



C H A M B E R S B U R G U N I V E R S I T Y

APPENDIX J – PROJECT COORDINATION



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Appendix J – Project Coordination

Agency	Contact	Address	Contact Method	Date	Pages
U.S. Fish and Wildlife Service - Sacramento Fish and Wildlife Office	Susan K. Moore, Field Supervisor	2800 Cottage Way, Room W-2605, Sacramento, CA 95825	Letter – Sent	10/21/2010	
U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office	Raymond Bransfield	2493 Portola Road, Suite B, Ventura, CA 93003	Letter – Sent	12/16/2010	
U.S. Fish and Wildlife Service - Nevada Fish and Wildlife Office (Reno)	Jeannie Stafford, Field Supervisor	1340 Financial Blvd, Reno, NV 89502	Letter – Sent	10/21/2010	
U.S. Forest Service - Intermountain Region	Ms. Melissa Hearst	324 25th Street, Ogden, UT 84401	Letter – Sent	11/3/2010	
U.S. Forest Service - Pacific Southwest Region	Ms. Nancy Fleenor	1323 Club Drive, Vallejo, CA 94592	Letter – Sent	11/3/2010	
Bureau of Land Management	Karla Norris, Associate Deputy State Director, Natural Resources	2800 Cottage Way W-1928, Sacramento CA, 95825	Letter	1/12/2011	
Bureau of Land Management	Bernadette Lovato	351 Pacu Lane, Ste 100 Bishop, CA. 93514	Letter – Sent	6/16/2011	
U.S. Army Corps of Engineers	Kathleen Dadey	1325 J Street, Sacramento, CA. 95814	Letter	6/17/2011	
Office of Historic Preservation, Department of Parks and Recreation	Mr. Milford Wayne Donaldson, SHPO	1725 23rd Street, Suite 100, Sacramento, CA 95816	Letter – Sent	10/22/2010	
	Triston Tozer		Letter – Sent	6/16/2011	
Nevada Office of Historic Preservation	Mr. Ronald James, SHPO	100 North Stewart St, Capitol Complex, Carson City, NV 89701-4285	Letter – Sent	10/25/2010	
Nevada Office of Historic Preservation	Rebecca Palmer, NV Deputy State Historic Preservation Officer	100 North Stewart St, Capitol Complex, Carson City, NV 89701-4285	Letter – Sent	6/16/2011	
Native American Heritage Commission	Dave Singleton, Program Analyst	915 Capitol Mall, Room 364, Sacramento, CA 95814	Letter – Received	9/27/2010	
Caltrans, District 8	Kurt Heidelberg, Environmental Studies D	464 W. 4 th St., 6 th Fl., MS-820 San Bernardino, CA. 92401	Letter – Sent	6/16/2011	

*Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project*

Agency	Contact	Address	Contact Method	Date	Pages
Caltrans, Central Region	Jeanne Binning, Environmental Division	855 M Street, Ste 200 Fresno, CA. 93721	Letter – Sent	6/16/2011	
Caltrans, Environmental Management Office	Rich Weaver	1120 N Street, Room 2500 Sacramento, CA. 95814	Letter – Sent	6/16/2011	
Nevada Department of Transportation	Steve Cook, Chief Environmental Services Div	1263 South Stewart Street Carson City, NV. 89712	Letter – Sent	6/16/2011	
California Public Utilities Commission	Andrew Barnsdale	505 Van Ness Ave., 4 th Fl.- Energy Division San Francisco, CA. 94102	Letter – Sent	6/16/2011	
County of Kern, Planning and Community Development Department	Lorelei Oviatt, AICP, Director	2700 "M" Street, Suite 100, Bakersfield, CA 93301	Letter – Received	11/30/2010	
AhaMakav Cultural Society, Fort Mojave Indian	Linda Otero, Director	P.O. Box 5990, Mohave Valley, AZ 86440	Letter – Sent	10/27/2010	
			Phone	12/8/2010	Table
Benton Paiute Reservation	Mike Keller, Chairperson	Star Route 4, Box 56-A, Benton, CA 93512	Letter – Sent	10/27/2010	
			Phone	12/8/2010	Table
			Phone	1/14/2011	Table
			Letter – Sent	6/16/2011	
	Adora Saulque		Phone	3/21/2011	
	Juanita Watterson		Phone	3/21/2011	
Big Pine Band of Owens Valley - Owens Valley Paiute	David Moose, Chairperson	P.O. Box 700, Big Pine, CA 93513	Letter – Sent	10/27/2010	
	Bill Hellmer, Tribal Historic Preservation Officer	P.O. Box 700, Big Pine, CA 93513	Letter – Sent	10/27/2010	
	Bill Hellmer, Tribal Historic Preservation Officer	P.O. Box 700, Big Pine, CA 93513	Letter – Sent	6/16/2011	
	David Moose, Chairperson	P.O. Box 700 Big Pine, CA 93513	Phone	12/3/2010	Table
	David Moose, Chairperson		Phone	12/16/2010	Table
	Bill Hellmer, Tribal Historic Preservation Officer		Phone	12/16/2010	Table

Agency	Contact	Address	Contact Method	Date	Pages
	Bill Hellmer, Tribal Historic Preservation Officer		Phone	1/14/2011	Table
Bishop Paiute Tribe	William Vega, Chairperson	50 Tu Su Lane, Bishop, CA 93514	Letter – Sent	10/27/2010	
	Theresa Stone-Yanez		Letter – Sent	10/27/2010	
	William Vega, Chairperson		Phone	12/9/2010	Table
	Theresa Stone – Yanez		Phone	12/9/2010	Table
			Phone	12/16/2010	Table
	William Vega, Chairperson		Phone	12/16/2010	Table
			Phone	1/19/2011	Table
	Theresa Stone – Yanez		Phone	1/20/2011	Table
	Dave Moose		Email	3/23/2011	
	Michaela Watterson		Phone	3/23/2011	
	William Vega, Chairperson		Letter – Sent	6/16/2011	
	Michael Lumsden		Phone	3/23/2011	
Bridgeport Paiute Indian Colony	Joseph Art Sam, Chairperson	P.O. Box 37, Bridgeport, CA 93517	Letter – Sent	10/27/2010	
			Phone	12/8/2010	Table
			Phone	12/10/2010	Table
	Christy Robles, Tribe Administrator		Phone	3/21/2011	
	Christy Robles, Tribe Administrator	P.O. Box 37 Isabella, CA. 93240	Letter – Sent	6/16/2011	
	Christy Robles, Tribe Administrator	P.O. Box 37 335 Sage Brush Drive Bridgeport, CA. 93517	Letter – Sent	6/16/2011	
Cahuilla Band of Mission Indians	Luther Salgado, Sr, Chairman		Email – Received	12/6/2010	
Chemehuevi Reservation	Charles Wood, Chairperson	P.O. Box 1976, Chemehuevi Valley, CA 92363	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/16/2010	Table

Agency	Contact	Address	Contact Method	Date	Pages
Fallon Paiute - Shosone Tribe	Ray Stands, Cultural Coordinator		Email	12/5/2010	
Fort Independence Community of Paiute	Carl Dahlberg, Chairperson	P.O. Box 67, Independence, CA 93526	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/6/2010	Table
			Phone	12/20/2010	Table
			Phone	1/20/2011	Table
	Israel Naylor, Chairperson; John Bowden, Public Works Director; John Scuggs, Tribal Administrator; Richard Wilder, Vice Chairman		Meeting	3/14/2011	
	John Scaggs		Phone	3/21/2011	
	Israel Naylor	P.O. Box 67 Independence, CA. 93429	Letter – Sent	6/16/2011	
Fort Mojave Indian Tribe	Tim Williams, Chairperson	500 Merriman Avenue, Needles, CA 92363	Letter – Sent	10/27/2010	
			Phone	12/9/2010	Table
Humboldt-Toiyabe National Forest	Fred Frampton, Forest Archaeologist/Tribal Relations Program Manager	1200 Franklin Way Sparks, NV. 89431	Letter – Sent	6/16/2011	
Inyo National Forest	Diana Pietra Santa	351 Pack Lane, Ste 200 Bishop, CA. 93514	Letter – Sent	6/16/2011	
Kern Valley Indian Council	Robert Robinson, Historic Preservation Officer	P.O. Box 401, Weldon, CA 93283	Letter – Sent	10/27/2010	
	Julie Turner, Secretary	P.O. Box 1010, Lake Isabella, CA 93240	Letter – Sent	10/27/2010	
	Julie Turner, Secretary		Phone	12/8/2010	Table
			Phone	12/16/2010	Table
	Robert Robinson, Historic Preservation Officer		Phone	12/16/2010	Table

Agency	Contact	Address	Contact Method	Date	Pages
Kutzadika Indian Community Cultural Preservation	Raymond Andrews, Chairman	P.O. Box 591, Bishop, CA 93515	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
Lone Pine Paiute - Shoshone Reservation	Melvin R. Joseph, Chairperson	P.O. Box 747, Lone Pine, CA 93545	Letter – Sent	10/27/2010	
	Sanford Nabahe, Tribal Administrator		Letter – Sent	10/27/2010	
	Sandy Jefferson Yonge, Cultural Representative	880 Zucco Road, Lone Pine, CA 93545	Letter – Sent	10/27/2010	
	Melvin R. Joseph, Chairperson		Phone	12/8/2010	Table
	Sanford Nabahe, Tribal Administrator; Kathy Bancroft	P.O. Box 747 Lone Pine, CA 93545	Phone	12/9/2010	Table
	Sandy Jefferson Yonge, Cultural Representative	880 Zucco Road, Lone Pine, CA 93545	Phone	12/9/2010	Table
	Melvin R. Joseph, Chairperson		Phone	12/16/2010	Table
	Sandy Jefferson Yonge, Cultural Representative		Phone	1/14/2011	Table
	Melvin R. Joseph, Chairperson		Phone	1/20/2011	Table
	Melvin R. Joseph, Chairperson		Phone	1/26/2011	Table
Mono Lake Indian Community - Mono Northern Pauite	Melvin R. Joseph, Chairperson		Phone	3/21/2011	
	Melvin R. Joseph, Chairperson		Letter – Sent	6/16/2011	
	Charlotte Lange, Chairperson	P.O. Box 117, Big Pine, CA 93513	Letter – Sent	10/27/2010	
			Phone	12/6/2010	Table
			Phone	12/16/2010	Table
			Phone	1/20/2011	Table
Morongo Band of Mission Indians	Ernest H. Siva, Tribal Elder	9570 Mias Canyon Road, Banning, CA 92220	Letter – Sent	10/27/2010	
	Franklin A. Dancy, Director of Planning		Email – Received	10/27/2010	
San Fernando Band of Mission Indians	John Valenzuela, Chairperson	P.O. Box 221838, Newhall, CA 91322	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table

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Agency	Contact	Address	Contact Method	Date	Pages
			Phone	12/8/2010	Table
			Phone	12/16/2010	Table
			Phone	12/20/2010	Table
San Manuel Band of Mission Indians – Serrano	James Ramos, Chairperson	26569 Community Center Dr. Highland, CA 92346	Letter – Sent	10/27/2010	
			Phone	12/7/2010	Table
			Phone	12/16/2010	Table
San Miguel Band of Mission Indians	Ann Brierty, Policy/Cultural Resources Department	26569 Community Center Dr. Highland, CA 92346	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/16/2010	Table
			Phone	12/17/2010	Table
Serrano Nation of Indians	Goldie Walker	P.O. Box 343, Patton, CA 92369	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/16/2010	Table
Tehachapi Indian Tribe	Charles Cooke	32825 Santiago Road, Acton, CA 93510	Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/16/2010	Table
Timbisha Shoshone Tribe	Joe Kennedy, Chairperson	P.O. Box 206, Death Valley, CA 92328	Letter – Sent	10/27/2010	
	Barbara Durham, Tribal Historic Preservation		Letter – Sent	10/27/2010	
	Barbara Durham, Tribal Historic Preservation		Phone	12/3/2010	Table
	Barbara Durham, Tribal Historic Preservation		Phone	12/8/2010	Table
	Joe Kennedy, Chairperson		Phone	12/8/2010	Table
	Barbara Durham, Tribal Historic Preservation		Phone	12/16/2010	Table
Tubatulabal/Kawaiisu/Koso/Yokuts	Ron Wermuth	P.O. Box 168, Kernville, CA 93238	Letter – Sent	10/27/2010	
			Phone	12/8/2010	Table
	Steve Abele		Letter – Sent	12/16/2010	
			Letter – Received	12/23/2010	

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Agency	Contact	Address	Contact Method	Date	Pages
Walker River Reservation	Lorren Sammariopa, Chairperson	P.O. Box 220, Schurtz, NV 89427	Letter – Sent	10/27/2010	
	Melanie McFan, New Chairperson		Phone	12/8/2010	Table
			Phone	12/16/2010	Table
Washoe Tribe of Nevada and California	Waldo Walker, Chairperson	919 Highway 395 South, Gardnerville, NV 89410	Letter – Sent	10/27/2010	
			Phone	12/8/2010	Table
	Darrel Cruz, Cultural Resources Coordinator		Letter – Sent	10/27/2010	
			Phone	12/3/2010	Table
			Phone	12/8/2010	Table
			Letter – Sent	6/16/2011	
	Lloyd Wyatt		Phone	3/23/2011	

Native American Contact Tracking Table

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Effort to Contact
San Miguel Band of Mission Indians - Serrano	Ann Brierty, Policy/Cultural Resources Department	26569 Community Center Dr. Highland, CA 92346	10/27/2010		909-864-8933	3-Dec-10	12-3-10 dms: Left a message on her voicemail. 12-16-10: Left another voicemail regarding the NTIA letter. 12-17-10 dms: Carolyn Tobin left me a vmail indicating I should talk to Ann Brierty at the 8933 number.
Morongo Band of Mission Indians - Serrano Cahuilla	Ernest H. Siva, Tribal Elder	9570 Mias Canyon Rd. Banning, CA 92220	10/27/2010	11/3/2010			10/27/2010 via e-mail: Tribe response
Chemehuevi Reservation	Charles Wood, Chairperson	P.O. Box 1976 Chemehuevi Valley, CA 92363	10/27/2010		760-858-4301	3-Dec-10	12-3-10 dms: Left a message on his voicemail. 12-16-10 dms: Left a second message for Charles.
Washoe Tribe of Nevada and California THPO - Washoe	Darrel Cruz, Cultural Resources Coordinator	919 Highway 395 South, Garnerville, NV 89410	10/27/2010	11/4/2010	775-265-4191	3-Dec-10	12-3-10 dms: Left a message on his voicemail. 12-8-10 dms: Darrel called today.
Timbisha Shoshone Tribe THPO - Western Shoshone	Barbara Durham, Tribal Historic Preservation	P.O. Box 206 Death Valley, CA 92328	10/27/2010	11/4/2010	760-786-2374	3-Dec-10	12-3-10 dms: Left a message with her assistant. 12-8-10 dms: Left second message on vmail. Also mentioned that I was trying to contact Joe Kennedy. 12-16-10 dms: Left third voicemail regarding NTIA letter and also requesting contact info for Joe Kennedy.
Big Pine Band of Owens Valley THPO - Paiute	Bill Hellmer, Tribal Historic Preservation Officer	P.O. Box 700 Big Pine, CA 93513	10/27/2010	11/9/2010	760-938-2003 760-938-3351 760-937-3331c	3-Dec-10	12-3-10 dms: Left a message with his assistant. 12-3-10 dms: He returned my call and said he didn't recall the letter. He asked me to email him the letter. I did and he agreed that we would talk again early next week. 12-16-10 dms: Left Bill voicemail requesting he call about the letter. 1-6-11 dms: Bill called this morning. Asked me to email letter again. I did. Tried to reach him this afternoon, tribe phone directory not working. 1/14/11 dms: I talked to Bill today. He has the letter and will read it and call me next week.

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Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Effort to Contact
Serrano Nation of Indians	Goldie Walker and her son Mark (909)-528-9032	P.O. Box 343 Patton, CA 92369	10/27/2010	11/3/2010	909-862-9883	3-Dec-10	12-3-10 dms: Ms. Walker could not talk today. Asked me to call back. 12-16-10 dms: Spoke with Goldie, and her son Mark.
Tehachapi Indian Tribe - Kawaiisu	Charlie Cooke	32835 Santiago Rd. Acton, CA 93510	10/27/2010	11/9/2010	661-733-1812	3-Dec-10	12-3-10 dms: No answer and the mailbox was full. 12-16-10 dms: Spoke with Charlie.
Big Pine Band of Owens Valley - Owens Valley Paiute	David Moose, Chairperson	P.O. Box 700 Big Pine, CA 93513	10/27/2010	11/5/2010	760-938-2003	3-Dec-10	12-3-10 dms: The 2003 number is not valid. 12-16-10 dms: The 2003 number now working but Mr. Moose is not listed in the directory. I left a vmail with community services seeking info on how to contact Mr. Moose or the new Chairperson.
Fort Independence Community of Paiute	Carl Dahlberg, Chairperson	P.O. Box 67 Independence, CA 93526	10/27/2010	11/5/2010	760-878-2126	3-Dec-10	12-3-10 dms: The 2126 number is disconnected. 12-6-10 dms: 2126 still disconnected. Sent email to Stephanie@fortindependence.com. 12-20-10 dms: Stephanie responded saying He is no longer our chairman. She said to contact Israel Naylor, Chairman. I sent Mr. Naylor an email requesting he call me at the office. 1/20/11 dms: I sent a second email to Mr. Naylor requesting he call or email.
Mono Lake Indian Community - Mono Northern Paiute	Charlotte Lange, Chairperson	P.O. Box 117 Big Pine, CA 93513	10/27/2010	11/5/2010	760-938-1190	3-Dec-10	12-6-10 dms: I left a message on her voicemail. 12-16-10 dms: I left a second vmail regarding the NTIA letter. 1/20/11 dms: I left a third vmail regarding the NTIA letter.
San Manuel Band of Mission Indians - Serrano	James Ramos, Chairperson	26569 Community Center Dr. Highland, CA 92346	10/27/2010		909-864-8933	7-Dec-10	12-7-10 dms: Left a vmail with Carolyn. 12-16-10 dms: Left a message on James' vmail.
Timbisha Shoshone Tribe - Western Shoshone	Joe Kennedy, Chairperson	(old - 785 N. Main Street, Suite Q Bishop, CA 93514); Correct: P.O. Box 206 Death Valley, CA 92328	10/27/2010	11/10/2010	760-786-2374	12/1/2010 - letter re-sent	12-8-10 dms: The 2374 number is disconnected. Left message with Barbara Durham for Joe's number.

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Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Effort to Contact
San Fernando Band of Mission Indians - Fernandeno, Tataviam, Serrano, Vanyume, Kitanemuk	John Valenzuela, Chairperson	P.O. Box 221838 Newhall, CA 91322	10/27/2010	11/17/2010	661-753-9833 760-885-0955	8-Dec-10	12-3-10 dms: "call cannot be answered at this time...". 12-8-10 dms: "call cannot be answered at this time...". 12-16-10 dms: Called 0955 number and left vmail for John. 12-20-10 dms: John left a vmail with Lisa and she forwarded it to me. I called John and left a vmail with my cell number. 12-20-10 dms: John returned my call and said he had not received the letter. He asked me to fax it to him. I did and told him I would call him back in several days to discuss the project. 12-20-10 dms: John's fax machine wasn't working so I mailed him a copy of the NTIA letter.
Bridgeport Paiute Indian Colony	Joseph ArtSam, Chairperson	P.O. Box 37, Bridgeport, CA 93517	10/27/2010	11/5/2010	760-885-0955	8-Dec-10	12-8-10 dms: Talked to Ronnie and she took down my contact information for Joseph. 12-10-10 dms: Kristy Robles left a message.
Kern Valley Indian Council - Southern Paiute/Kawaiisu/Tubatulabal/Koso/Yokuts	Julie Turner, Secretary	P.O. Box 1010 Lake Isabella, CA 93240	10/27/2010	11/9/2010	661-366-0497	8-Dec-10	12-8-10 dms: Julie has not seen the NTIA letter and requested I email it to her. 12-16-10 dms: Left vmail for Julie.
AhaMakav Cultural Society, Fort Mojave Indian - Mojave	Linda Ortero, Director	P.O. Box 5990 Mojave Valley, AZ 86440	10/27/2010	11/5/2010	928-768-4475	8-Dec-10	12-8-10 dms: Linda said she would have to look through her files for the letter. I told her that if she could not find it I could mail or email her a copy. She said she would call me back in a couple of days.
Walker River Reservation - Northern Paiute	Lorren Sammariopa, Chairperson Melanie McFan, New Chairperson	P.O. Box 220 Schurz, NV 89427	10/27/2010	11/4/2010	775-773-2306	8-Dec-10	12-8-10 dms: no answer, no voicemail. 12-16-10 dms; Receptionist directed me to Melanie McFan, the new Chairperson. I left Melanie a vmail.
Lone Pine Paiute - Shoshone Reservation	Melvin R. Joseph, Chairperson	P.O. Box 747 Lone Pine, CA 93545	10/27/2010	11/9/2010	1760-876-1034	8-Dec-10	12-8-10 dms: "mailbox is full". 12-16-10 dms: Left voicemail for Melvin. 1/20/11 dms: Left message for Melvin with Carla. 1/26/11 dms: Melvin called today.
Benton Paiute Reservation	Mike Keller, Chairperson	Star Route 4, Box 56-A, Benton, CA 93512	10/27/2010	11/4/2010	760-933-2321	8-Dec-10	12-8-10 dms: Left voicemail for Mike. 1/14/11 dms: Left a second voicemail for Mike Keller with Barbara Keller.

