned for in the HCP (e.g. the listing of a new species, or a fire or other natural catastrophic event in areas prone to such event). Changed circumstances are not Unforeseen Circumstances.

The only changed circumstance identified in this HCP is the listing of a new species. In the event that a non-covered species that may be affected by the proposed project becomes listed under the Act, Alex Perez would implement "no take/no jeopardy" measures identified by the Service until the permit is amended to include such species, or until the Service notifies Alex Perez that such measures are no longer needed to avoid jeopardy, take of, or adverse modification of critical habitat of the non-covered species.

SECTION 5:

UNFORSEEN CIRCUMSTANCES

Unforeseen Circumstances are discussed in the Department of the Interior's "Habitat Conservation Plan Assurances ('No Surprises') Final Rule," issued February 23, 1998 (*Federal Register* vol. 63, no. 35). Pursuant to the provisions of the "No Surprises Policy," in the event unforeseen circumstances affect a species covered by this HCP, the permit holder will not be required to provide additional mitigation that requires the commitment of additional lands, additional financial compensation, or additional restrictions on lands or other natural resources released for development use. Should Unforeseen Circumstances arise, changes will be limited to modifications within conserved habitat areas, or the HCP's operating conservation program for the covered species, and will maintain the original terms of the HCP to the maximum extent

possible. The assurances contained in the "No Surprises Policy" apply only if the permit holder has complied with its obligations under the HCP.

SECTION 6:

AMENDMENT PROCESS

6.1 MINOR AMENDMENTS

Any party may propose minor modifications to the HCP by providing notice to all other parties. Such notice shall include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations under the HCP and on covered species. Minor amendments are permissible without amending the underlying section 10(a)(1)(B) permit provided that the Service determines that the changes do not (1) cause additional take of Mojave desert tortoise that was not analyzed in connection with the original HCP; (2) result in operations under the HCP that are significantly different from those analyzed in connection with the original HCP, or (3) have adverse effects on the environment that are new or significantly different from those analyzed in connection with the original HCP.

Minor amendments to this HCP may include corrections of typographic, grammatical, and similar editing errors that do not change the intended meaning or corrections to any maps or exhibits to correct errors in mapping or to reflect previously approved changes in the permit or HCP. All minor amendments proposed by the permit holder to this HCP will be submitted to the Service in writing.

6.2 FORMAL AMENDMENTS

Amendments that do not fit the definition of a minor amendment will be processed as formal amendments in accordance with all applicable legal requirements, including but not limited to the Act, National Environmental Policy Act (NEPA), and the Service's permit regulations. Formal permit amendments require written notification to the Service and the same justification and supporting information for compliance with a standard incidental take permit application, including conservation planning requirements and compliance with issuance criteria.

When the Service or permit holder believe that a formal amendment to the HCP is required, consultation with the Service will include the Service's Southwest Regional Office. The permit holder will prepare the appropriate documentation for submission to the Service. The documentation will include a description of the event or activity and an assessment of its impacts. The amendment will describe changes to the mitigation measures to ensure that the Mojave desert tortoise is appropriately protected.

SECTION 7:

PERMIT RENEWAL OR EXTENSION

The permit may be renewed or extended with the approval of the Service. The request to renew or extend the permit must be submitted in writing by the permit holder and reference the permit number; certify that all statements and information in the original application are still correct or include a list of changes; and provide specific information concerning what take has occurred under the existing permit and what portions of the project are still to be completed. The request must be made to the Fish and Wildlife Service's Arizona Ecological Services Office (AESO) at least 30 days prior to the permit's expiration date. As long as the request is received within 30 days prior to the permit expiration date, the permit shall remain valid while the renewal or extension is being processed. The renewal or extension may be approved in writing by the Regional Office. Changes to the HCP that would qualify as a formal amendment will be handled in accordance with section 6.2.