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Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Effort to Contact
Kutzadika Indian Community Cultural Preservation - Paiute	Raymond Andrews, Chairman	P.O. Box 591 Bishop, CA 93515	10/27/2010	11/10/2010	760-920-0357	3-Dec-10	12-3-10 dms: Spoke with Raymond.
Kern Valley Indian Council - Tubatulabal/Kawaiisu/Koso/Yokuts	Robert Robinson, Historic Preservation Officer	P.O. Box 401, Weldon, CA 93283	10/27/2010		760-549-2131	8-Dec-10	12-16-10 dms: Spoke with Robert.
Tubatulabal/Kawaiisu/Koso/Yokuts	Ron Wermuth	P.O. Box 168 Kernville, CA 93238	10/27/2010	11/4/2010	760-376-4240	8-Dec-10	12-8-10 dms: Spoke with Ron.
Lone Pine Paiute - Shoshone Reservation	Sandy Jefferson Yonge, Cultural Representative	880 Zucco Road, Lone Pine, CA 93545	10/27/2010	11/5/2010	760-876-5658	9-Dec-10	12-9-10 dms: I left Sandy a vmail. 1/14/11 dms: Spoke with Sandy.
Lone Pine Paiute - Shoshone Reservation	Sanford Nabahe, Tribal Administrator; Kathy Bancroft	P.O. Box 747 Lone Pine, CA 93545	10/27/2010	11/9/2010	760-876-1034 406-570-5289	9-Dec-10	12-9-10 dms: Tracy told me that Sanford no longer works there and referred me to Kathy Bancroft. 12-9-10 dms: Spoke with Kathy; had not rec'd notification (I emailed it today).
Bishop Paiute Tribe THPO - Paiute, Shoshone	Theresa Stone - Yanez	50 Tu Su Lane, Bishop, CA 93514	10/27/2010	11/5/2010	760-873-3584 250	9-Dec-10	12-9-10 dms: Left Theresa a vmail. 12-16-10 dms: Left second voicemail for Theresa. 1/20/11 dms: Left a message for Theresa with Jordan.
Fort Mojave Indian Tribe	Tim Williams, Chairperson	500 Merriman Ave. Needles, CA 92363	10/27/2010	11/3/2010	760-629-4591	9-Dec-10	12-9-10 dms: Delores took a message for Tim. She also asked me to email the notification letter. I did today.
Washoe Tribe of Nevada and California	Waldo Walker, Chairperson; New Chair Wanda	919 Highway 395 South, Garnerville, NV 89410	10/27/2010	11/4/2010	775-265-4191	8-Dec-10	12-8-10 dms: I left Kim a message for Wanda. 12-8-10 dms: Darrel Cruz called.
Bishop Paiute Tribe - Paiute, Shoshone	William Vega, Chairperson	50 Tu Su Lane, Bishop, CA 93514	10/27/2010	11/4/2010	760-873-3584	9-Dec-10	12-9-10 dms: No answer, no voicemail. 12-16-10 dms: I left a message for William with Tiyan. 1/19/11 dms: Left message for William with Valarie.

NEW Native American Contact Tracking Table

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
AhaMakav Cultural Society, Fort Mojave Indian - Mojave	Linda Ortero, Director	P.O. Box 5990 Mojave Valley, AZ 86440	10/27/2010	11/5/2010	928-768-4475	8-Dec-10		12-8-10 dms: Linda said she would have to look through her files for the letter. I told her that if she could not find it I could mail or email her a copy. She said she would call me back in a couple of days.
Benton Paiute Reservation	Mike Keller, Chairperson	Star Route 4, Box 56-A, Benton, CA 93512	10/27/2010	11/4/2010	760-933-2321	8-Dec-10		12-8-10 dms: Left voicemail for Mike. 1/14/11 dms: Left a second voicemail for Mike Keller with Barbara Keller.
Benton Paiute Reservation	Bill Saulque, Chairperson	Star Route 4, Box 56-A, Benton, CA 93512			760-933-2321	24-May-11		5-24-11 jms: I spoke with Cindy Kitts regarding a face-to face meeting, I will sent her some dates for early June as the Chairperson has changed. cindykitts@hughes.com.
Big Pine Band of Owens Valley - Owens Valley Paiute	David Moose, Chairperson	P.O. Box 700 Big Pine, CA 93513	10/27/2010	11/5/2010	760-938-2003	3-Dec-10		12-3-10 dms: The 2003 number is not valid.
Big Pine Band of Owens Valley - Owens Valley Paiute	David Moose, Chairperson	P.O. Box 700 Big Pine, CA 93513	10/27/2010	11/5/2010	760-938-2003	3-Dec-10	4-May-11	12-3-10 dms: The 2003 number is not valid. 12-16-10 dms: The 2003 number now working but Mr. Moose is not listed in the directory. I left a vmail with community services seeking info on how to contact Mr. Moose or the new Chairperson.
Big Pine Band of Owens Valley - Owens Valley Paiute	David Moose, Chairperson	P.O. Box 700 Big Pine, CA 93513				16-Dec-10		12-16-10 dms: The 2003 number now working but Mr. Moose is not listed in the directory. I left a vmail with community services seeking info on how to contact Mr. Moose or the new Chairperson.

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Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
Big Pine Band of Owens Valley THPO - Paiute	Bill Hellmer, Tribal Historic Preservation Officer	P.O. Box 700 Big Pine, CA 93513	10/27/2010	11/9/2010	760-938-2003 760-938-3351 760-937-3331c	3-Dec-10		12-3-10 dms: Left a message with his assistant. 12-3-10 dms: He returned my call and said he didn't recall the letter. He asked me to email him the letter. I did and he agreed that we would talk again early next week.
Big Pine Band of Owens Valley THPO - Paiute								12-16-10 dms: Left Bill voicemail requesting he call about the letter.
Big Pine Band of Owens Valley THPO - Paiute								1-6-11 dms: Bill called this morning. Asked me to email letter again. I did. Tried to reach him this afternoon, tribe phone directory not working. 1/14/11 dms: I talked to Bill today. He has the letter and will read it and call me next week.
Bishop Paiute Tribe - Paiute, Shoshone	William Vega, Chairperson	50 Tu Su Lane, Bishop, CA 93514	10/27/2010	11/4/2010	760-873-3584	9-Dec-10		12-9-10 dms: No answer, no voicemail.
Bishop Paiute Tribe - Paiute, Shoshone								1/19/11 dms: Left message for William with Valarie.
Bishop Paiute Tribe - Paiute, Shoshone								12-16-10 dms: I left a message for William with Tiyan.
Bishop Paiute Tribe THPO - Paiute, Shoshone	Theresa Stone - Yanez	50 Tu Su Lane, Bishop, CA 93514	10/27/2010	11/5/2010	760-873-3584 250	9-Dec-10		12-9-10 dms: Left Theresa a vmail. 12-16-10 dms: Left second voicemail for Theresa. 1/20/11 dms: Left a message for Theresa with Jordan.
Bridgeport Paiute Indian Colony	Joseph ArtSam, Chairperson	P.O. Box 37, Bridgeport, CA 93517	10/27/2010	11/5/2010	760-885-0955	8-Dec-10		12-8-10 dms: Talked to Ronnie and she took down my contact information for Joseph.
Bridgeport Paiute Indian Colony	Joseph Art Sam, Chairperson	P.O. Box 37, Bridgeport, CA 93517	10/27/2010	11/5/2010	chair@bridgeportindiancolony.com	8-Dec-10		jms: May 25, 2011 - Sent email to Tribe requesting informal meeting to discuss cultural and traditional lands issues. Second email sent May 31, 2011 about coming PA.

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
Bridgeport Paiute Indian Colony	Christy Robles, Tribal Administrator	P.O. Box 37, Bridgeport, CA 93517					Admin@bridgeportindiancolony.com	jms: May 25, 2011 - Sent email to Tribe requesting informal meeting to discuss cultural and traditional lands issues. Second email sent May 31, 2011 about coming PA.
Chemehuevi Reservation	Charles Wood, Chairperson	P.O. Box 1976 Chemehuevi Valley, CA 92363	10/27/2010		760-858-4301	3-Dec-10		12-3-10 dms: Left a message on his voicemail.
Chemehuevi Reservation								12-16-10 dms: Left a second message for Charles.
Fort Independence Community of Paiute	Carl Dahlberg, Chairperson	P.O. Box 67 Independence, CA 93526	10/27/2010	11/5/2010	760-878-2126	3-Dec-10		12-3-10 dms: The 2126 number is disconnected. 12-6-10 dms: 2126 still disconnected. Sent email to Stephanie@fortindependence.com.
Fort Independence Community of Paiute								1/20/11 dms: I sent a second email to Mr. Naylor requesting he call or email.
Fort Independence Community of Paiute								12-20-10 dms: Stephanie responded saying He is no longer our chairman. She said to contact Israel Naylor, Chairman. I sent Mr. Naylor an email requesting he call me at the office.
Fort Independence Community of Paiute	Richard Wilder, Tribal Administrator & John Bowden, Public Works Director	P.O. Box 67 Independence, CA 93526					5-May-11	jms: Both gentlemen expresses enthusiasm for the project, and Richard reported he made a presentation to the tribal council supporting the project. He would like to see a review copy of the EA. Richard also indicated he would like to see tribal monitors overseeing construction.
Fort Mojave Indian Tribe	Tim Williams, Chairperson	500 Merriman Ave. Needles, CA 92363	10/27/2010	11/3/2010	760-629-4591	9-Dec-10		12-9-10 dms: Delores took a message for Tim. She also asked me to email the notification letter. I did today.

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
INTER TRIBAL MEETING Bishop Area	Represented Lone Pine Paiute, Big Pine Paiute, Bishop Paiute	Bishop Tribal Hall					4-May-11	jms: The purpose of the meeting was to describe the project, and informally discuss cultural and traditional issues. All parties are supportive of project. THPOs were in agreement that tribal monitor should watch construction on tribal land. They also wanted an early review of the 2nd screencheck draft EA due out June 30. The meeting was cordial, and productive.
Kern Valley Indian Council - Southern Paiute/Kawaisu/Tubatulabal/Koso/Yokuts	Julie Turner, Secretary	P.O. Box 1010 Lake Isabella, CA 93240	10/27/2010	11/9/2010	661-366-0497	8-Dec-10		12-8-10 dms: Julie has not seen the NTIA letter and requested I email it to her.
Kern Valley Indian Council - Southern Paiute/Kawaisu/Tubatulabal/Koso/Yokuts								12-16-10 dms: Left vmail for Julie.
Kern Valley Indian Council - Tubatulabal/Kawaisu/Koso/Yokuts	Robert Robinson, Historic Preservation Officer	P.O. Box 401, Weldon, CA 93283	10/27/2010		760-549-2131	8-Dec-10		12-16-10 dms: Spoke with Robert.
Kutzadika Indian Community Cultural Preservation - Paiute	Raymond Andrews, Chairman	P.O. Box 591 Bishop, CA 93515	10/27/2010	11/10/2010	760-920-0357	3-Dec-10		12-3-10 dms: Spoke with Raymond.
Lone Pine Paiute - Shoshone Reservation	Sanford Nabahe, Tribal Administrator; Kathy Bancroft	P.O. Box 747 Lone Pine, CA 93545	10/27/2010	11/9/2010	760-876-1034 406-570-5289	9-Dec-10		12-9-10 dms: Tracy told me that Sanford no longer works there and referred me to Kathy Bancroft. 12-9-10 dms: Spoke with Kathy; had not rec'd notification (I emailed it today).

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
Lone Pine Paiute - Shoshone Reservation	Melvin R. Joseph, Chairperson	P.O. Box 747 Lone Pine, CA 93545	10/27/2010	11/9/2010	1-760-876-1034	8-Dec-10		12-8-10 dms: "mailbox is full".
Lone Pine Paiute - Shoshone Reservation	Melvin R. Joseph, Chairperson	P.O. Box 747 Lone Pine, CA 93545	10/27/2010	11/9/2010	1-760-876-1034	8-Dec-10	4-May-11	12-8-10 dms: "mailbox is full". 12-16-10 dms: Left voicemail for Melvin. 1/20/11 dms: Left message for Melvin with Carla. 1/26/11 dms: Melvin called today. His first request was to include NA monitors during construction. He indicated that burials and important artifacts could be present anywhere along the highway. He told me to contact the tribe when we are ready to survey across their lands.
Lone Pine Paiute - Shoshone Reservation	Sandy Jefferson Yonge, Cultural Representative	880 Zucco Road, Lone Pine, CA 93545	10/27/2010	11/5/2010	760-876-5658	9-Dec-10		12-9-10 dms: I left Sandy a vmail. 1/14/11 dms: Spoke with Sandy.
Lone Pine Paiute - Shoshone Reservation								1/20/11 dms: Left message for Melvin with Carla. 1/26/11 dms: Melvin called today.
Lone Pine Paiute - Shoshone Reservation								12-16-10 dms: Left voicemail for Melvin.
Mono Lake Indian Community - Mono Northern Paiute	Charlotte Lange, Chairperson	P.O. Box 117 Big Pine, CA 93513	10/27/2010	11/5/2010	760-938-1190	3-Dec-10		12-6-10 dms: I left a message on her voicemail. 12-16-10 dms: I left a second vmail regarding the NTIA letter.

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
Mono Lake Indian Community - Mono Northern Paiute								1/20/11 dms: I left a third vmail regarding the NTIA letter.
Morongoband of Mission Indians - Serrano Cahuilla	Ernest H. Siva, Tribal Elder	9570 Mias Canyon Rd. Banning, CA 92220	10/27/2010	11/3/2010				10/27/2010 via e-mail: Tribe response
San Fernando Band of Mission Indians - Fernandeno, Tataviam, Serrano, Vanyume, Kitanemuk	John Valenzuela, Chairperson	P.O. Box 221838 Newhall, CA 91322	10/27/2010	11/17/2010	661-753-9833 760-885-0955	8-Dec-10		12-3-10 dms: "call cannot be answered at this time...". 12-8-10 dms: "call cannot be answered at this time...". 12-16-10 dms: Called 0955 number and left vmail for John. 12-20-10 dms: John left a vmail with Lisa and she forwarded it to me. I called John and left a vmail with my cell number. 12-20-10 dms: John returned my call and said he had not received the letter. He asked me to fax it to him. I did and told him I would call him back in several days to discuss the project. 12-20-10 dms: John's fax machine wasn't working so I mailed him a copy of the NTIA letter.
San Manuel Band of Mission Indians - Serrano	James Ramos, Chairperson	26569 Community Center Dr. Highland, CA 92346	10/27/2010		909-864-8933	7-Dec-10		12-7-10 dms: Left a vmail with Carolyn. 12-16-10 dms: Left a message on James' vmail.
San Miguel Band of Mission Indians - Serrano	Ann Brierty, Policy/Cultural Resources Department	26569 Community Center Dr. Highland, CA 92346	10/27/2010		909-864-8933	3-Dec-10		12-3-10 dms: Left a message on her voicemail.

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
San Miguel Band of Mission Indians - Serrano								12-16-10: Left another voicemail regarding the NTIA letter.
San Miguel Band of Mission Indians - Serrano								12-17-10 dms: Carolyn Tobin left me a vmail indicating I should talk to Ann Brierty at the 8933 number.
Serrano Nation of Indians	Goldie Walker and her son Mark (909)-528-9032	P.O. Box 343 Patton, CA 92369	10/27/2010	11/3/2010	909-862-9883	3-Dec-10		12-3-10 dms: Ms. Walker could not talk today. Asked me to call back. 12-16-10 dms: Spoke with Goldie, and her son Mark.
Tehachapi Indian Tribe - Kawaiisu	Charlie Cooke	32835 Santiago Rd. Acton, CA 93510	10/27/2010	11/9/2010	661-733-1812	3-Dec-10		12-3-10 dms: No answer and the mailbox was full. 12-16-10 dms: Spoke with Charlie.
Timbisha Shoshone Tribe - Western Shoshone	Joe Kennedy, Chairperson	<i>(old - 785 N. Main Street, Suite Q Bishop, CA 93514); Correct: P.O. Box 206 Death Valley, CA 92328</i>	10/27/2010	11/10/2010	760-786-2374	12/1/2010 - letter re-sent		12-8-10 dms: The 2374 number is disconnected. Left message with Barbara Durham for Joe's number.
Timbisha Shoshone Tribe THPO - Western Shoshone	Barbara Durham, Tribal Historic Preservation	P.O. Box 206 Death Valley, CA 92328	10/27/2010	11/4/2010	760-786-2374	3-Dec-10		12-3-10 dms: Left a message with her assistant. 12-8-10 dms: Left second message on vmail. Also mentioned that I was trying to contact Joe Kennedy. 12-16-10 dms: Left third voicemail regarding NTIA letter and also requesting contact info for Joe Kennedy.
Tubatulabal/Kawaiisu/Koso/Yokuts	Ron Wermuth	P.O. Box 168 Kernville, CA 93238	10/27/2010	11/4/2010	760-376-4240	8-Dec-10		12-8-10 dms: Spoke with Ron.

Appendix J – Project Coordination
CBC Digital 395 Middle Mile Project

Tribe	Contact	Address	Initial Letter Date	Confirmed Delivery Date	Phone	Follow-up Phone Contact	Face to Face Contact	Comments
Walker River Reservation - Northern Paiute	Lorren Sammariopa Chairperson Melanie McFan, New Chairperson	P.O. Box 220 Schurz, NV 89427	10/27/2010	11/4/2010	775-773-2306	8-Dec-10		12-8-10 dms: no answer, no voicemail. 12-16-10 dms; Receptionist directed me to Melanie McFan, the new Chairperson. I left Melanie a vmail.
Washoe Tribe of Nevada and California	Waldo Walker, Chairperson; New Chair Wanda	919 Highway 395 South, Garnerville, NV 89410	10/27/2010	11/4/2010	775-265-4191	8-Dec-10		12-8-10 dms: I left Kim a message for Wanda.
Washoe Tribe of Nevada and California								12-8-10 dms: Darrel Cruz called.
Washoe Tribe of Nevada and California THPO - Washoe	Darrel Cruz, Cultural Resources Coordinator	919 Highway 395 South, Garnerville, NV 89410	10/27/2010	11/4/2010	775-265-4191	3-Dec-10		12-3-10 dms: Left a message on his voicemail. 12-8-10 dms: Darrel called today.
								12-10-10 dms: Kristy Robles left a message.

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Email from Franklin A. Dancy – Morongo Band of Mission Indians

From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Wednesday, October 27, 2010 12:47 PM
To: BTOPTCNS
Cc: tcns.fccarchive@fcc.gov; FDANCY@MORONGO-NSN.GOV
Subject: Reply to Proposed Tower Structure (Notification ID: 69717) - Email ID #2636930

Dear Environmental Compliance Specialist Frank Monteferrante PhD,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from Director of Planning Franklin A Dancy of the Morongo Band of Mission Indians in reference to Notification ID #69717:

We have no interest in this site. However, if the Applicant discovers archaeological remains or resources during construction, the Applicant should immediately stop construction and notify the appropriate Federal Agency and the Tribe.

For your convenience, the information you submitted for this notification is detailed below.

Application Details

Notification ID: 69717
Project Number: 5569
Applicant: California Broadband Cooperative INC
Applicant Contact: Robert Volker

Project Type(s):
Multiple Project Components

Region(s) affected by the proposed broadband project:
CALIFORNIA, INYO
CALIFORNIA, KERN
CALIFORNIA, MONO
CALIFORNIA, SAN BERNARDINO

NEVADA, CARSON CITY
NEVADA, DOUGLAS
NEVADA, WASHOE

Address or Geographical Location Description: Several counties in CA (Kern, Inyo, Mono, San Bernardino) and NV (Carson City, Douglas, Washoe); please refer to attached maps for more information.

Email from Luther Salgado Sr. – Cahuilla Band of Mission Indians

From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Monday, November 29, 2010 4:37 PM
To: BTOPTCNS
Cc: environmentalofficer@cahuilla.net
Subject: Reply to Proposed Tower Structure (Notification ID: 69717) - Email ID #2673998

Dear Environmental Compliance Specialist Frank Monteferrante PhD,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from Chairman Luther Salgado Sr of the Cahuilla Band of Mission Indians in reference to Notification ID #69717:

We have no interest in this site. However, if the Applicant discovers archaeological remains or resources during construction, the Applicant should immediately stop construction and notify the appropriate Federal Agency and the Tribe.

For your convenience, the information you submitted for this notification is detailed below.

Application Details

Notification ID: 69717
Project Number: 5569
Applicant: California Broadband Cooperative INC
Applicant Contact: Robert Volker

Project Type(s):
Multiple Project Components

Region(s) affected by the proposed broadband project:
CALIFORNIA, INYO
CALIFORNIA, KERN
CALIFORNIA, MONO
CALIFORNIA, SAN BERNARDINO

NEVADA, CARSON CITY
NEVADA, DOUGLAS
NEVADA, WASHOE

Address or Geographical Location Description: Several counties in CA (Kern, Inyo, Mono, San Bernardino) and NV (Carson City, Douglas, Washoe); please refer to attached maps for more information.

Email from Ray Stands – Fallon Paiute-Shoshone Tribe

From: towernotifyinfo@fcc.gov [mailto:towernotifyinfo@fcc.gov]
Sent: Wednesday, January 05, 2011 11:29 AM
To: BTOPTCNS
Cc: tcns.fccarchive@fcc.gov; culturalcoordinator@fpst.org
Subject: Reply to Proposed Tower Structure (Notification ID: 69717) - Email ID #2697075

Dear Environmental Compliance Specialist Frank Monteferrante PhD,

Thank you for using the Federal Communications Commission's (FCC) Tower Construction Notification System (TCNS). The purpose of this email is to inform you that an authorized user of the TCNS has replied to a proposed tower construction notification that you had submitted through the TCNS.

The following message has been sent to you from Cultural Coordinator Ray Stands of the Fallon Paiute-Shoshone Tribe in reference to Notification ID #69717:

We have no interest in this site. However, if the Applicant discovers archaeological remains or resources during construction, the Applicant should immediately stop construction and notify the appropriate Federal Agency and the Tribe.

For your convenience, the information you submitted for this notification is detailed below.

Application Details

Notification ID: 69717
Project Number: 5569
Applicant: California Broadband Cooperative INC
Applicant Contact: Robert Volker

Project Type(s):
Multiple Project Components

Region(s) affected by the proposed broadband project:
CALIFORNIA, INYO
CALIFORNIA, KERN
CALIFORNIA, MONO
CALIFORNIA, SAN BERNARDINO

NEVADA, CARSON CITY
NEVADA, DOUGLAS
NEVADA, WASHOE

Address or Geographical Location Description: Several counties in CA (Kern, Inyo, Mono, San Bernardino) and NV (Carson City, Douglas, Washoe); please refer to attached maps for more information.



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

KutzadikaA Indian Community Cultural Preservation
Raymond Andrews, Chairman
P.O. Box 591
Bishop, CA 93515

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

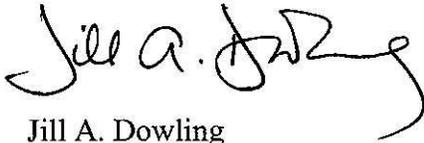
Dear Mr. Andrews,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between Carson City, Nevada, and Barstow, California, providing broadband services to the unserved and underserved area commonly referred to as the Eastern Sierras. The service area contains 36 communities as well as six Indian reservations. In addition to these civilian areas, the region is host to two military bases: Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

NTIA has determined that this project is an “undertaking” with potential to affect historic resources, as defined in 36 CFR Part 800, and this letter serves as notice that NTIA is initiating consultation under Section 106 of the National Historic Preservation Act. Please let me know if you would like the grant recipient (California Broadband Cooperative) to contact you regarding their project. They can provide you with more specific information concerning their project. NTIA will participate in any consultations, if necessary, to resolve adverse effects and develop any memorandum of agreement.

If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Dowling". The signature is fluid and cursive, with the first name "Jill" and the last name "Dowling" being the most prominent parts.

Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Tehachapi Indian Tribe
Charlie Cooke
32835 Santiago Rd
Acton, CA 93510

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

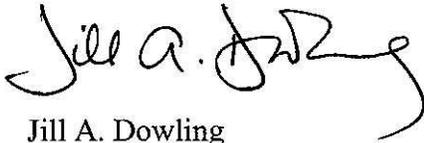
Dear Mr. Cooke,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between Carson City, Nevada, and Barstow, California, providing broadband services to the unserved and underserved area commonly referred to as the Eastern Sierras. The service area contains 36 communities as well as six Indian reservations. In addition to these civilian areas, the region is host to two military bases: Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

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If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

A handwritten signature in black ink that reads "Jill A. Dowling". The signature is written in a cursive style with a large, sweeping flourish at the end.

Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Washoe Tribe of Nevada and California THPO
Darrel Cruz, Cultural Resources Coordinator
919 Highway 395 South
Gardnerville, NV 89410

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

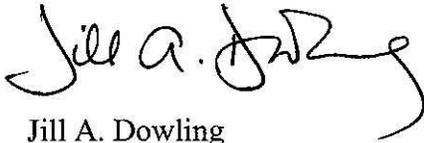
Dear Mr. Cruz,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between Carson City, Nevada, and Barstow, California, providing broadband services to the unserved and underserved area commonly referred to as the Eastern Sierras. The service area contains 36 communities as well as six Indian reservations. In addition to these civilian areas, the region is host to two military bases: Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

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Sincerely,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Fort Independence Community of Paiute
Carl Dahlberg, Chairperson
P.O. Box 67
Independence, CA 93526

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

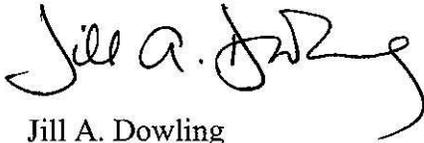
Dear Mr. Dahlberg,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between Carson City, Nevada, and Barstow, California, providing broadband services to the unserved and underserved area commonly referred to as the Eastern Sierras. The service area contains 36 communities as well as six Indian reservations. In addition to these civilian areas, the region is host to two military bases: Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

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If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

A handwritten signature in black ink that reads "Jill A. Dowling". The signature is written in a cursive, flowing style.

Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Timbisha Shoshone Tribe THPO
Barbara Durham, Tribal Historic Preservation
P.O. Box 206
Death Valley, CA 92328

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

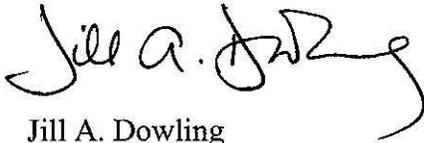
Dear Ms. Durham,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between Carson City, Nevada, and Barstow, California, providing broadband services to the unserved and underserved area commonly referred to as the Eastern Sierras. The service area contains 36 communities as well as six Indian reservations. In addition to these civilian areas, the region is host to two military bases: Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

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If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Big Pine Band of Owens Valley THPO
Bill Hellmer, Tribal Historic Preservation Officer
P.O. Box 700
Big Pine, CA 93513

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

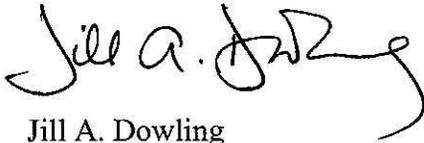
Dear Mr. Hellmer,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Lone Pine Paiute-Shoshone Reservation
Melvin R. Joseph, Chairperson
P.O. Box 747
Lone Pine, CA 93545

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

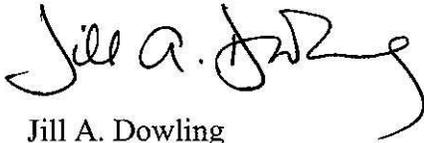
Dear Mr. Joseph,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Benton Paiute Reservation
Mike Keller, Chairperson
Star Route 4, Box 56-A
Benton, CA 93512

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

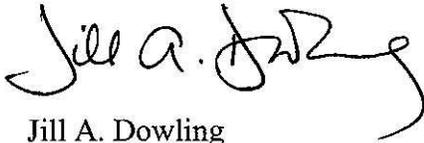
Dear Mr. Keller,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Timbisha Shoshone Tribe
Joe Kennedy, Chairperson
785 North Main St. Suite
Bishop, CA 93514

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

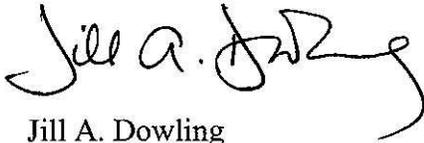
Dear Mr. Kennedy,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Mono Lake Indian Community
Charlotte Lange, Chairperson
P.O. Box 117
Big Pine, CA 93513

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

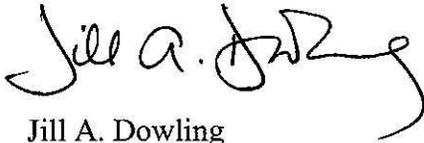
Dear Ms. Lange,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Big Pine Band of Owens Valley
David Moose, Chairperson
P.O. Box 700
Big Pine, CA 93513

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

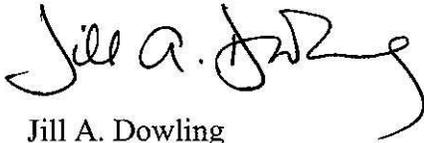
Dear Mr. Moose,

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UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Lone Pine Paiute-Shoshone Reservation
Sanford Nabahe, Tribal Administrator
P.O. Box 747
Lone Pine, CA 93545

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

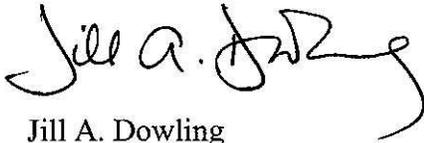
Dear Mr. Nabahe,

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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

AhaMakav Cultural Society, Fort Mojave Indian
Linda Otero, Director
P.O. Box 5990
Mohave Valley, AZ 86440

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

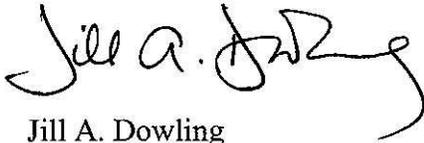
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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

San Manuel Band of Mission Indians
James Ramos, Chairperson
26569 Community Center Drive
Highland, CA 92346

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

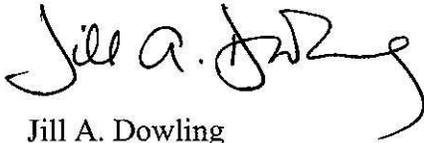
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Federal Preservation Officer
United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Kern Valley Indian Council
Robert Robinson, Historic Preservation Officer
P.O. Box 401
Weldon, CA 93283

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

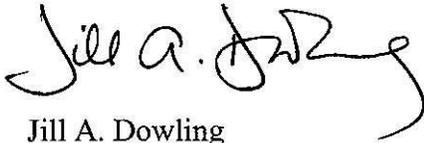
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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Bridgeport Paiute Indian Colony
Joseph Art Sam, Chairperson
P.O. Box 37
Bridgeport, CA 93517

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

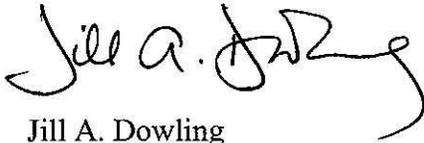
Dear Mr. Sam,

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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Walker River Reservation
Lorren Sammariopa, Chairperson
P.O. Box 220
Schurz, NV 89427

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

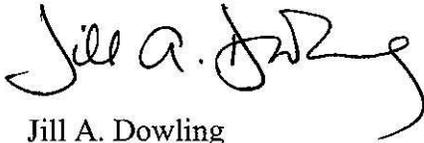
Dear Ms./Mr. Sammariopa,

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If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Morongo Band of Mission Indians
Ernest H. Siva, Tribal Elder
9570 Mias Canyon Rd.
Banning, CA 92220

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

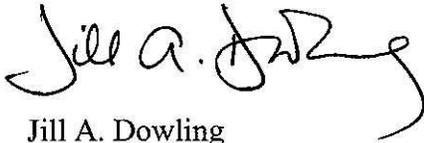
Dear Mr. Siva,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Bishop Paiute Tribe THPO
Theresa Stone-Yanez
50 Tu Su Lane
Bishop, CA 93514

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

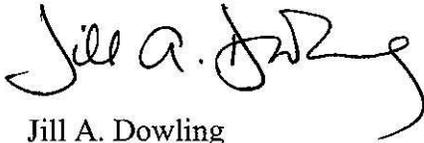
Dear Ms. Stone-Yanez,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Kern Valley Indian Council
Julie Turner, Secretary
P.O. Box 1010
Lake Isabella, CA 93240

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

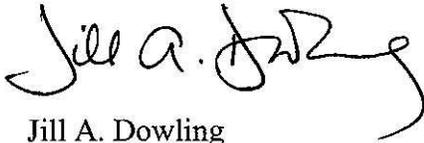
Dear Ms. Turner,

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Jill A. Dowling
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United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

San Fernando Band of Mission Indians
John Valenzuela, Chairperson
P.O. Box 221838
Newhall, CA 91322

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

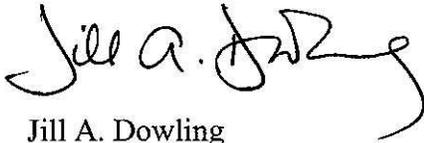
Dear Mr. Valenzuela,

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Federal Preservation Officer
United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Bishop Pauite Tribe
William Vega, Chairperson
50 Tu Su Lane
Bishop, CA 93514

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

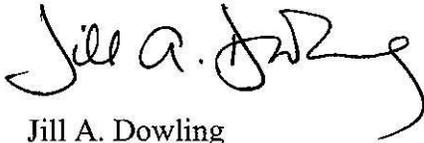
Dear Mr. Vega,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Serrano Nation of Indians
Goldie Walker
P.O. Box 343
Patton, CA 92369

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding Broadband Technology Opportunities Program Grantee #5569, California Broadband Cooperative, Digital 395 Middle Mile

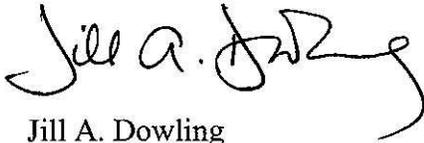
Dear Ms. Walker,

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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Ron Wermuth
P.O. Box 168
Kernville, CA 93238

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding Broadband Technology Opportunities Program Grantee #5569, California Broadband Cooperative, Digital 395 Middle Mile

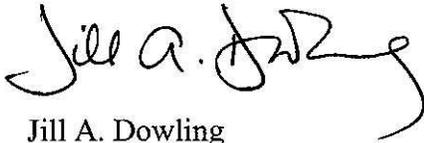
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Fort Mojave Indian Tribe
Tim Williams, Chairperson
500 Merriman Ave
Needles, CA 92363

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

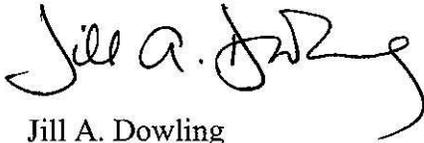
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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Chemehuevi Reservation
Charles Wood, Chairperson
P.O. Box 1976
Chemehuevi Valley, CA 92363

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

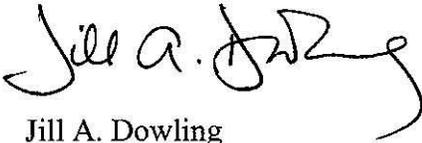
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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Washoe Tribe of Nevada and California
Waldo Walker, Chairperson
919 Highway 395 South
Gardnerville, NV 89410

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

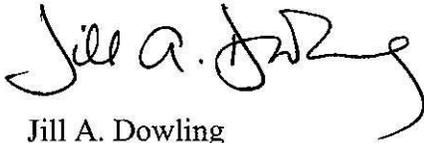
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Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

Lone Pine Paiute-Shoshone Reservation
Sandy Jefferson Yonge, Cultural Representative
880 Zucco Road
Lone Pine, CA 93545

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

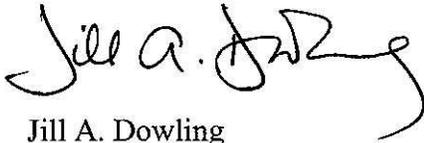
Dear Mr./Ms. Yonge,

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UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 27, 2010

San Miguel Band of Mission Indians
Ann Brierty, Policy/Cultural Resources Department
26569 Community Center Dr
Highland, CA 92346

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee #5569, California Broadband
Cooperative, Digital 395 Middle Mile

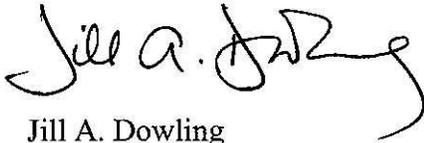
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

November 3, 2010

Ms. Melissa Hearst
U.S. Forest Service
Intermountain Region
324 25th Street
Ogden, Utah 84401

Re: **ARRA Funded Grant:** National Environmental Policy Act (NEPA) Consultations
Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569,
California Broadband Cooperative, Inc., Fiber Optic Network Infrastructure Project

Dear Ms. Hearst,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, Inc., through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. In order to meet the ARRA timeline and expedite the review process, NTIA is sending this project notification letter to the U.S. Forestry Service seeking their timely cooperation in reviewing and responding to this NTIA ARRA funded project.

The funding for this project in California and Nevada will be used to install a main backbone and various spurs between Carson City, Nevada and Barstow, California. A project description and maps are attached.

As a result of the review of the information provided with the grant application, NTIA determined that the proposed activities should be reviewed by the U.S. Forest Service. Special Award Conditions (SAC) in the NTIA grant require California Broadband Cooperative, Inc. to consult with all Federal agencies involved in the development and/or construction of their project. The grant recipient may not commence project implementation (including demolition, construction, ground disturbance, etc.) on US Forest Service lands, until they have obtained a permit to do so.

The grant recipient, California Broadband Cooperative, Inc., is being copied with this letter. Once they have applied for their permit, and completed the required analysis, they will be in contact with you to seek your review and comment.

If any issues or questions arise during this consultation please contact Genevieve Walker at (202) 482-2345, or gwalker@doc.gov. NTIA is prepared and willing at any time to participate directly in the review process as needed. As monitoring the progress of each of these projects is vital to their success, I would appreciate that you copy Ms. Walker on any correspondence you have in the future with the grant recipient regarding this project. Please do not send any return correspondence via US Mail since most mail is irradiated and will take extra time for delivery. All correspondence should be either by e-mail, fax (202-501-8009), or by express mail services (FedEx or similar carrier).

Sincerely,

A handwritten signature in black ink that reads "Frank J. Monteferrante". The signature is written in a cursive, flowing style.