SECTION 8:

PERMIT SUSPENSION/REVOCATION

The Service may suspend or revoke their permit if Alex Perez fails to implement the HCP in accordance with the terms and conditions of the permits or if suspension or revocation is otherwise required by law. Suspension or revocation of the section 10(a)(1)(B) permit, in whole or in part, by the Service shall be in accordance with 50 CFR 13.27-29, 17.32 (b)(8).

SECTION 9:

OTHER MEASURES

Section 10(a)(2)(A)(iv) of the Act states that a HCP must specify other measures that the Director may require as being necessary or appropriate for purposes of the plan. When conservation plans involve multiple parties, the Service may require that an Implementing Agreement be drafted and signed by each party to the HCP. The Applicant in consultation with the Service has submitted this HCP as a "low-effect" with negligible or minor effects on listed species. Accordingly, an implementation agreement is not required. The Director has identified no other measures as necessary or appropriate for this HCP**.**

SECTION 10:

ALTERNATIVES TO THE PROPOSED ACTION CONSIDERED

This alternatives analysis compares the effects of the no-action and reduced density development alternatives. An alternative is practicable "if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purposes."

10.1 NO ACTION ALTERNATIVE

The No Action Alternative means that an HCP and Incidental Take Permit would not be issued. This also means current conditions and activities that will not cause the take of Mojave desert tortoises could continue. Without the HCP, the site would likely be developed whether or not a permit is issued, and tortoise habitat would be lost at the project site.

We also considered permitting a smaller area within each parcel, but that would be logistically infeasible. The Applicant has committed to leaving approximately one-half of each parcel undeveloped, which is the maximum area possible that would still allow development and construction of homes on the parcels.

We were unable to identify any additional measures to further minimize and mitigate for the residual effects to tortoises that would allow use and development of the parcels to continue. As depicted in Figure 2, implementation of the HCP as proposed would reduce the amount of disturbance to Mojave desert tortoise habitat below that which has occurred on neighboring developed parcels.

SECTION 11:

DEFINITIONS

Endangered Species – "…any species [including subspecies or qualifying distinct population segment] which is danger of extinction throughout all or a significant portion of its range." [Section 3(6) of the Act]'

Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1513-1543) – Federal legislation that provides means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, and provides a program for the conservation of such endangered and threatened species.

Habitat – The location where a particular taxon of plant or animal lives and its surroundings, both living and non-living; the term includes the presence of a group of particular environmental conditions surrounding an organism including air, water, soil, mineral elements, moisture, temperature, and topography.

Habitat Conservation Plan (HCP) – Under section 10(a)(2)(A) of the Act, a planning document that is a mandatory component of an incidental take permit application, also known as a HCP.

Incidental take – Take of any federally listed wildlife species that is incidental to, but not the purpose of, otherwise lawful activities (see definition for "take") [section 10(a)(1)(B) of the Act].

Incidental take permit – A permit that exempts a permittee from the take prohibition of section 9 of the Act issued by the Service pursuant to section 10(a)(1)(B) of the Act.

Listed species – Species including subspecies and distinct vertebrate populations, of fish, wildlife, or plants, listed as either endangered or threatened under section 4 of the Act.

Mitigation – Under NEPA regulations, to moderate, reduce or alleviate the impacts of a proposed activity, including: (a) avoiding the impact by not taking a certain action or parts of an action; (b) minimizing impacts by limiting the degree or magnitude of the action; (c) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; (e) compensating for the impact by replacing or providing substitute resources or environments (40 CFR 1508.20).

National Environmental Policy Act (NEPA) – Federal legislation establishing national policy that environmental impacts will be evaluated as an integral part of any major Federal action. Requires the preparation of an EIS (Environmental Impact Statement) for all major Federal actions significantly affecting the quality of the human environment (42 U.S.C. 4321-4327).