Frank J. Monteferrante, Ph.D.
Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Ms. Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

November 3, 2010

Ms. Nancy Fleenor
U.S. Forest Service
Pacific Southwest Region
1323 Club Drive
Vallejo, CA 94592

Re: **ARRA Funded Grant:** National Environmental Policy Act (NEPA) Consultations
Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569,
California Broadband Cooperative, Inc., Fiber Optic Network Infrastructure Project

Dear Ms. Fleenor,

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Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Ms. Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

November 3, 2010

Ms. Nancy Fleenor
U.S. Forest Service
Pacific Southwest Region
1323 Club Drive
Vallejo, CA 94592

Re: **ARRA Funded Grant:** National Environmental Policy Act (NEPA) Consultations
Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569,
California Broadband Cooperative, Inc., Fiber Optic Network Infrastructure Project

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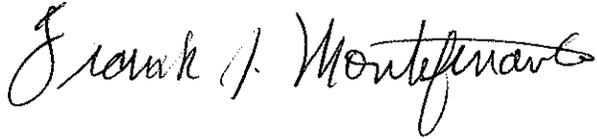
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Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Ms. Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Andrew Barnsdale
California Public Utilities Commission
505 Van Ness Avenue
Fourth Floor-Energy Division
San Francisco CA 94102

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Barnsdale,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

The purpose of Broadband Technology Opportunities Program (BTOP) Project #5569 is to construct a new fiber network of no more than 600 miles in length between Barstow, California, and Carson City, Nevada, on a route that mainly follows U.S. Highway 395 (US 395), a major transportation corridor between southern California and northern Nevada. This network will include the construction of fifteen (15) communication towers.

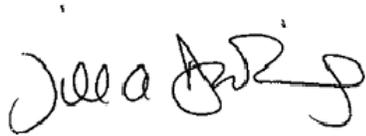
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Working with CBC, we have identified you as a proposed party to this agreement and respectfully request your participation. Should you agree, CBC and NTIA invite your review and comments on the PA within fifteen (15) days of receipt, if possible, to assist us in meeting the requirements of ARRA.

The Chambers Group, cultural resource consultants supporting CBC, will follow up with you next week to schedule a teleconference to review the PA. Given the exigencies of ARRA, NTIA seeks to obtain comments as quickly as possible and execute the PA efficiently.

If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Dowling". The signature is written in a cursive, somewhat stylized font.

Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Jeanne Binning, Environmental Division
Caltrans, Central Region
855 M. St., Suite 200
Fresno CA 93721

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Binning,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

The purpose of Broadband Technology Opportunities Program (BTOP) Project #5569 is to construct a new fiber network of no more than 600 miles in length between Barstow, California, and Carson City, Nevada, on a route that mainly follows U.S. Highway 395 (US 395), a major transportation corridor between southern California and northern Nevada. This network will include the construction of fifteen (15) communication towers.

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Steve Cook, Chief Environmental Services Division
Nevada Department of Transportation
1263 South Stewart St.
Carson City, NV 89712

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Cook,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Washoe Tribe of Nevada and California
Darrel Cruz, THPO
919 Highway 395 South
Garnerville NV 89410

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Cruz,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

The purpose of Broadband Technology Opportunities Program (BTOP) Project #5569 is to construct a new fiber network of no more than 600 miles in length between Barstow, California, and Carson City, Nevada, on a route that mainly follows U.S. Highway 395 (US 395), a major transportation corridor between southern California and northern Nevada. This network will include the construction of fifteen (15) communication towers.

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Fred Frampton, Forest Archaeologist
Tribal Relations Program Manager
Humboldt-Toiyabe National Forest
1200 Franklin Way
Sparks, NV 89431

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Frampton,

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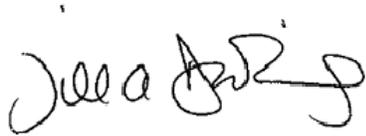
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Susan Goldberg
Applied Earthworks
3292 E. Florida Ave., Suite A
Hemet CA 92544

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Goldberg,

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Sincerely,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Kurt Heidelberg, Environmental Studies D
Caltrans District 8
464 W. 4th St., 6th Floor, MS-820
San Bernardino CA 92401

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Heidelberg,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Big Pine Band of Owens Valley – Owens Valley Paiute
Bill Helmer, THPO
P.O. Box 700
Big Pine CA 93513

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Helmer,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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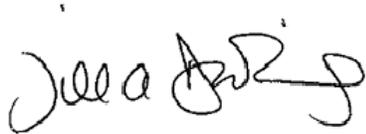
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Lone Pine Paiute – Shoshone Reservation
Melvin R Joseph, Chairperson
P.O. Box 747
Lone Pine CA 93545

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Joseph,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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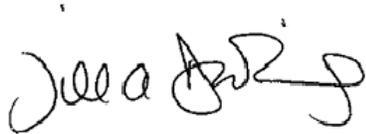
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Jill A. Dowling
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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Benton Paiute Reservation
Mike Keller, Chairperson
Star Route 4, Box 56-A
Benton CA 93512

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Keller,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

The purpose of Broadband Technology Opportunities Program (BTOP) Project #5569 is to construct a new fiber network of no more than 600 miles in length between Barstow, California, and Carson City, Nevada, on a route that mainly follows U.S. Highway 395 (US 395), a major transportation corridor between southern California and northern Nevada. This network will include the construction of fifteen (15) communication towers.

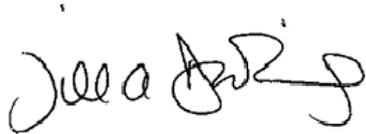
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If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Bernadette Lovato
Bureau of Land Management
351 Pacu Lane, Suite 100
Bishop CA 93514

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Lovato,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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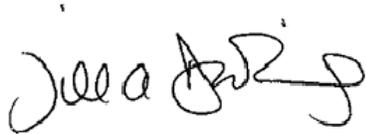
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Fort Independence Community of Paiute
Israel Naylor, Chairperson
Pricilla Naylor, TPHO
P.O. Box 67
Independence CA 93429

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Naylor,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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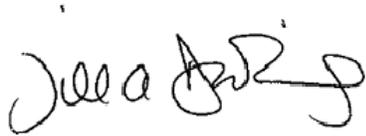
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Michael Ort
CBC/Praxis Associates, Inc.
6995 Sierra Center Pkwy., Suite 201
Reno, NV 89511

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Ort,

Thank you for participating in Section 106 consultation regarding the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP) grant to California Broadband Cooperative (CBC), as part of the American Recovery and Reinvestment Act (ARRA).

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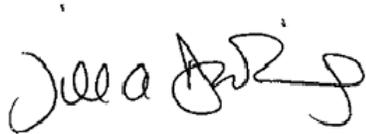
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Rebecca Palmer
NV Deputy State Historic Preservation Officer
Office of Historic Preservation
100 North Stewart Street
Capitol Complex
Carson City, NV 89701-4285

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Palmer,

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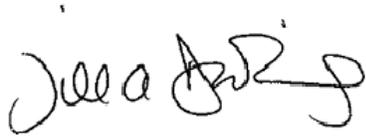
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Diana Pietra Santa
Assistant District Ranger
Inyo National Forest
351 Pack Lane, Suite 200
Bishop, CA 93514

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Pietra Santa,

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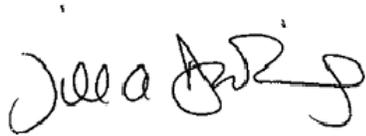
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Jill A. Dowling
Federal Preservation Officer
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Attachment



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Bridgeport Paiute Indian Colony
Christy Robles, Tribal Administrator
P.O. Box 37
Isabella, CA 93240

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Ms. Robles,

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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Bridgeport Paiute Indian Colony
Christy Robles, Tribal Administrator
P.O. Box 37
335 Sage Brush Drive
Bridgeport, CA 93517

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Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

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Federal Preservation Officer
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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Triston Tozer
Office of Historic Preservation
Department of Parks and Recreation
1725 23rd Street, Suite 100
Sacramento, CA 95816

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

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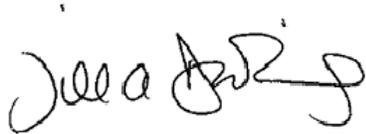
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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Bishop Paiute Tribe
William Vega, Chairperson
Matthew Nelson, THPO
50 Tu Su Lane,
Bishop CA 93514

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

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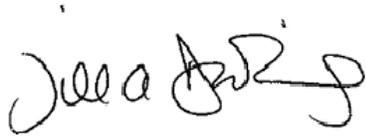
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Jill A. Dowling
Federal Preservation Officer
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UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

June 16, 2011

Rich Weaver
Caltrans-Environmental Management Office
1120 N Street, Room 2500
Sacramento, CA 95814

Re: REQUEST TO REVIEW AND PARTICIPATE IN PROGRAMMATIC AGREEMENT
TO IMPLEMENT SECTION 106 for Broadband Technology Opportunities Program
Grantee # 5569, California Broadband Cooperative, Digital 395 Middle Mile

Dear Mr. Weaver,

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Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 21, 2010

Susan K. Moore
Field Supervisor
U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Re: Endangered Species Act, Section 7, Consultations Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569, California Broadband Cooperative, Fiber Optic Network Infrastructure Project

Dear Ms. Moore,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. In order to meet the ARRA timeline and expedite the review process, NTIA is sending project notification letters to the U.S. Fish and Wildlife Services regional headquarters and individual state field offices seeking their timely cooperation in reviewing and responding to each of NTIA's ARRA funded projects.

The funding for this project in California and Nevada will be used to install a main backbone and various spurs between Carson City, Nevada, and Barstow, California. A project description and map are attached.

As a result of the review of the information provided with the grant application, NTIA determined that the proposed activities should be reviewed and informal consultations conducted with the U.S. Fish and Wildlife Service. Special Award Conditions (SAC) in the NTIA grant require California Broadband Cooperative to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act. The grant recipient may not commence project implementation (including demolition, construction, ground disturbance, etc.) prior to completion of this consultation.

The grant recipient, California Broadband Cooperative, is being copied with this letter. Once they complete their analysis and develop conclusions regarding effects of the proposed action, they will be in contact with you to provide the analysis developed, and seek your concurrence with the determinations made.

If any issues or questions arise during these consultations please contact me at (202) 482-4208, or FMonteferrante@ntia.doc.gov. NTIA is prepared and willing at any time to participate directly in the review process as needed. As monitoring the progress of each of these projects is vital to their success, I would appreciate being copied on any correspondence you have in the future with the grant recipient regarding this project. Please do not send any return correspondence via US Mail since most mail is irradiated and will take extra time for delivery. All correspondence should be either by e-mail, fax (202-501-8009), or by express mail services (FedEx or similar carrier).

Sincerely,



Frank J. Monteferrante, Ph.D.
Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 21, 2010

Susan K. Moore
Field Supervisor
U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

Re: Endangered Species Act, Section 7, Consultations Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569, California Broadband Cooperative, Fiber Optic Network Infrastructure Project

Dear Ms. Moore,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. In order to meet the ARRA timeline and expedite the review process, NTIA is sending project notification letters to the U.S. Fish and Wildlife Services regional headquarters and individual state field offices seeking their timely cooperation in reviewing and responding to each of NTIA's ARRA funded projects.

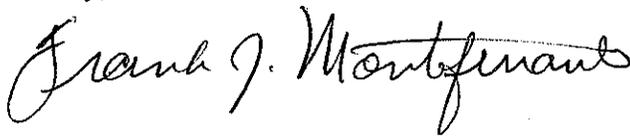
The funding for this project in California and Nevada will be used to install a main backbone and various spurs between Carson City, Nevada, and Barstow, California. A project description and map are attached.

As a result of the review of the information provided with the grant application, NTIA determined that the proposed activities should be reviewed and informal consultations conducted with the U.S. Fish and Wildlife Service. Special Award Conditions (SAC) in the NTIA grant require California Broadband Cooperative to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act. The grant recipient may not commence project implementation (including demolition, construction, ground disturbance, etc.) prior to completion of this consultation.

The grant recipient, California Broadband Cooperative, is being copied with this letter. Once they complete their analysis and develop conclusions regarding effects of the proposed action, they will be in contact with you to provide the analysis developed, and seek your concurrence with the determinations made.

If any issues or questions arise during these consultations please contact me at (202) 482-4208, or FMonteferrante@ntia.doc.gov. NTIA is prepared and willing at any time to participate directly in the review process as needed. As monitoring the progress of each of these projects is vital to their success, I would appreciate being copied on any correspondence you have in the future with the grant recipient regarding this project. Please do not send any return correspondence via US Mail since most mail is irradiated and will take extra time for delivery. All correspondence should be either by e-mail, fax (202-501-8009), or by express mail services (FedEx or similar carrier).

Sincerely,



Frank J. Monteferrante, Ph.D.
Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

October 22, 2010

Mr. Milford Wayne Donaldson, SHPO
Office of Historic Preservation
Department of Parks & Recreation
1725 23rd Street, Suite 100,
Sacramento CA 95816

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee # 5569, California Broadband
Cooperative, Digital 395 Middle Mile

Dear Mr. Donaldson,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between southern and northern California.

NTIA has determined that this project is an “undertaking” with potential to affect historic resources, as defined in 36 CFR Part 800, and this letter serves as notice that NTIA is initiating consultation under Section 106 of the National Historic Preservation Act. NTIA has also notified potentially affected Native American tribes in cooperation with the Federal Communication Commission (FCC) using their Tower Construction Notification System (TCNS).

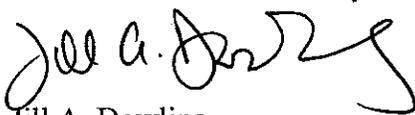
The project may construct new telecommunication facilities, or require co-location of equipment on existing towers. NTIA will apply the Program Comment issued by the Advisory Council on Historic Preservation (**Federal Register** /Vol. 74, No. 223 / Friday, November 20, 2009) to comply with Section 106 for any FCC licensed communication facility components funded by the grant, so please expect associated consultation under the FCC’s National Programmatic Agreement for these elements.

In order to streamline Section 106 compliance, BTOP applicants are authorized to gather information to identify and evaluate historic properties and work with consulting parties to assess effects. The grant recipient is in the process of determining whether properties eligible for listing in the National Register of Historic Places exist within the area of potential effect, and determining the effects of the project activities on those sites.

When completed, the grant recipient will continue consultations with your office regarding their determination of effects. NTIA will participate in any consultations, if necessary, to resolve adverse effects and develop any Memorandum of Agreement.

If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,



Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment

cc: Robert Volker
1101 Nimitz Avenue
Vallejo, CA 94592



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

October 21, 2010

Jeannie Stafford
Field Supervisor
U.S. Fish and Wildlife Service
Nevada Fish and Wildlife Office (Reno)
1340 Financial Blvd
Reno, NV 89502

Re: Endangered Species Act, Section 7, Consultations Regarding Broadband Technology Opportunities Program (BTOP) Grant Recipient #5569, California Broadband Cooperative, Fiber Optic Network Infrastructure Project

Dear Ms. Stafford,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. In order to meet the ARRA timeline and expedite the review process, NTIA is sending project notification letters to the U.S. Fish and Wildlife Services regional headquarters and individual state field offices seeking their timely cooperation in reviewing and responding to each of NTIA's ARRA funded projects.

The funding for this project in California and Nevada will be used to install a main backbone and various spurs between Carson City, Nevada, and Barstow, California. A project description and map are attached.

As a result of the review of the information provided with the grant application, NTIA determined that the proposed activities should be reviewed and informal consultations conducted with the U.S. Fish and Wildlife Service. Special Award Conditions (SAC) in the NTIA grant require California Broadband Cooperative to consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act. The grant recipient may not commence project implementation (including demolition, construction, ground disturbance, etc.) prior to completion of this consultation.

The grant recipient, California Broadband Cooperative, is being copied with this letter. Once they complete their analysis and develop conclusions regarding effects of the proposed action, they will be in contact with you to provide the analysis developed, and seek your concurrence with the determinations made.

If any issues or questions arise during these consultations please contact me at (202) 482-4208, or FMonteferrante@ntia.doc.gov. NTIA is prepared and willing at any time to participate directly in the review process as needed. As monitoring the progress of each of these projects is vital to their success, I would appreciate being copied on any correspondence you have in the future with the grant recipient regarding this project. Please do not send any return correspondence via US Mail since most mail is irradiated and will take extra time for delivery. All correspondence should be either by e-mail, fax (202-501-8009), or by express mail services (FedEx or similar carrier).

Sincerely,



Frank J. Monteferrante, Ph.D.
Environmental Compliance Specialist
National Telecommunications and
Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2830B
1401 Constitution Avenue, NW
Washington, DC 20230

Attachment

cc: Lisa Louie
llouie@chambersgroupinc.com



UNITED STATES DEPARTMENT OF COMMERCE
**National Telecommunications and
Information Administration**
Washington, DC 20230

October 25, 2010

Mr. Ronald James, SHPO
Historic Preservation Office
100 North Stewart Street
Capitol Complex
Carson City, NV 89701-4285

Re: Initiation of National Historic Preservation Act, Section 106, Consultation Regarding
Broadband Technology Opportunities Program Grantee # 5569, California Broadband
Cooperative, Digital 395 Middle Mile

Dear Mr. James,

The National Telecommunications and Information Administration (NTIA) has awarded a grant to California Broadband Cooperative, through the Broadband Technology Opportunities Program (BTOP), as part of the American Recovery and Reinvestment Act (ARRA). The funding must be obligated and the project completed within 3 years. This timeline is driven by the laws and regulations governing the use of this ARRA grant funding. The project includes/proposes building a new 553-mile fiber network that would follow U.S. Route 395 between southern and northern California.

NTIA has determined that this project is an “undertaking” with potential to affect historic resources, as defined in 36 CFR Part 800, and this letter serves as notice that NTIA is initiating consultation under Section 106 of the National Historic Preservation Act. NTIA has also notified potentially affected Native American tribes in cooperation with the Federal Communication Commission (FCC) using their Tower Construction Notification System (TCNS).

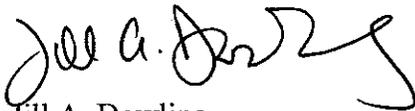
In order to streamline Section 106 compliance, BTOP applicants are authorized to gather information to identify and evaluate historic properties and work with consulting parties to assess effects. The grant recipient is in the process of determining whether properties eligible for listing in the National Register of Historic Places exist within the area of potential effect, and determining the effects of the project activities on those sites.

In order to streamline Section 106 compliance, BTOP applicants are authorized to gather information to identify and evaluate historic properties and work with consulting parties to assess effects. The grant recipient is in the process of determining whether properties eligible for listing in the National Register of Historic Places exist within the area of potential effect, and determining the effects of the project activities on those sites.

When completed, the grant recipient will continue consultations with your office regarding their determination of effects. NTIA will participate in any consultations, if necessary, to resolve adverse effects and develop any Memorandum of Agreement.

If you have any questions, please contact me at (202) 482-4456, or by e-mail at jdowling@doc.gov.

Sincerely,



Jill A. Dowling
Federal Preservation Officer
United States Department of Commerce

Attachment

cc: Robert Volker
1101 Nimitz Avenue
Vallejo, CA 94592

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 ds_nahc@pacbell.net



September 27, 2010

Dr. Michael T. Ort, Ph.D.

PRAXIS

1101 Nimitz Avenue
 Vallegio, CA 94592

Sent by FAX to: 707-552-8120 and by e-mail to mort@praxisfiber.com
 No. of Pages: 8

Re: Request for a Sacred Lands File Search and Native American Contacts list for the "Digital 395 Route, Barstow to Reno Project;" located in portions of San Bernardino, Kern, Inyo, Mono, counties, California and Douglas and Washoe Counties, Nevada

Dear Dr. Ort:

The Native American Heritage Commission (NAHC), the State of California 'Trustee Agency' for the protection and preservation of Native American cultural resources. The NAHC SLF search, **did Indicate** the presence of Native American cultural resources within one-half mile of the proposed project sites (APEs) in the Barstow area, Red Rock/EI Paso Mountains, Coso Junction, Olancho/Cartago, Lone Pine, Independence, Big Pine, Bishop/Mammoth Lakes, Lee Vining, Coleville, and Dresslerville (NV). The other areas **did not indicate any sites** but may have cultural sites if the Native American Contacts on the attached list identify them.

Also, this letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA – CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project areas (e.g. APE). We strongly recommend that you contact persons on the attached

lists of Native American contacts to see if there are any updated contacts and to determine if the proposed project may threaten or harm a cultural resource.

Furthermore we suggest that you contact the California Historic Resources Information System (CHRIS) for pertinent archaeological data within or near the APE, at the Office of Historic Preservation Coordinator's office (at 916-653-7278, for referral to the nearest Information Center of which there are 10.

Consultation with tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 *et seq.*), 36 CFR Part 800.3 (f) (2), the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 *Secretary of the Interiors Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes.

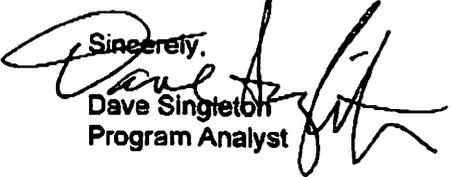
Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. Regarding tribal consultation, a relationship built around regular meetings and informal involvement with local tribes will lead to more qualitative consultation tribal input on specific projects. Also, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

The response to this search for Native American cultural resources is conducted in the NAHC Sacred Lands Inventory, established by the California Legislature (CA Public Resources Code 5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code 6254.10) although Native Americans on the attached contact list may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of the NHA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibility threatened by proposed project activity.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

Attachment: Native American Contact List

**Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010**

San Manuel Band of Mission Indians
James Ramos, Chairperson
26569 Community Center Drive Serrano
Highland, CA 92346
(909) 864-8933
(909) 864-3724 - FAX
(909) 864-3370 Fax

Tehachapi Indian Tribe
Attn: Charlie Cooke
32835 Santiago Road Kawaiisu
Acton, CA 93510
suscol@intox.net
(661) 733-1812

Chemehuevi Reservation
Charles Wood, Chairperson
P.O. Box 1976 Chemehuevi
Chemehuevi Valley CA 92363
chair1cit@yahoo.com
(760) 858-4301
(760) 858-5400 Fax

San Fernando Band of Mission Indians
John Valenzuela, Chairperson
P.O. Box 221838 Fernandefio
Newhall, CA 91322 Tataviam
tsen2u@hotmail.com Serrano
(661) 753-9833 Office Vanyume
(760) 885-0955 Cell Kitanemuk
(760) 949-1604 Fax

Fort Mojave Indian Tribe
Tim Williams, Chairperson
500 Merriman Ave Mojave
Needles, CA 92363
(760) 629-4591
(760) 629-5767 Fax

AhaMaKav Cultural Society, Fort Mojave Indian
Linda Otero, Director
P.O. Box 5990 Mojave
Mohave Valley AZ 86440
lindaotero@fortmojave,
(928) 768-4475
(928) 768-7996 Fax

Ron Wermuth
P.O. Box 168 Tubatulabal
Kernville, CA 93238 Kawaiisu
warmoose@earthlink.net Koso
(760) 376-4240 - Home Yokuts
(916) 717-1176 - Cell

Kern Valley Indian Council
Julie Turner, Secretary
P.O. Box 1010 Southern Paiute
Lake Isabella, CA 93240 Kawaiisu
(661) 366-0497 Tubatulabal
(661) 340-0032 - cell Koso
Yokuts

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.99 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed Digital 395 Route, Barstow to Reno Project for which Sacred Lands File searches and Native American Contacts lists were requested.

Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010

San Manuel Band of Mission Indians
Ann Brierty, Policy/Cultural Resources Department
 26569 Community Center Drive Serrano
 Highland, CA 92346
 abrierty@sanmanuel-nsn.
 (909) 864-8933 EXT-3250
 (909) 649-1585 - cell
 (909) 862-5152 Fax

Serrano Nation of Indians
Goldie Walker
 P.O. Box 343 Serrano
 Patton, CA 92369

(909) 862-9883

Kern Valley Indian Council
Robert Robinson, Historic Preservation Officer
 P.O. Box 401 Tubatulabal
 Weldon, CA 93283 Kawaiisu
brobinson@iwvisp.com Koso
 (760) 378-4575 (Home) Yokuts
 (760) 549-2131 (Work)

Ernest H. Siva
Morongo Band of Mission Indians Tribal Elder
 9570 Mias Canyon Road Serrano
 Banning, CA 92220 Cahuilla
slva@dishmail.com
 (951) 849-4676

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104

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**Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010**

**Big Pine Band of Owens Valley
David Moose, Chairperson
P. O. Box 700 Owens Valley Paiute
Big Pine , CA 93513
bigplnetribaladmin@earthlink.net
(760) 938-2003
(760) 938-2942-FAX**

**Timbisha Shoshone Tribe
Joe Kennedy, Chairperson
785 North Main Street, Suite Western Shoshone
Bishop , CA 93514
(760) 873-9003
(760) 873-9004 FAX**

**Bishop Paiute Tribe
William Vega, Chairperson
50 Tu Su Lane Paiute - Shoshone
Bishop , CA 93514
william.vega@bishoppaiute.net
(760) 873-3584
(760) 873-4143**

**Lone Pine Paiute-Shoshone Reservation
Sanford Nabahe, Tribal Administrator
P.O. Box 747 Paiute
Lone Pine , CA 93545 Shoshone
lorjoseph@lppsr.org
(760) 876-1034
(760) 876-8302 fax**

**Fort Independence Community of Paiute
Carl Dahlberg Chairperson
P.O. Box 67 Paiute
Independence CA 93526
stephanie@fortindependencenetwork.com
(760) 878-2126
(760) 878-2311- Fax**

**Lone Pine Paiute-Shoshone Reservation
Sandy Jefferson Yonge, Cultural Representative
880 Zucco Road Paiute
Lone Pine , CA 93545 Shoshone
hutsie@loneplnetreetv.com
(760) 876-5658
(760) 876-8302 fax**

**Lone Pine Paiute-Shoshone Reservation
Melvin R. Joseph, Chairperson
P.O. Box 747 Paiute
Lone Pine , CA 93545 Shoshone
admin@lppsr.org
(760) 876-1034
(760) 876-8302 Fax**

**Timbisha Shoshone Tribe THPO
Barbara Durham, Tribal Historic Preservation
P.O. Box 206 Western Shoshone
Death Valley , CA 92328
dvdurbarbara@netscape.com
(760) 786-2374
(760) 786-2376 FAX**

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105

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**Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010**

Benton Paiute Reservation
Mike Keller, Chairperson
Star Route 4, Box 56-A Paiute
Benton, CA 93512
numic@qnet.com
(760) 933-2321
(760)933-2412

KutzadikaA Indian Community Cultural Presv.
Raymond Andrews, Chairman
P.O. Box 591 Paiute
Bishop, CA 93515
(760) 920-0357

Bridgeport Paiute Indian Colony
Joseph Art Sam, Chairperson
P.O. Box 37 Paiute
Bridgeport, CA 93517
biggovadm@yahoo.com
(760) 932-7083
(760) 932-7846 Fax

Mono Lake Indian Community
Charlotte Lange, Chairperson
P.O. Box 117 Mono
Big Pine, CA 93513 Northern Paiute
clang2008@hotmail.com
(760) 938-1190

Walker River Reservation
Lorren Sammariopa, Chairperson
P.O. Box 220 Northern Paiute
Schurz, NV 89427
l.sammariopa@wrpt.us
775-773-2306
775-773-2585 - Fax

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106

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**Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010**

**Big Pine Band of Owens Valley THPO
Bill Hellmer, Tribal Historic Preservation Officer
P.O. Box 700 Paiute
Big Pine , CA 93513
amargosa@aol.com
(760) 938-2003
(760) 938-2942 fax**

**Bishop Paiute Tribe THPO
Theresa Stone-Yanez
50 Tu Su Lane Paiute - Shoshone
Bishop , CA 93514
theresa.
(760) 873-3584, Ext 250
(760) 937-0351 -cell
(760) 873-4143 - FAX**

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107

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**Native American Contacts
San Bernardino, Kern, Inyo, and Mono Counties, California,
and Douglas and Washoe Counties, Nevada
September 27, 2010**

**Washoe Tribe of Nevada and California
Waldo Walker, Chairperson
919 Highway 395 South Washoe
Gardnerville , NV 89410
waldo.walker@washoetribe.
775-265-4191
775-265-6240 Fax**

**Washoe Tribe of Nevada and California THPO
Darrel Cruz, Cultural Resources Coordinator
919 Highway 395 South Washoe
Gardnerville , NV 89410
darrel.cruz@washoetribe.
(775) 265-4191 ext 1212
(775) 546-3421 - cell
(775) 265-2254 FAX**

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108

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HP Color LaserJet CM2320nf MFP

Fax Confirmation Report

Praxis
707-552-8120
Sep-27-2010 1:32PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
6	9/27/2010	1:31:07PM	Receive	916 657 5390	1:32	8	OK

09/27/2010 13:53 FAX 916 657 5390

NAHC

001

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 304
SACRAMENTO, CA 95814
(916) 653-4251
Fax (916) 657-5390
Web Site: www.nahc.ca.gov
na_hc@pocnet.net



September 27, 2010

Dr. Michael T. Ort, Ph.D.

PRAXIS
1101 Nimitz Avenue
Vallejo, CA 94592

Sent by FAX to: 707-552-8120 and by e-mail to mort@praxisfber.com
No. of Pages: 8

Re: Request for a Sacred Lands File Search and Native American Contacts list for the "Digital 395 Route, Barstow to Reno Project," located in portions of San Bernardino, Kern, Inyo, Mono, counties, California and Douglas and Washoe Counties, Nevada

Dear Dr. Ort:

The Native American Heritage Commission (NAHC), the State of California "Trustee Agency" for the protection and preservation of Native American cultural resources. The NAHC SLF search, did indicate the presence of Native American cultural resources within one-half mile of the proposed project sites (APEs) in the Barstow area, Red Rock/El Paso Mountains, Coso Junction, Olancho/Certago, Lene Pine, Independence, Big Pine, Bishop/Mammoth Lakes, Lee Vining, Colaville, and Dresslerville (NV). The other areas did not indicate any sites but may have cultural sites if the Native American Contacts on the attached list identify them.

Also, this letter includes state and federal statutes relating to Native American historic properties of religious and cultural significance to American Indian tribes and interested Native American individuals as 'consulting parties' under both state and federal law. State law also addresses the freedom of Native American Religious Expression in Public Resources Code §5097.9.

The California Environmental Quality Act (CEQA - CA Public Resources Code 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance.' In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Culturally affiliated tribes and individuals may have knowledge of the religious and cultural significance of the historic properties in the project areas (e.g. APE). We strongly recommend that you contact persons on the attached

**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

Lorelei H. Oviatt, AICP, Director

2700 "M" STREET, SUITE 100
BAKERSFIELD, CA 93301-2323

Phone: (661) 862-8600

FAX: (661) 862-8601 TTY Relay 1-800-735-2929

E-Mail: planning@co.kern.ca.us

Web Address: www.co.kern.ca.us/planning



DEVELOPMENT SERVICES AGENCY

Ted James, AICP, DSA DIRECTOR

Administrative Operations

Engineering, Surveying and Permit Services

Planning and Community Development
Roads

November 30, 2010

Board of Supervisors
Kern County Administrative Office
1115 Truxtun Avenue
Bakersfield, CA 93301

**Status Update on Implementation of California Broadband Cooperative –
Digital 395 in Eastern Kern (Fiscal Impact: None) SD 1 and 2**

This is a status update on the implementation of the California Broadband Cooperative – Digital 395 project. The California Broadband Cooperative is proposing the construction of “Digital 395”, fiber-optic network between Barstow, California and Carson City, Nevada. The route in California uses primarily State Highway 395 from the Inyo-Kern County line down to Kramer Junction and includes Boron. The 583-mile infrastructure project will directly connect more than 237 hospitals, schools, libraries, military bases, local governments, last-mile service providers and other anchor institutions to a high-speed broadband network and create hundreds of construction jobs. An executive summary is attached for your review.

In a previous action, your Board approved Resolution 2010-263 (August 24, 2010) which acknowledged support for the project and committed the following County financial and administrative support.

- Potential representation on the Digital 395 cooperative
- Provision of temporary construction sites and waiver of rental payments
- Provision of parcels for project nodes for a period of twenty years.
- Waiver of building permit and franchise fees.
- CEQA clearance for leases and franchises of County property and right of way.

The project has commitments of funding from the State of California Public Utilities Commission, U.S. Department of Commerce’s National Telecommunications and Information Administration (NTIA) and Praxis Associates, Inc. An internal County team has been meeting to assist the project proponent on the route segments in Kern County to meet their short deadlines in February for certain National Environmental Policy Act (NEPA) compliance. The team includes representatives from County Counsel, General Services, Planning and Community Development, Engineering,

November 30, 2010

Page 2

Surveying and Permit Services, Roads, Development Services Agency and Supervisor McQuiston's office. Certain issues, such as franchise agreements and leases for County property, may require consideration by your Board under short timeframes for State and Federal funding commitments. This team is working to ensure that a coordinated County support is provided to the project to assist in meeting those timeframes. County Counsel is working with the County Counsel's of Mono and Inyo County to review bylaws for the cooperative and they will be presented to your Board at a future date for determination of membership from the Board.

Therefore, IT IS RECOMMENDED that your Board receive and file this report.

Sincerely,



LORELEI H. OVIATT, AICP, Director
Kern County Planning & Community Development Department

LHO:jb

Attachments

i:\adm\jvb\board.ltr\Update Calif Broadband Digital 395.ltr

cc County Administrative Office
 General Services
 County Counsel
 Development Services Agency
 California Broadband Cooperative, Inc 1101 Nimitz Avenue, Vallejo, CA 94592
 Roads Department
 Engineering, Surveying and Permit Services Department
 Grand Jury



**United States Department of the Interior
BUREAU OF LAND MANAGEMENT**

California State Office
2800 Cottage Way W-1928
Sacramento, California 95825



January 12, 2011

In Reply Refer To:
2800 (CA-930)
CACA 52376

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

7000 0520 0023 1409 9365

Mr. Michael Ort
California Broadband Cooperative, Inc
1101 Nimitz Ave.
Vallejo, CA 94592

Dear Mr. Ort:

On November 1, 2010, Bureau of Land Management (BLM) received your application to construct a fiber-optic broadband line across public land. We reviewed your application, identified some deficiencies, established a cost recovery account and informed you of the BLM's requirements. Per CFR 43 § 2804.25, we identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time. This additional information is required per CFR 43 § 2804.12. Included are an accurate legal description, a Plan of Development (POD), Title Search, desired right-of-way width and location. In response to our request, you provided us with the appropriate cost recovery processing fees on December 6, 2010. We will not consider your application to be complete until we have received a POD with project specifics.

BLM's goal for your type of right-of-way application is to reach a decision within 60 calendar days of receipt of a complete application, including the appropriate cost recovery fees. If an application cannot be processed within that 60-day period, BLM is required to inform you of that fact prior to the 30th calendar day and tell you when you may expect a final decision on your application. In accordance with CFR 43 § 2804.26 BLM may deny your application if: You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way.

As previously discussed the proposed route of your broadband line involves public lands which are identified as suitable habitat for sensitive species. The protocol established by U.S. Fish and Wildlife Service (USFWS), for conducting surveys to determine the affect a proposed project would have upon a species, requires that appropriate field surveys be conducted prior to any ground disturbance on BLM lands.

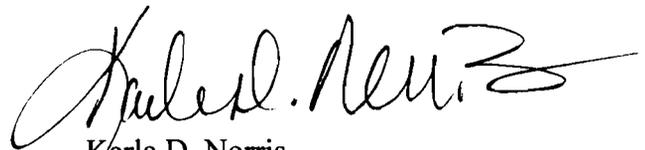
In addition the aggressive timeline necessary to meet the requirement for ARRA funding for the proposed project could prevent surveys from being conducted prior to completion

of the draft Environmental Assessment, to determine if there are potential impacts to cultural resources. The archaeological field surveys for cultural resources are required to be completed prior to any ground disturbance on BLM lands.

In an attempt to meet the aggressive time line you have proposed you are allowed 20 days from date of this letter in which to submit the requested information. If the information is not received within the allotted time and you have not requested an extension of time in writing, BLM will consider your application closed without further action.

We can better anticipate a final decision date once we receive this additional information on your application. Should you have any questions, please contact Dan Ryan, Realty Specialist, at (916) 978-4677.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karla D. Norris', with a stylized flourish at the end.

Karla D. Norris
Associate Deputy State Director
Natural Resources

cc:
Bishop Field Office
Barstow Field Office
Ridgecrest Field Office
Sierra Front Field Office
Genevieve Walker - US Department of Commerce

December 16, 2010
(20260)

Ray Bransfield
US Fish and Wildlife Service
2493 Portola Road, Suite B
Ventura, CA 93003

Subject: Request for Endangered Species Act Section 7 Consultation for the California Broadband Cooperative Digital 395 Project Located between Barstow, California and Carson City, Nevada

Dear Mr. Bransfield:

A letter was sent to the U.S. Fish and Wildlife Service, Sacramento Office, requesting Endangered Species Act Section 7 Consultation for the above referenced project by the Department of Commerce (DOC) National Telecommunications and Information Administration (NTIA) dated October 21, 2010 (attached). The California Broadband Cooperative (CBC) and the above referenced project have been awarded a grant (Grant recipient #5569) from the NTIA through the Broadband Technology Opportunities Program (BTOP) as part of the American Recovery and Reinvestment Act (ARRA). In a telephone conversation with a staff member from Ms. Moore's office on November 17, 2010, a new point of contact was established. In an e-mail correspondence from Erin Shapiro on December 13, 2010, you were identified as the point of contact for species list requests for this project. On behalf of the project proponent, Chambers Group submits this letter as a request for your continued participation of Section 7 Consultation for the CBC Digital 395 Project located between Barstow, CA and Carson City, NV.

PROJECT APPLICANT

California Broadband Cooperative
1101 Nimitz Ave.
Vallejo, CA 94592
Contact: Michael Ort
707-551-8220

AGENT

Chambers Group, Inc.
5 Hutton Centre Drive, Suite 750
Santa Ana, CA 92707
Contact: Lisa Louie
949-261-5414 x7289

We hereby request a list of any listed or proposed species, or designated or proposed critical habitat, that may be present within 5 miles of the project site identified on the project map (provided on the project FTP site provided on December 9, 2010) that would need to be addressed within your jurisdiction.

REDLANDS

302 Brookside Avenue
Redlands, California 92373
909 • 335 • 7068
909 • 335 • 6318 fax

SAN DIEGO

9909 Huennakens Street, Suite 206
San Diego, California 92121
858 • 541 • 2800
858 • 585 • 8950 fax

CORPORATE OFFICE

5 Hutton Centre Drive, Suite 750
Santa Ana, California 92707
949 • 261 • 5414
714 • 545 • 2255 fax

RENO

1755 E. Plumb Lane, Suite 280
Reno, Nevada 89502
775 • 323 • 3555
fax 775 • 323 • 3554

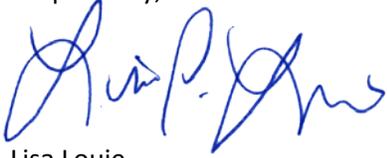
COACHELLA

38-953 Cook Street, Suite 103
Palm Desert, California 92211
760 • 779 • 0108



We are requesting these actions to support the biological impacts assessment of the project to be included into the joint Environmental Assessment/Mitigated Negative Declaration. Your support in expediting this matter is greatly appreciated. Should you have any questions or concerns, please contact me at (949) 261-5414 (ext 7289).

Respectfully,



Lisa Louie
Project Manager
Senior Biologist

Attachment

December 16, 2010
(20260)

Steve Abele
US Fish and Wildlife Service
1340 Financial Blvd., Suite 234
Reno, Nevada 89502-7147

Subject: Request for Endangered Species Act Section 7 Consultation for the California Broadband Cooperative Digital 395 Project Located between Barstow, California and Carson City, Nevada

Dear Mr. Abele:

A letter was sent to the U.S. Fish and Wildlife Service, Reno Office, requesting Endangered Species Act Section 7 Consultation for the above referenced project by the Department of Commerce (DOC) National Telecommunications and Information Administration (NTIA) dated October 21, 2010 (attached). The California Broadband Cooperative (CBC) and the above referenced project have been awarded a grant (Grant recipient #5569) from the NTIA through the Broadband Technology Opportunities Program (BTOP) as part of the American Recovery and Reinvestment Act (ARRA). In a telephone conversation with Ms. Stafford on November 17, 2010, a new point of contact was established. In an e-mail correspondence from Selena Werdon on December 6, 2010, you were identified as the point of contact for this project. On behalf of the project proponent, Chambers Group submits this letter as a request for your continued participation of Section 7 Consultation for the California Broadband Cooperative (CBC) Digital 395 Project located between Barstow, CA and Carson City, NV.