Take – Under section 3(18) of the Act, "… to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" with respect to federally listed endangered species of wildlife. Federal regulations provide the same taking prohibitions for threatened wildlife species [50 CFR 17]

SECTION 12:

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APPENDIX A

MAPS AND FIGURES

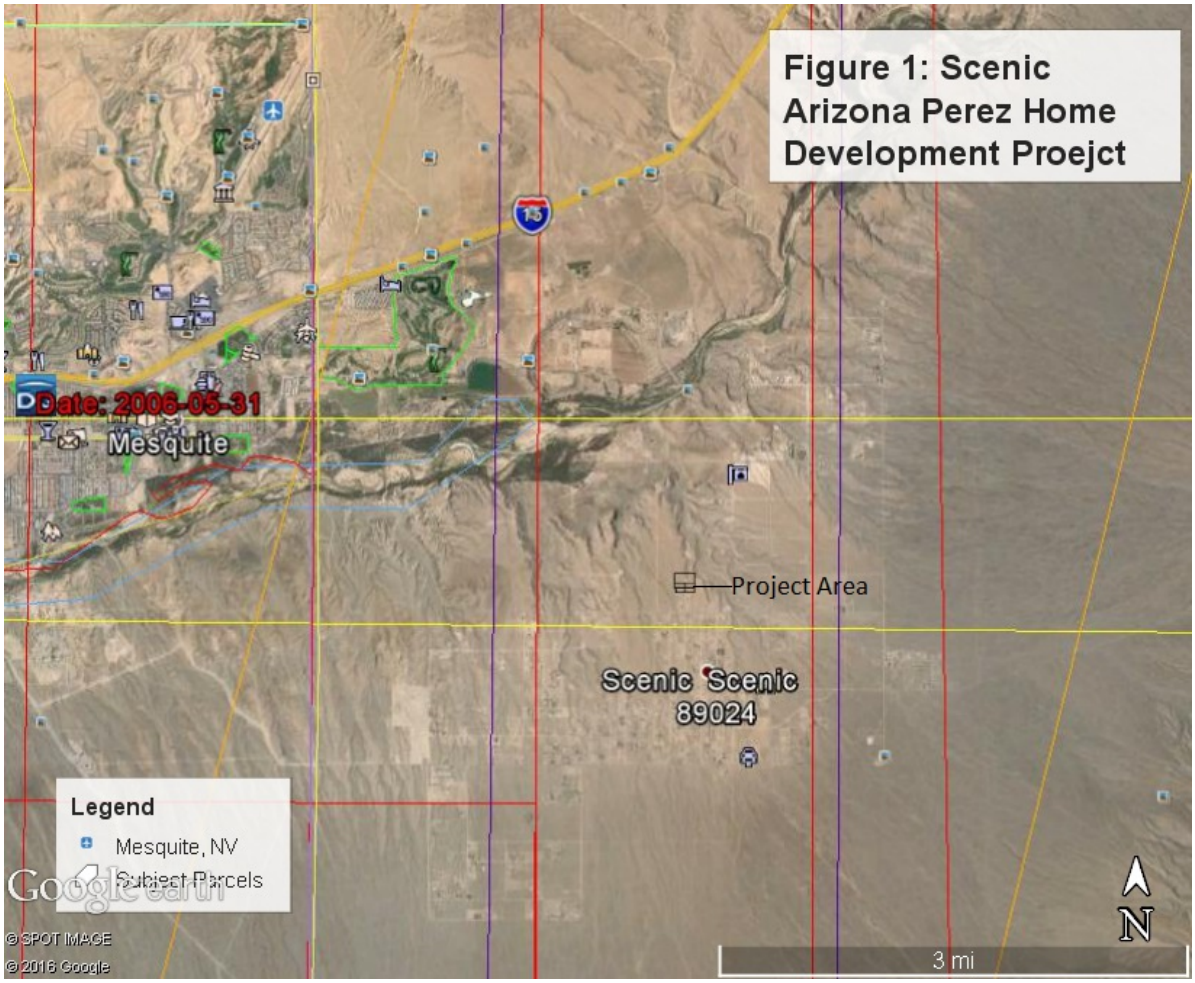

Figure 1. Regional Location of the Plan Area.

Figure 2. Perez Home Development Project, Scenic, Arizona

Figure 2. Project Development/Parcels