PROJECT APPLICANT

California Broadband Cooperative
1101 Nimitz Ave.
Vallejo, CA 94592
Contact: Michael Ort
707-551-8220

AGENT

Chambers Group, Inc.
5 Hutton Centre Drive, Suite 750
Santa Ana, CA 92707
Contact: Lisa Louie
949-261-5414 x7289

We hereby request a list of any listed or proposed species, or designated or proposed critical habitat, that may be present within 5 miles of the project site identified on the project map (provided on the project FTP site provided on December 9, 2010) that would need to be addressed within your jurisdiction.

REDLANDS

302 Brookside Avenue
Redlands, California 92373
909 • 335 • 7068
909 • 335 • 6318 fax

SAN DIEGO

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5 Hutton Centre Drive, Suite 750
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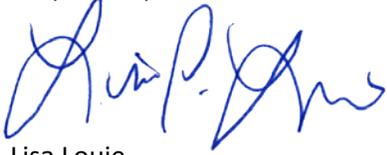
COACHELLA

38-953 Cook Street, Suite 103
Palm Desert, California 92211
760 • 779 • 0108



We are requesting these actions to support the biological impacts assessment of the project to be included into the joint Environmental Assessment/Mitigated Negative Declaration. Your support in expediting this matter is greatly appreciated. Should you have any questions or concerns, please contact me at (949) 261-5414 (ext 7289).

Respectfully,



Lisa Louie
Project Manager
Senior Biologist

Attachment



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
81440-2011-SL-0080

RECEIVED
DEC 30 2010

December 23, 2010

Lisa Louie
Project Manager, Senior Biologist
Chambers Group, Inc.
5 Hutton Centre Drive, Suite 750
Santa Ana, California 92707

Subject: Species List for the California Broadband Cooperative Digital 395 Project, Inyo, Kern, Mono, and San Bernardino Counties, California and Douglas, Carson City, and Washoe Counties, Nevada (20260)

Dear Ms. Louie:

This letter is in response to your electronic mail request, dated December 16, 2010, for information on listed or proposed species, or designated or proposed critical habitat that may occur in the vicinity of the subject project. The California Broadband Cooperative was awarded a grant for the subject project from the Department of Commerce, National Telecommunications and Information Administration (NTIA) through the Broadband Technology Opportunities Program as part of the American Recovery and Reinvestment Act. The proposed project would involve the installation of approximately 583 miles of middle-mile fiber-optic network and infrastructure. The proposed project proponents would include the construction of approximately 475 miles of new fiber optic line, approximately 73 miles of new distribution line, and 15 new facilities, and the placement of 5 miles of fiber optic line in existing utility conduit and 15 pre-fabricated buildings.

The federally threatened desert tortoise (*Gopherus agassizii*) and its critical habitat and the endangered Sierra Nevada bighorn sheep (*Ovis canadensis sierrae*) may occur in the vicinity of the proposed project. The Bi-State Distinct Population Segment (DPS) of the greater sage-grouse (*Centrocercus urophasianus*), a candidate for listing, may also occur in the vicinity of the proposed project.



Lisa Louie

This list of species fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act of 1973, as amended (Act). The NTIA, as the lead Federal agency for the project, has the responsibility to review its proposed activities and determine whether any listed species may be affected. If the project is a construction project which may require an environmental impact statement¹, the NTIA has the responsibility to prepare a biological assessment to make a determination of the effects of the action on the listed species or critical habitat. If the NTIA determines that a listed species or critical habitat is likely to be adversely affected, it should request, in writing through our office, formal consultation pursuant to section 7 of the Act. Informal consultation may be used to exchange information and resolve conflicts with respect to threatened or endangered species or their critical habitat prior to a written request for formal consultation. During this review process, the NTIA may engage in planning efforts but may not make any irreversible commitment of resources. Such a commitment could constitute a violation of section 7(d) of the Act.

The Bi-State DPS of the greater sage-grouse (previously referred to as the Mono Basin area population) is known to occur within the project area; therefore, we recommend that you analyze potential impacts from this project on the DPS to ensure that the proposed action does not exacerbate further decline in this population. On March 23, 2010, the Service's 12-month status review finding for the species was published in the Federal Register (75 FR 13910). We determined that the greater sage-grouse and the Bi-State DPS of the greater sage-grouse warrant the protection of the Act but that listing the species and the Bi-State DPS at this time is precluded by the need to address higher priority species first. The greater sage-grouse and the Bi-State DPS of the greater sage-grouse have been placed on the candidate list for future action, meaning the species and the DPS do not receive statutory protection under the Act, and the States, where the DPS occurs, will continue to be responsible for managing the species. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect greater sage-grouse and their habitat in the Wildlife Society Bulletin (<http://www.ndow.org/wild/conservation/sg/resources/guidelines.pdf>). We ask that you consider incorporating these guidelines into the proposed project. On a more local level, the Sage Grouse Conservation Plan for the Nevada and Portions of Eastern California (Plan) was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/conservation/sg/plan/SGPlan063004.pdf>. Additionally, Appendix L of this Plan is particularly useful in understanding the conservation needs and concerns for the Bi-State DPS of the greater sage-grouse located in portions of Alpine, Inyo, and Mono Counties, California and portions of Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties, Nevada. We encourage you to adopt all appropriate management guidance from this Plan as you analyze and implement your proposed action and to engage your local State and Federal wildlife biologists early in the project planning process.

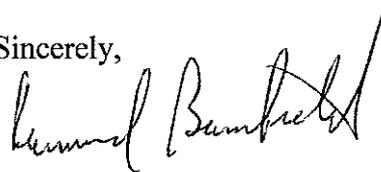
¹ "Construction project" means any major Federal action which significantly affects the quality of the human environment designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.

Lisa Louie

Based on the Service's conservation responsibilities and management authority for migratory birds under the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 et seq.), we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside of the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nest material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Should you have any questions, please contact Erin Shapiro of the Ventura Fish and Wildlife Office at (805) 644-1766, extension 369.

Sincerely,



Raymond Bransfield
Senior Biologist

cc: Steve Abele, Reno Fish and Wildlife Office, Reno, Nevada

¹ "Construction project" means any major Federal action which significantly affects the quality of the human environment designed primarily to result in the building of structures such as dams, buildings, roads, pipelines, and channels. This includes Federal actions such as permits, grants, licenses, or other forms of Federal authorizations or approval which may result in construction.



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

August 5, 2011

Carl Benz
Assistant Field Supervisor
U.S. Fish & Wildlife Service, Ventura Field Office
602 South Tippecanoe Avenue
San Bernardino, CA 92408

Subject: California Broadband Cooperative (aka Digital 395)
Request for Formal Consultation with the US Fish and
Wildlife Service

Dear Mr. Benz:

The National Telecommunications and Information Administration (NTIA), as the lead Federal agency, is submitting this request for formal consultation with the US Fish and Wildlife Service (USFWS), as required under Section 7 (a) (2) of the Endangered Species Act (as amended). NTIA is providing the enclosed Biological Assessment (BA).

Project Activities:

The Proposed Project is to install approximately 593 miles of middle-mile fiber-optic cable and associated infrastructure, to provide broadband service in unserved and underserved areas of the Eastern Sierra, with a proposed service area encompassing 36 communities, 7 counties, 7 Native American reservations, and 2 military bases. In addition to internet services, high-capacity “dark” fiber also will be made available to the region’s last-mile providers, government agencies, cellular and long-distance carriers. The purpose is to improve local internet services, provide diverse routing between Northern and Southern California and Southern Nevada, and enhance public safety. The proposed action involves the installation of underground fiber optical cables (FOC) within the California Department of Transportation (Caltrans) right-of-way (ROW)/easements, county-maintained dirt roads, Los Angeles Department of Water and Power (LADWP), or Nevada Department of Transportation (NDOT) ROW/easements. Buildings to be constructed are proposed within existing land use types zoned for utilities. The Proposed Project would not change land use or zoning types. For purposes of this document, the term “Proposed Project ROW” includes the footprint or area of direct placement/disturbance of the Proposed Project features (e.g., conduit, nodes, towers), as well as the construction footprint related to those features (e.g., boring, plowing, drilling, staging areas, pathway of construction related equipment).

The Proposed Project features include:

- construction of a new, approximate 479-mile backbone FOC route;
- construction of approximately 62 miles of new distribution lines;
- placement of approximately 52 miles of FOC in existing utility conduit; and
- construction of 16 nodes or prefabricated buildings to support wireless systems.

Construction is tentatively scheduled to begin in October 2011 and in accordance with American Recovery and Reinvestment Act requirements must be completed by July 31, 2013. It is anticipated that all ground disturbance will be completed by December 2012.

In regards to species under jurisdiction of the USFWS, NTIA has concluded that the proposed project MAY AFFECT, BUT IS NOT LIKELY TO ADVERSELY AFFECT the Desert Tortoise. Additionally, NTIA has concluded that the Project is NOT LIKELY TO AFFECT the Owens tui chub.

NTIA is requesting formal consultation as allowed by 51 CFR 402.12(j). With submittal of this BA, NTIA has provided USFWS with all the best scientific and commercial data available concerning the impact of the proposed project on the listed species.

NTIA understands that, as stipulated in ESA Section 7 (l)(A) and 50 CFR 402.14 (e), formal consultation will be initiated by your receipt of this formal consultation request, and will conclude within 90 days from that date. As this is an ARRA funded project, NTIA respectfully requests that you conduct your review of the material as rapidly as possible and render a decision as soon as practicable. Additionally, we understand that a Biological Opinion will be prepared by USFWS within 45 days of completing the consultation period. NTIA respectfully requests copies of the draft Biological Opinion, incidental take statement, terms and conditions, and reasonable and prudent measures for review prior to USFWS finalizing the Biological Opinion.

NTIA has previously had discussions with USFWS staff on this issue and we are confident that the protection measures we will be implementing will satisfy the requirements of the Endangered Species Act. We look forward to talking with you soon to finalize outstanding issues regarding the construction of the tortoise fencing and ensure we fully comply with all USFWS requirements.

A hard copy and an electronic version of the biological assessment are enclosed.

If you have any questions about this project, or need additional clarification, please contact Genevieve Walker, US DOC NEPA Coordinator, at 202-482-2345.

Frank Monteferrante, PhD
Environmental Compliance Specialist
National Telecommunications
and Information Administration
U.S. Department of Commerce
H.C. Hoover Bldg. Room 2508
1401 Constitution Avenue, NW
Washington, DC 20230

Cc: Laura Pettus, NTIA
Michael Ort, CBC



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

RECEIVED

JUN 23 2011

REPLY TO
ATTENTION OF

June 17, 2011

Regulatory Division SPK-2011-00585

Ms. Genevieve Walker
U.S. Department of Commerce
NEPA Coordinator
1401 Constitution Ave, NW - Room 2830B
Washington, DC 20230

Dear Ms. Walker:

This letter concerns the designation of lead Federal agency for the proposed Digital 395 Barstow to Reno project. The Digital 395 network will be located between Carson City, Nevada, and Barstow, California, providing broadband services to the area commonly referred to as the Eastern Sierras. The project route crosses through San Bernardino, Kern, Inyo, and Mono Counties in California, and Douglas, Carson City, and Washoe Counties in Nevada.

Following early coordination with your agency on February 18, 2011, we hereby designate the U.S. Department of Commerce as the lead Federal agency to act on our behalf for purposes of compliance with the Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act (NHPA) for Department of the Army (DA) authorization required for the Digital 395 Barstow to Reno project.

When you initiate consultation under Section 7 of the ESA or Section 106 of the NHPA, please include a statement indicating that we have designated the U.S. Department of Commerce as the lead Federal agency for the project, along with a copy of this letter.

Please refer to identification number SPK-2011-00585 in any correspondence concerning this project. If you have any questions, please contact Krystal Bell at 650 Capitol Mall, Suite 5-200, Sacramento, California 95814-4708, via email Krystal.L.Bell@usace.army.mil, or by telephone at 916-557-7745. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,

ORIGINAL SIGNED

Kathleen Dadey, PhD
Chief, California Delta Branch

Copy Furnished

Ms. Lisa Louie, Chambers Group Inc., 5 Hutton Centre Drive, Ste. 750, Santa Ana, CA 92707



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

IN REPLY REFER TO:
08EVEN00-2012-F-0024

March 23, 2012

Frank Monteferrante
National Telecommunications and Information Administration
H.C. Hoover Building, Room 2508
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Teri Raml
District Manager
California Desert District
Bureau of Land Management
22835 Calle San Juan de Los Lagos
Moreno Valley, California 92553

Aaron Allen
North Coast Branch Chief
U.S. Army Corps of Engineers
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Subject: Biological Opinion on the Digital 395 Middle Mile Project, San Bernardino, Kern, Inyo, and Mono Counties, California, and Douglas, Carson City, and Washoe Counties, Nevada (8-8-12-F-7)

Dear Mssrs. Monteferrante and Allen and Ms. Raml:

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on our review of the National Telecommunications and Information Administration's (NTIA) issuance of a grant to fund the construction of the California Broadband Cooperative's (CBC) Digital 395 Middle Mile project and its effects on the federally threatened Mojave desert tortoise (*Gopherus agassizii*; desert tortoise) and its designated critical habitat. Additionally, the Bureau of Land Management (Bureau) is considering the issuance of a right-of-way grant for the portion of the proposed action that would occur on public lands and the U.S. Army Corps of Engineers (ACOE) is considering issuance of authorization under section 404 of the Clean Water Act for waters that are under its jurisdiction. This review is in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). The proposed project involves the construction, operation, and maintenance of approximately 593 miles of

middle-mile fiber optic cable and associated infrastructure from Barstow, California, to Reno, Nevada. We received your letter, dated October 5, 2011, requesting formal consultation on the proposed project in our office on October 6, 2011.

This biological opinion is based on the biological assessment (Chambers Group, Inc. 2011a) that accompanied your October 5 request for consultation, as well as further information or details we have received via electronic mail, conference calls, and information contained in our files. A complete record of this consultation can be made available at the Ventura Fish and Wildlife Office.

Consultation History

On August 5, 2011, NTIA requested formal consultation; however, the Service determined sufficient information to initiate consultation was not included and denied the request. After we declined to initiate formal consultation, the Service participated in a conference call, exchanged electronic mail, and had a meeting with NTIA and CBC to assist in the development of a revised biological assessment. We received the revised biological assessment with your request for formal consultation on October 6, 2011.

After receiving the revised biological assessment, we coordinated with the Nevada Fish and Wildlife Office. Upon reviewing maps of the proposed project, the Nevada Fish and Wildlife Office determined that a portion of the project right-of-way was located near occupied and potential habitat of the federally endangered Carson wandering skipper (*Pseudocopaeodes eunus obscurus*). Consequently, we had a conference call on November 3, 2011, with NTIA and CBC to discuss our concerns regarding the potential effects of the proposed project on the Carson wandering skipper and its habitat. We received letters from NTIA (2011, 2012a), concluding that the proposed project was not likely to adversely affect the Carson wandering skipper. We concur with NTIA's determination because: (1) the proposed project right-of-way has been relocated west (i.e., west side of U.S. Highway 395 within the Nevada Department of Transportation's right-of-way) of the occupied and potential habitat of the Carson wandering skipper; (2) NTIA will ensure construction occurs to avoid the adult flight season; (3) NTIA will ensure construction activities occur within areas devoid of vegetation or, if vegetated, NTIA will ensure a project biologist surveys the area and determines it does not contain suitable habitat for the Carson wandering skipper; and (4) in those areas containing suitable habitat for the Carson wandering skipper (i.e., the Carson River crossing), NTIA will require the CBC to minimize disturbance to potential nectar sources and the larval host plant by attaching conduit to the bridge and/or using horizontal directional drilling.

In an electronic mail to NTIA on February 10, 2012, we requested information on those Federal agencies that wanted to be included in the biological opinion (Service 2012a). On February 13, 2012, we received an electronic mail from NTIA indicating the U.S. Navy did not want to be included in the biological opinion (NTIA 2012b). The line would cross a portion of the Naval Air Weapons Station at China Lake; the Navy operates under a biological opinion for all activities on its base and would ensure the portion of the line on Navy lands complies with the provisions of that document. We also received an electronic mail from the Bureau on

February 13, 2012, in which it requested inclusion in this biological opinion (Bureau 2012a). On March 5, 2012, we received an electronic mail from the ACOE requesting its inclusion in the biological opinion (ACOE 2012).

On March 12, 2012, we issued a draft biological opinion to the NTIA, Bureau, and ACOE (Service 2012b). We revised the draft biological opinion based on comments from NTIA (2012c, e, f), and the Bureau (2012b). The ACOE had no comments on the draft biological opinion (NTIA 2012d).

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

Introduction

We summarized the following description of the proposed action from the biological assessment (Chambers Group, Inc. 2011a), unless otherwise noted. The grant issued by NTIA funds the construction of the proposed project; however, we consider the operation and maintenance of the proposed project as interrelated and interdependent actions. Consequently, we have analyzed the effects associated with the construction, operation, and maintenance of the proposed project in this biological opinion. The proposed action includes the construction, operation, and maintenance of approximately 593 miles of middle-mile fiber optic cable and associated infrastructure. In general, the route of the proposed project parallels major highways (e.g., State Route 58, U.S. Highway 395). However, along the proposed project route, various “spurs” lead away from the main “backbone”; along these “spurs” the proposed project route parallels county-maintained roads. Detailed maps of the proposed project route were provided in Appendix C of the draft joint environmental assessment and initial study/mitigated negative declaration for the proposed project (Chambers Group Inc., 2011b). The installation of the underground fiber optic cable and associated infrastructure would occur within existing right-of-ways and easements (i.e., California Department of Transportation, City of Los Angeles Department of Water and Power, Nevada Department of Transportation), county-maintained dirt roads, or existing land use types zoned for utilities. Although several Federal agencies are involved with the permitting of the proposed action, we have referred solely to NTIA throughout most of the biological opinion for simplicity’s sake.

Construction

Construction of the proposed project would involve the installation of approximately 541 miles of new conduit (i.e., approximately 479 miles of backbone fiber optic cable and 62 miles of new distribution lines), approximately 593 miles (i.e., 541 miles of new conduit plus 52 miles of existing conduit) of fiber optic cable into new and existing conduit, access vaults, pre-fabricated buildings, and other associated infrastructure such as post markers, vault markers, and subsurface warning tape and cable. Construction activities would primarily occur within a 20-foot-wide project right-of-way, and project vehicles and equipment would use existing roads to access work areas. Outside of the 20-foot project right-of-way, NTIA identified 172 potential staging and laydown areas; the size of the staging and laydown areas ranges from 0.23 to 3.7 acres. The

locations of staging and laydown areas occur within commercial areas or previously disturbed areas containing sparsely scattered or disturbed vegetation. Additionally, NTIA identified 16 locations for pre-fabricated buildings, all of which occur within existing industrial parks or commercial areas (for specific locations see table 4 in the biological assessment); because these buildings are located outside of desert tortoise habitat, we will not discuss them again in this biological opinion.

Construction of the proposed project would take approximately 20 months to complete, with construction crews working during daylight hours. The actual equipment used during construction would vary depending on the needs of the contractor. However, in general, construction equipment could include a D8 Caterpillar to clear obstacles or vegetation and pre-rip hard soil within the project right-of-way; cable plowing and trenching equipment, including a D8 Caterpillar, a DitchWitch vibratory plow, trenching machines, excavators, or backhoes for conduit installation; a compaction vehicle to compact soil back into place following cable plowing; an excavator to create boring pits and a borer for horizontal directional drilling; a flatbed truck or trailer hitched to a tractor to place cable; cable blowing equipment including an air blower device, air compressor, and a mechanical pusher/puller; a backhoe to install underground access vaults; a tractor with a power auger extension arm for post marker installation; water trucks for dust suppression; pick-up trucks, and other miscellaneous equipment.

To complete the proposed project on schedule, multiple crews would likely work concurrently along the proposed project route. Consequently, various aspects of construction may occur simultaneously, such as conduit plowing, trenching, cable pulling, splicing, post marker and vault marker installation, and restoration of the roads and access roads. Pre-construction activities would include surveying the project right-of-way. During construction, the contractor would use various methods to install new conduit. These construction methods would include cable plowing (approximately 46 percent), trenching (approximately 27 percent), or horizontal directional drilling (approximately 27 percent). Prior to installing conduits with a cable plow, a tractor would pre-rip soil and clear any obstacles or vegetation that lie in the path of the cable plow. The cable plow would then split the ground to create a narrow slit (approximately 42 inches deep), and insert a bundle of conduit down a chute located on the back of the blade. After the plow installs the conduit, the end of the plow or a compaction vehicle would compact the soil back into the slit. On the remaining portions of the proposed project, the contractor would use either trenching or horizontal directional drilling to install conduits. Trenching would involve the use of trenching machines, excavators, or back-hoes to create a trench to install conduits. This method of installation would result in a width of disturbance approximately 6 feet wide. Typically, personnel would refill and compact the trench following conduit installation. However, on occasion, small sections of trench would remain open overnight. Horizontal directional drilling is a steerable, trenchless method that would result in minimal surface disturbance around boring pits, approximately 3 feet wide by 10 feet long, which allow for the entrance and exit of a bore. In addition to installing new conduit, the contractor would install approximately 1,180 access vaults, measuring 48 inches in diameter by 48 inches deep, to provide access to the underground conduits. The vaults would be located flush with the ground

in paved roads or flush with the ground or buried below grade within an existing road right-of-way at least 20 to 30 feet from the edge of the pavement, or nearest location.

Following the installation of new conduit and access vaults and the proving of existing conduit, the contractor would install fiber optic cable. The contractor would use cable plowing, cable blowing, or a combination of the two methods to install fiber optic cable. Both processes involve accessing the conduit system through access vaults. In general, the contractor would open only those access vaults needed to install a pre-determined length of fiber optic cable. The contractor would position a reel of fiber optic cable, attached to a flatbed truck or trailer hitched to a tractor, and cable placing and/or cable blowing equipment at an open access point (i.e., access vault) and place the fiber optic cable into the conduit. To aid in pulling and/or blowing the fiber optic cable, the contractor would apply lubricants to the fiber optic cable and conduit. Following the placement of fiber optic cable, the contractor would close or plate the access vaults.

Other construction activities associated with the proposed project include installing post markers, vault markers, and subsurface warning and cable locating tape. Installation of the subsurface warning tape would occur simultaneously with the installation of the new conduit. Where methods permit, the contractor would place a continuous ribbon of subsurface warning tape above and parallel with the new conduit. The contractor would also install above-ground post and vault markers. The estimated disturbance associated with installation of the marker posts is minimal, approximately 12 by 12 inches, and would occur within the area of disturbance for installation of new conduit, and, if possible, within areas devoid of vegetation. Similarly, the contractor would install electronic vault markers. Vault markers are 3 to 4 inches in diameter and would be installed only above buried access vaults (Louie 2012).

Upon completing construction CBC would restore soils to their original grade and stabilize disturbed areas using a variety of erosion control devices. Permanent soil stabilization would typically include compaction of the disturbed soil, application of weed-free mulch to restore vegetative ground cover where construction activities disturbed existing vegetation, and restoration of paved surfaces disturbed by construction (Louie 2012).

Operation and Maintenance

CBC would conduct operation and maintenance activities over the life of the proposed project. Typically, operation and maintenance activities would involve surveyors driving along existing roads or stopping to open access vaults to inspect the fiber optic line. CBC anticipates that operation and maintenance activities would result in minimal, if any, ground disturbance. Ground-disturbing activities would involve the repair of erosion control devices or cable conduits in the event of storm damage, landslides, or other emergencies. However, in most emergency situations, surveyors would assess damaged areas from public roads, nearby adjacent transmission roads, or access roads. CBC will contact appropriate agencies if maintenance activities outside previously authorized areas are required.

Protective Measures

To minimize adverse effects to the desert tortoise, NTIA will ensure CBC implements the following protective measures, which we have summarized from the biological assessment (Chambers Group, Inc. 2011a). We discussed some of these measures with the NTIA as we wrote the biological opinion. As a result of these discussions, some of the measures have been slightly modified from those contained in the biological assessment. Finally, we have also included those general conservation measures (25 through 30) described in the biological assessment that would indirectly protect desert tortoises by avoiding and minimizing potential effects to their habitat.

1. CBC will employ authorized biologists, approved by the Service, and desert tortoise monitors to ensure compliance with protective measures for the desert tortoise. Authorized biologists and biological monitors are defined as written in the Service's protocols and guidelines for the desert tortoise (http://www.fws.gov/ventura/species_information/protocols_guidelines/index.html). The names and qualifications of individuals that will work as authorized biologists will be sent to the Service, at least 30 days prior to construction, for approval. No construction activities will begin until authorized biologists are approved. Biological monitors would be approved by the authorized biologists.
2. The duties of authorized biologists and biological monitors will follow the most up-to-date Service guidance and will be required for monitoring of any construction activities that may result in adverse effects to the desert tortoise. The current guidance from 2008 is entitled "Desert Tortoise – Authorized Biologist and Monitor Responsibilities and Qualifications." (See http://www.fws.gov/ventura/species_information/protocols_guidelines/docs/dt/DT%20Auth%20Bio%20qualifications%20statement%2010_20_08.pdf). As stated by this guidance, the authorized biologist will be "responsible for the outcome of all desert tortoise-related activities for which the project is approved, including errors committed by monitors."
3. An authorized biologist will be present with each construction team during construction activities within desert tortoise habitat without existing desert tortoise exclusion fencing. The authorized biologist will have the discretion of determining the appropriate level of protective measures required for the type of construction activity (e.g., plowing, trenching, splicing).
4. CBC will designate a lead authorized biologist responsible for ensuring the proper implementation of all desert tortoise protective measures, coordinating the other authorized biologists and biological monitors, and coordinating with the federal and state agencies. The lead authorized biologist will be on-site during all project activities, and will have a copy of all stipulations when work is being conducted on the site.

5. Prior to initiation of construction, an authorized biologist will conduct an environmental awareness training to all personnel who will be on-site, including CBC staff, contractors, workers/personnel, and engineering inspectors. The program will include briefing sessions and pamphlets, both of which will be developed by biologists familiar with the biological requirements of the desert tortoise. At a minimum, the program will cover the distribution of desert tortoises within the project area, general behavior and ecology relevant to the proposed action, sensitivity to human activities, legal protection, penalties for violation of State and Federal laws, reporting requirements, and project minimization measures. The authorized biologist will provide a course outline and supplementary materials for those individuals that attend the training and a class roster to certify to the CBC which persons completed the training.
6. Other Federal agencies, such as the Navy, may require additional training while operating on their lands (i.e., within the boundaries of the Naval Air Weapons Station). Therefore, follow-up tailgate trainings for the desert tortoise will be conducted in the field by an authorized biologist immediately prior to construction activities. The tailgate contractor education program will include a tri-fold brochure which will include the information presented at the environmental awareness training. Only workers who have successfully completed the tailgate training will be allowed to enter the construction site.
7. Within 48 hours prior to starting construction in a given area, authorized biologists will survey the project right-of-way (i.e., the footprint or area of direct placement of the project features [conduit, nodes, towers] and other areas that will be disturbed by construction activities [boring, plowing, drilling, staging areas, pathway of construction-related equipment]) and a 50-foot-wide area adjacent to the project right-of-way wherever desert tortoise habitat is present in that area. The authorized biologists will ensure that this entire area is surveyed, using 30-foot-wide linear transects; if dense vegetation impedes visibility, the authorized biologists will decrease the width of the transect to ensure full coverage of the area.

Surveys will not be conducted in areas where existing exclusion fencing for desert tortoises precludes their entry into the project right-of-way unless the right-of-way fence has gaps that would allow passage by desert tortoises. In this case, the authorized biologists will implement the survey protocol described in the preceding paragraph for 200-feet on both sides of the gap.

8. During pre-construction surveys (as described in the previous measure), authorized biologists will also inspect the project right-of-way for desert tortoise burrows. Prior to collapsing burrows, the authorized biologists will inspect each burrow to determine if it is occupied. If an occupied desert tortoise burrow is found within the project right-of-way, and it cannot be avoided, the authorized biologists will follow guidance in the Desert Tortoise Field Manual (Service 2009) on extracting, excavating, and relocating desert tortoises.

If an occupied desert tortoise burrow is found on the edge of the project right-of-way, and if feasible, the authorized biologists will follow guidance in the Desert Tortoise Field Manual (Service 2009) and temporarily pen the animal. The authorized biologists will use their judgment to determine the appropriate course of action and may consult with the Service or California Department of Fish and Game if necessary.

9. Encounters with desert tortoises will be immediately reported to the lead authorized biologist. The lead authorized biologist will maintain a record of desert tortoises encountered during construction activities. Information recorded for each desert tortoise will include: the location (narrative, vegetation type, and maps); date of observation; general condition of health, including apparent injuries and state of healing; whether the desert tortoise voided its bladder; if moved, location moved from and location moved to; digital photographs of each handled tortoise; and diagnostic markings (i.e., identification numbers or marked lateral scutes).
10. All handling of desert tortoises will be conducted by or under the supervision of an authorized biologist in accordance with recommended protocol in the Desert Tortoise Field Manual (Service 2009).
11. The authorized biologists will handle a desert tortoise only when necessary. The authorized biologists will use new latex gloves when handling each desert tortoise to avoid transfers of infectious diseases between animals.
12. Desert tortoises will be moved the minimum distance possible within appropriate habitat to ensure their safety. Desert tortoises will not be moved in excess of 1,000 feet for adults or 300 feet for juveniles and hatchlings.
13. Any desert tortoise found aboveground that needs to be moved from harm's way will be placed in the shade of a shrub, facing the same direction that it was facing prior to moving it.
14. The authorized biologists will have the authority to halt all non-emergency project activities should danger to a desert tortoise arise. Work will proceed only after hazards to the desert tortoise are cleared or removed, the desert tortoise is no longer at risk, or an authorized biologist has moved the desert tortoise from harm's way.
15. Any desert tortoises found in areas that would be disturbed by project activities will be moved by an authorized biologist the appropriate distance to ensure that they do not move back into the construction area. Desert tortoises that are found in the 50-foot-wide area adjacent to the project right-of-way will either be moved as described in the previous sentence or confined to their burrows through the use of desert tortoise fencing as described in the Desert Tortoise Field Manual (Service 2009); the authorized biologists will use their judgment to determine the appropriate course of action and may consult with the Service or California Department of Fish and Game if necessary.

Prior to the onset of work each day, the authorized biologists will survey the area to be disturbed that day to ensure that desert tortoises have not re-entered the site. For these daily surveys, the adjacent 50-foot-wide area and areas enclosed by desert tortoise fencing need not be surveyed. If any desert tortoises are found, the authorized biologists will implement the measures described in the previous measure.

16. Trenches or holes left open overnight or over a weekend will be ramped at an angle so that animals can escape or covered to prevent desert tortoises from becoming entrapped. Prior to backfilling trenches or holes, an authorized biologist will inspect them for desert tortoises.
17. Prior to moving project vehicles and equipment, all workers (e.g., contractors, crewmembers, engineering inspectors, and environmental compliance personnel) will inspect for desert tortoises resting in the shade under them. If a desert tortoise is observed underneath a project vehicle or equipment, an authorized biologist will be contacted. If possible, the desert tortoise will be left to move on its own; otherwise, the authorized biologist will capture and relocate the desert tortoise.
18. In areas with existing desert tortoise exclusion fence, an authorized biologist will inspect the fence prior to initiation of construction activities to ensure it is intact. The authorized biologist will document any observations of entrapped animals, repairs needed, and recommendations for supplies and equipment needed to complete repairs and maintenance. If project activities are occurring close enough to the existing desert tortoise exclusion fence that it could be damaged, the fence will be checked on a daily basis to determine if it has been breached. The authorized biologist will use their discretion to determine when the fence should be checked.
19. Any damage to existing desert tortoise exclusion fencing will be immediately reported to the lead authorized biologist. Project-related damage to existing desert tortoise fencing will be repaired by the contractor immediately and under the supervision of an authorized biologist.
20. Project vehicles, equipment, and activities will be confined to the project right-of-way, approved access roads, and staging and laydown areas. Off-road or cross-country travel will be prohibited except in emergency situations. No additional dirt or paved roads will be created outside of the project right-of-way.
21. Where there is not a conflicting speed limit, project vehicles and equipment will not exceed speeds of 20 miles per hour while traveling on unpaved access roads in desert tortoise habitat.
22. Firearms and domestic dogs will be prohibited.
23. Trash and food items will be disposed of promptly in predator-proof containers with re-sealable lids. Trash containers will be inspected at the beginning and end of each

workday to ensure that they are properly sealed. During non-work hours (i.e., end of the work day or over the weekend), these containers will either be removed from work areas or secured in a fashion that keeps wildlife from opening them.

24. Material that leaks, spills, or is otherwise released into habitat of the desert tortoise will be removed immediately. The authorized biologists will ensure the appropriate measures are implemented during the removal of the hazardous materials.
25. To the extent possible, surface-disturbing components of the project will be located in previously disturbed areas, immediately adjacent to previously disturbed areas, or where habitat quality is poor; disturbance of vegetation and soils will be minimized to the extent practicable.
26. Disturbance of vegetation and soils will be minimized to the extent practicable. Where possible, disturbance will be limited to crushing vegetation to minimize root damage.
27. Following construction activities, CBC will conduct surface stabilization and reclamation activities within the project right-of-way. These activities will include the removal of construction debris and returning the soil to its original grade.
28. If unforeseen circumstances require disturbing vegetation beyond the project right-of-way, CBC will notify the appropriate agencies immediately.
29. To minimize the spread of noxious weeds, a noxious weed plan will be prepared and implemented for each county that the project occurs in.
30. If sensitive plant species, such as Joshua trees (*Yucca brevifolia*), cacti, and succulents are within an impact area, a restoration specialist will remove and temporarily relocate these plant species to a "nursery area" until they can be returned to the immediate area where the sensitive plant species was originally found. The "nursery area" will be located outside of desert tortoise critical habitat. If the "nursery area" is located within desert tortoise suitable habitat, the "nursery area" will be located within a previously disturbed area or an area devoid of vegetation (i.e., laydown or staging areas).

The following measures will be implemented during operation and maintenance activities:

1. Operation and maintenance activities, vehicles, and equipment will be confined to the project right-of-way. No additional dirt or paved roads will be created off the project right-of-way during operation and maintenance activities. If unforeseen circumstances require disturbance beyond the project right-of-way, the appropriate federal agency will notify the Service immediately.
2. An authorized biologist will be present if operation and maintenance activities would disturb desert tortoise habitat.

3. For emergency maintenance activities resulting in the disturbance of desert tortoise habitat, the appropriate federal agency will notify the Service immediately. If desert tortoises must be handled, an authorized biologist will conduct these activities.
4. If operation and maintenance activities require laydown or staging areas, CBC will verify with the appropriate federal agency that previously approved laydown or staging areas can be used. Leftover excavated material will not be left in place but will be disposed of in areas approved by the appropriate federal agency.
5. Leaks, spills, or releases of fuel or other hazardous materials along access roads within desert tortoise habitat will be reported immediately to the appropriate federal agency. Material that leaks, spills, or is otherwise released into desert tortoise habitat will be removed immediately. CBC will ensure the appropriate measures are implemented during the removal of the hazardous materials.
6. Where there is not a conflicting speed limit, project vehicles and equipment will not exceed speeds of 20 miles per hour while traveling on unpaved access roads in desert tortoise habitat.
7. Firearms and domestic dogs will be prohibited.
8. Trash and food items will be disposed of promptly in predator-proof containers with re-sealable lids. Trash containers will be removed at the end of each workday.

ANALYTICAL FRAMEWORK FOR THE JEOPARDY AND ADVERSE MODIFICATION DETERMINATIONS

Jeopardy Determination

The jeopardy analysis in this biological opinion relies on four components: (1) the *Status of the Species*, which describes the range-wide condition of the desert tortoise, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which analyzes the condition of the desert tortoise in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the desert tortoise; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the desert tortoise; and (4) the *Cumulative Effects*, which evaluates the effects of future, non-Federal activities in the action area on the desert tortoise.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed federal action in the context of the current status of the desert tortoise, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to cause an appreciable reduction in the likelihood of both the survival and recovery of the desert tortoise in the wild.

Adverse Modification Determination

This biological opinion does not rely on the regulatory definition of “destruction or adverse modification” of critical habitat at 50 CFR 402.02. Instead, we have relied on the statutory provisions of the Act to complete the following analysis with respect to critical habitat.

In accordance with policy and regulation, the adverse modification analysis in this biological opinion relies on four components: (1) the *Status of Critical Habitat*, which describes the range-wide condition of designated critical habitat for the desert tortoise in terms of primary constituent elements (PCEs), the factors responsible for that condition, and the intended recovery function of the critical habitat overall; (2) the *Environmental Baseline*, which analyzes the condition of the critical habitat in the action area, the factors responsible for that condition, and the recovery role of the critical habitat in the action area; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated and interdependent activities on the PCEs and how that will influence the recovery role of the affected critical habitat units; and (4) *Cumulative Effects*, which evaluates the effects of future non-Federal activities in the action area on the PCEs and how that will influence the recovery role of affected critical habitat units.

For purposes of the adverse modification determination, the effects of the proposed federal action on the critical habitat of the desert tortoise are evaluated in the context of the range-wide condition of the critical habitat, taking into account any cumulative effects, to determine if the critical habitat range-wide would remain functional (or would retain the current ability for the PCEs to be functionally established in areas of currently unsuitable but capable habitat) to serve its intended recovery role for the desert tortoise.

Section 7(a)(2) of the Act requires that Federal agencies ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of the critical habitat of listed species. This biological opinion does not rely on the regulatory definition of “destruction or adverse modification” of critical habitat at 50 CFR 402.02. Instead, we have relied on the statutory provisions of the ESA to complete the following analysis with respect to critical habitat.

STATUS OF THE DESERT TORTOISE

Section 4(c)(2) of the Act requires the Service to conduct a status review of each listed species at least once every 5 years. The purpose of a 5-year review is to evaluate whether or not the species' status has changed since it was listed (or since the most recent 5-year review); these reviews, at the time of their completion, provide the most up-to-date information on the range-wide status of the species. For this reason, we are appending the 5-year review of the status of the desert tortoise (Service 2010a) to this biological opinion and are incorporating it by reference to provide most of the information needed for this section of the biological opinion. The following paragraphs provide a summary of the relevant information in the 5-year review.

The 5-year review discusses the status of the desert tortoise as a single distinct population segment and provides information on the Federal Register notices that resulted in its listing and

the designation of critical habitat. The 5-year review also describes its ecology, life history, spatial distribution, abundance, habitats, and the threats that led to its listing (i.e., the 5-factor analysis required by section 4(a)(1) of the Act). The 5-year review concludes by recommending that the status of the desert tortoise as a threatened species be maintained.

With regard to the status of the desert tortoise as a distinct population segment, the Service concluded in the 5-year review that the recovery units recognized in the original and revised recovery plans (Service 1994 and 2011f, respectively) do not qualify as distinct population segments under the Service's distinct population segment policy (61 Federal Register 4722; February 7, 1996). We reached this conclusion because individuals of the listed taxon occupy habitat that is relatively continuously distributed, exhibit genetic differentiation that is consistent with isolation-by-distance in a continuous-distribution model of gene flow, and likely vary in behavioral and physiological characteristics across the area they occupy as a result of the transitional nature of, or environmental gradations between, the described subdivisions of the Mojave and Colorado deserts.

The 5-year review summarizes information with regard to the desert tortoise's ecology and life history. Of key importance to assessing threats to the species and to developing and implementing a strategy for recovery is that desert tortoises are long-lived, require up to 20 years to reach sexual maturity, and have low reproductive rates during a long period of reproductive potential. The number of eggs that a female desert tortoise can produce in a season is dependent on a variety of factors including environment, habitat, availability of forage and drinking water, and physiological condition. Predation seems to play an important role in clutch failure. Predation and environmental factors also affect the survival of hatchlings.

The 5-year review discusses various means by which researchers have attempted to determine the abundance of desert tortoises and the strengths and weaknesses of those methods. The 5-year review provides a summary table of the results of range-wide monitoring that the Service initiated in 2001. This ongoing sampling effort is the first comprehensive attempt to determine the densities of desert tortoises across their range. Table 1 of the 5-year review provides a summary of data collected from 2001 through 2007; we summarize data from the 2008 through 2010 sampling efforts in subsequent reports (Service 2010b, 2010c). As the 5-year review notes, much of the difference in densities between years is due to variability in sampling; determining actual changes in densities will require many years of monitoring. Additionally, due to differences in area covered and especially to the non-representative nature of earlier sample sites, data gathered by the range-wide monitoring program cannot be reliably compared to information gathered through other means at this time.

The 5-year review provides a brief summary of habitat use by desert tortoises; more detailed information is available in Service (2011f). In the absence of specific and recent information on the location of habitable areas of the Mojave Desert, especially at the outer edges of this area, the 5-year review also describes and relies heavily on a quantitative, spatial habitat model for the desert tortoise north and west of the Colorado River that incorporates environmental variables such as precipitation, geology, vegetation, and slope and is based on occurrence data of desert tortoises from sources spanning more than 80 years, including data from the 2001 to 2005 range-wide monitoring surveys (Nussear et al. 2009). The model predicts the probability that desert

tortoises will be present in any given location; calculations of the amount of desert tortoise habitat in the 5-year review and in this biological opinion use a threshold of 0.5 or greater predicted value for potential desert tortoise habitat. The model does not account for anthropogenic effects to habitat and represents the potential for occupancy by desert tortoises absent these effects.

To begin integrating anthropogenic activities and the variable risk levels they bring to different parts of the Mojave and Colorado deserts, the 5-year review contains an extensive review of the threats that were known to affect desert tortoises at the time of their listing and updates that information with more current findings. The review follows the format of the five-factor analysis required by section 4(a)(1) of the Act. The Service described these threats as part of the process of its listing (55 Federal Register 12178; April 2, 1990), further discussed them in the original recovery plan (Service 1994), and reviewed them again in the revised recovery plan (Service 2011f).

To better understand the relationship of threats to populations of desert tortoises and how to implement recovery actions most effectively, the Desert Tortoise Recovery Office is developing a spatial decision support system that models the interrelationships of threats to desert tortoises and how those threats affect population change. The spatial decision support system describes the numerous threats that desert tortoises face, explains how these threats interact to affect individual animals and habitat, and how these effects in turn bring about changes in populations. For example, we have long known that the construction of a transmission line can result in the death of desert tortoises and loss of habitat. We have also known that common ravens (*Corvus corax*), known predators of desert tortoises, use the transmission line's pylons for nesting, roosting, and perching and that the access routes associated with transmission lines provide a vector for the introduction and spread of invasive weeds and increase human access into an area. Increases in human access can accelerate illegal collection and release of desert tortoises and their deliberate maiming and killing, as well as facilitate the spread of other threats associated with human presence, such as vehicle use, garbage and dumping, and invasive plants (Service 2011f). Changes in the abundance of native plants as a result of invasive weeds can compromise the physiological health of desert tortoises, making them more vulnerable to drought, disease, and predation. The spatial decision support system allows us to map threats across the range of the desert tortoise and model the intensity of stresses that these multiple and combined threats place on desert tortoise populations.

The Service described these threats as part of the process of its listing (55 Federal Register 12178; April 2, 1990), further discussed them in the original recovery plan (Service 1994), and reviewed them again in the revised recovery plan (Service 2011f). The threats described in these documents continue to affect the species. Some of the most apparent threats are those that result in mortality and permanent habitat loss across large areas, such as urbanization and large-scale renewable energy projects, and those that fragment and degrade habitats, such as proliferation of roads and highways, off-highway vehicle activity, poor grazing management, and habitat invasion by non-native invasive species. Indirect impacts to desert tortoise populations and habitat are also known to occur in accessible areas that interface with human activity. Most threats to the desert tortoise or its habitat are associated with human land

uses; research since 1994 has clarified many mechanisms by which these threats act on desert tortoises. Increases in human access can accelerate illegal collection and release of desert tortoises and deliberate maiming and killing, as well as facilitate the spread other threats associated with human presence, such as vehicle use, garbage and dumping, and invasive weeds. Some of the most apparent threats to the desert tortoise are those that result in mortality and permanent habitat loss across large areas, such as urbanization and large-scale renewable energy projects, and those that fragment and degrade habitats, such as proliferation of roads and highways, off-highway vehicle activity, and habitat invasion by non-native invasive plant species. However, we remain unable to adequately quantify how threats affect desert tortoise populations. The assessment of the original recovery plan emphasized the need for a better understanding of the implications of multiple, simultaneous threats facing desert tortoise populations and of the relative contribution of multiple threats on demographic factors (i.e., birth rate, survivorship, fecundity, and death rate; Tracy et al. 2004).

We have enclosed a map that depicts the 12 critical habitat units of the desert tortoise and the map of aggregate stress that multiple, synergistic threats place on desert tortoise populations. The map also depicts linkages between conservation areas for the desert tortoise (which include designated critical habitat) recommended in the revised recovery plan (Service 2011f) that are based on an analysis of least-cost pathways between conservation areas for the desert tortoise. This map illustrates that areas under the highest level of conservation management for desert tortoises remain subjected to numerous threats and stresses.

Since the completion of the 5-year review, the Service has issued several biological opinions that affect large areas of desert tortoise habitat as a result of numerous proposals to develop renewable energy within its range. These biological opinions concluded that the proposed solar plants were not likely to jeopardize the continued existence of the desert tortoise primarily because they were located outside of critical habitat and desert wildlife management areas that contain most of the land base required for the recovery of species. The proposed actions also included numerous measures intended to protect desert tortoises during the construction of the projects, such as translocation of affected individuals. Additionally, the Bureau and California Energy Commission, the agencies permitting these facilities, have required the project proponents to fund numerous measures, such as land acquisition and the implementation of recovery actions, that are intended to offset the adverse effects of the proposed actions. In aggregate, these projects resulted in an overall loss of approximately 26,111 acres of habitat of the desert tortoise; three of the projects (BrightSource Ivanpah, Stateline Nevada, and Desert Sunlight) constricted linkages between conservation areas that are important for the recovery of the desert tortoise. We also predicted that up to 1,444 desert tortoises would be translocated, injured, or killed as a result of these projects; we estimate that most of the individuals in these totals are juveniles. The mitigation required by the Bureau and California Energy Commission will result in the acquisition of private land within critical habitat and desert wildlife management areas and funding for the implementation of various actions that are intended to promote the recovery of the desert tortoise; at this time, we cannot assess how successful these measures will be.

The following table summarizes information regarding the proposed solar projects that have undergone formal consultation. Data are Service (2010d [Chevron Lucerne Valley], e [Calico], f [Genesis], g [Blythe], h [Silver State Nevada]; 2011a [Desert Sunlight], b [Abengoa Harper Lake], c [BrightSource Ivanpah], d [Palen].

Project	Acres of Desert Tortoise Habitat	Estimated Number of Desert Tortoises Onsite	Recovery Unit
BrightSource Ivanpah	3,582	1,136	Eastern Mojave
Calico	4,613	59	Western Mojave
Abengoa Harper Lake	Primarily in abandoned agricultural fields	4	Western Mojave
Chevron Lucerne Valley	516	10	Western Mojave
Stateline Nevada	2,966	123	Eastern Mojave
Genesis	1,774	8	Colorado
Blythe	6,958	30	Colorado
Palen	1,698	18	Colorado
Desert Sunlight	4,004	56	Colorado
Total	26,111	1,444	

As the 5-year review (Service 2010a) notes, “(t)he threats identified in the original listing rule continue to affect the (desert tortoise) today, with invasive species, wildfire, and renewable energy development coming to the forefront as important factors in habitat loss and conversion. The vast majority of threats to the desert tortoise or its habitat are associated with human land uses.” Oftedal’s work (2002 in Service 2010a) demonstrates that invasive weeds may adversely affect the physiological health of desert tortoises. Modeling with the spatial decision support system indicates that invasive species likely affect a large portion of the desert tortoise’s range; see Appendix 2. Furthermore, high densities of weedy species increase the likelihood of wildfires; wildfires, in turn, destroy native species and further the spread of invasive weeds.

Global climate change is likely to affect the species’ ability to recover. For example, estimates for the range of the desert tortoise suggest more frequent and/or prolonged droughts with an increase of the annual mean temperature by 3.5 to 4.0 degrees Celsius. The greatest increases will likely occur in summer (June-July-August mean increase of as much as 5 degrees Celsius [Christensen et al. 2007 in Service 2010a]). Precipitation will likely decrease by 5 to 15 percent annually in the region, with winter precipitation decreasing by up to 20 percent and summer precipitation increasing by 5 percent. Because germination of the desert tortoise’s food plants is highly dependent on cool-season rains, the forage base could be reduced due to increasing temperatures and decreasing precipitation in winter. Although drought occurs fairly routinely in the Mojave Desert, extended periods of drought have the potential to affect desert tortoises and

their habitats through physiological effects to individuals (i.e., stress) and limited forage availability. To place the consequences of long-term drought in perspective, Longshore et al. (2003) demonstrated that even short-term drought can result in elevated levels of mortality of desert tortoises; therefore, long-term drought is likely to have even further reaching effects, particularly given that the current fragmented nature of desert tortoise habitat (e.g., urban and agricultural development, highways, freeways, military training areas, etc.) will make recolonization of extirpated areas difficult, if not impossible.

The 5-year review notes that the desert tortoise's combination of a long period of time until it reaches breeding age and a low reproductive rate challenges our ability to achieve recovery. When determining whether a proposed action is likely to jeopardize the continued existence of a species, we are required to consider whether the action would "reasonably be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 Code of Federal Regulations 402.02). Although the 5-year review does not explicitly address these metrics, we have used the information in that document to summarize the status of the desert tortoise with respect to its reproduction, numbers, and distribution.

The 5-year review notes that desert tortoises increase their reproduction in high rainfall years; more rain provides desert tortoises with more high quality food (i.e., plants that are higher in water and protein), which, in turn, allows them to lay more eggs. Conversely, the physiological stress associated with foraging on food plants with insufficient water and nitrogen may leave desert tortoises vulnerable to disease (Oftedal 2002 in Service 2010a); the reproductive rate of diseased desert tortoises is likely lower than that of healthy animals. Young desert tortoises also rely upon high-quality, low-fiber nutrients (e.g., in native forbs) not found in the invasive weeds that have increased in abundance across its range (Oftedal et al. 2002; Tracy et al. 2006). Compromised nutrition of young desert tortoises likely represents an effective reduction in reproduction by reducing the number that reaches adulthood. Consequently, although we do not have quantitative data that show a direct relationship, the abundance of weedy species within the range of the desert tortoise has the potential to negatively affect the reproduction of desert tortoises and recruitment into the adult population.

Data from long-term study plots, which were first established in 1976, cannot be extrapolated to provide an estimate of the number of desert tortoises on a range-wide basis; however, these data indicate "appreciable declines at the local level in many areas, which coupled with other survey results, suggest that declines may have occurred more broadly" (Service 2010a). Other sources indicate that local declines are continuing to occur. For example, surveyors found "lots of dead [desert tortoises]" in the western expansion area of Fort Irwin (Western Mojave Recovery Unit) in 2008 (Fort Irwin Research Coordination Meeting 2008). After the onset of translocation, coyotes (*Canis latrans*) killed 105 desert tortoises in Fort Irwin's southern translocation area (Western Mojave Recovery Unit); other canids may have been responsible for some of these deaths. Other incidences of predation were recorded throughout the range of the desert tortoise during this time (Esque et al. 2010). Esque et al. (2010) hypothesized that this high rate of predation on desert tortoises was influenced by low population levels of typical prey for coyotes due to drought conditions in previous years. Recent surveys in the Ivanpah Valley

(Northeastern Mojave Recovery Unit) for a proposed solar facility detected 31 live desert tortoises and the carcasses of 25 individuals that had been dead less than 4 years (First Solar 2011); this ratio of carcasses to live individuals over such a short period of time may indicate an abnormally high rate of mortality for a long-lived animal. In summary, the number of desert tortoises range-wide likely decreased substantially from 1976 through 1990 (i.e., when long-term study plots were initiated through the time the desert tortoise was listed as threatened), although we cannot quantify the amount of this decrease. Additionally, more recent data collected from various sources throughout the range of the desert tortoise suggest that local declines continue to occur.

The distribution of the desert tortoise has not changed substantially since the publication of the original recovery plan in 1994 (Service 2010a) in terms of the overall extent of its range. Prior to 1994, desert tortoises were extirpated from large areas within their distributional limits by urban and agricultural development (e.g., the cities of Barstow, Lancaster, Las Vegas, St. George, etc.; agricultural areas south of Edwards Air Force Base and east of Barstow), military training (e.g., Fort Irwin, Leach Lake Gunnery Range), and off-road vehicle use (e.g., portions of off-road management areas managed by the Bureau and unauthorized use in areas such as east of California City). Since 1994, urban development around Las Vegas has likely been the largest contributor to habitat loss throughout the range. Desert tortoises have been essentially removed from the southern expansion area at Fort Irwin; a relatively small number of animals remain in this area at this time.

The following table depicts acreages of habitat (as modeled by Nussear et al. 2009) within various regions of the Mojave desert tortoise's range and of impervious surfaces as of 2006 (Xian et al. 2009). Impervious surfaces include paved and developed areas and other disturbed areas that have zero probability of supporting desert tortoises.

Regions¹	Modeled Habitat (acres)	Impervious Surfaces within Modeled Habitat	Percent of Modeled Habitat that is now Impervious
Western Mojave	7,582,092	1,864,214	25
Colorado Desert	4,948,900	494,981	10
Northeast Mojave	7,776,934	1,173,025	15
Upper Virgin River	232,320	80,853	35
Total	20,540,246	3,613,052	18

¹The regions do not correspond to recovery unit boundaries; we used a more general separation of the range for this illustration.

On an annual basis, the Service produces a report that provides an up-to-date summary of the factors that were responsible for the listing of the species, describes other threats of which we are aware, describes the current population trend of the species, and includes comments of the year's

findings. The Service's (2011e) recovery data call report describes the desert tortoise's status as 'declining,' and notes that "(a)nnual range-wide monitoring continues, but the life history of the desert tortoise makes it impossible to detect annual population increases (continued monitoring will provide estimates of moderate- to long-term population trends). Data from the monitoring program do not indicate that numbers of desert tortoises have increased since 2001. The fact that most threats appear to be continuing at generally the same levels suggests that populations are still in decline. Information remains unavailable on whether mitigation of particular threats has been successful."

In conclusion, we have used the 5-year review (Service 2010a), revised recovery plan (Service 2011f), and additional information that has become available since these publications to review the reproduction, numbers, and distribution of the Mojave desert tortoise. The reproductive capacity of the desert tortoise may be compromised to some degree by the abundance and distribution of invasive weeds across its range; the continued increase in human access across the desert likely continues to facilitate the spread of weeds and further affect the reproductive capacity of the species. Prior to its listing, the number of desert tortoises likely declined range-wide, although we cannot quantify the extent of the decline; since the time of listing, data suggest that declines have occurred in local areas throughout the range. The continued increase in human access across the desert continues to expose more desert tortoises to the potential of being killed by human activities. The distributional limits of the desert tortoise's range have not changed substantially since the issuance of the original recovery plan in 1994; however, desert tortoises have been extirpated from large areas within their range (e.g., Las Vegas, other desert cities). The species' low reproductive rate, the extended time required for young animals to reach breeding age, and the multitude of threats that continue to confront desert tortoises combine to render its recovery a substantial challenge.

STATUS OF THE CRITICAL HABITAT

The Service designated critical habitat for the desert tortoise in portions of California, Nevada, Arizona, and Utah in a final rule, published February 8, 1994 (59 *Federal Register* 5820). Critical habitat is designated by the Service to identify the key biological and physical needs of the species and key areas for recovery and to focus conservation actions on those areas. Critical habitat is composed of specific geographic areas that contain the biological and physical features essential to the species' conservation and that may require special management considerations or protection. These features, which include space, food, water, nutrition, cover, shelter, reproductive sites, and special habitats, are called the primary constituent elements of critical habitat. The specific primary constituent elements of desert tortoise critical habitat are: sufficient space to support viable populations within each of the six recovery units and to provide for movement, dispersal, and gene flow; sufficient quality and quantity of forage species and the proper soil conditions to provide for the growth of these species; suitable substrates for burrowing, nesting, and overwintering; burrows, caliche caves, and other shelter sites; sufficient vegetation for shelter from temperature extremes and predators; and habitat protected from disturbance and human-caused mortality.

Critical habitat of the desert tortoise would not be able to fulfill its conservation role without each of the primary constituent elements being functional. As examples, having a sufficient amount of forage species is not sufficient if human-caused mortality is excessive; an area with sufficient space to support viable populations within each of the six recovery units and to provide for movement, dispersal, and gene flow would not support desert tortoises without adequate forage species.

The final rule for designation of critical habitat did not explicitly ascribe specific conservation roles or functions to the various critical habitat units. Rather, it refers to the strategy of establishing recovery units and desert wildlife management areas recommended by the recovery plan for the desert tortoise, which had been published as a draft at the time of the designation of critical habitat, to capture the “biotic and abiotic variability found in desert tortoise habitat” (59 *Federal Register* 5820, see page 5823). Specifically, we designated the critical habitat units to follow the direction provided by the draft recovery plan (Service 1993) for the establishment of desert wildlife management areas. The critical habitat units in aggregate are intended to protect the variability that occurs across the large range of the desert tortoise; the loss of any specific unit would compromise the ability of critical habitat as a whole to serve its intended function and conservation role.

Despite the fact that desert tortoises are not required to move between critical habitat units to complete their life histories, both the original and revised recovery plans highlight the importance of these critical habitat units and connectivity between them for the recovery of the species. Specifically, the revised recovery plan states that “aggressive management as generally recommended in the 1994 Recovery Plan needs to be applied within existing (desert) tortoise conservation areas (defined as critical habitat, among other areas being managed for the conservation of desert tortoises) or other important areas ... to ensure that populations remain distributed throughout the species’ range (Desert tortoise) conservation areas capture the diversity of the Mojave population of the desert tortoise within each recovery unit, conserving the genetic breadth of the species, providing a margin of safety for the species to withstand catastrophic events, and providing potential opportunities for continued evolution and adaptive change Especially given uncertainties related to the effects of climate change on desert tortoise populations and distribution, we consider (desert) tortoise conservation areas to be the minimum baseline within which to focus our recovery efforts (pages 34 and 35, Service 2011f).”

We did not designate the Desert Tortoise Natural Area and Joshua Tree National Park in California and the Desert National Wildlife Refuge in Nevada as critical habitat because they are “primarily managed as natural ecosystems” (59 *Federal Register* 5820, see page 5825) and provide adequate protection to desert tortoises. Since the designation of critical habitat, Congress increased the size of Joshua Tree National Park and created the Mojave National Preserve. A portion of the expanded boundary of Joshua Tree National Park lies within critical habitat of the desert tortoise; portions of other critical habitat units lie within the boundaries of the Mojave National Preserve.

Within each critical habitat unit, both natural and anthropogenic factors affect the function of the primary constituent elements of critical habitat. As an example of a natural factor, in some specific areas within the boundaries of critical habitat, such as within and adjacent to dry lakes, some of the primary constituent elements are naturally absent because the substrate is extremely silty; desert tortoises do not normally reside in such areas. Comparing the model of desert tortoise habitat developed by Nussear et al. (2009) to the gross acreages of the critical habitat units demonstrates quantitatively that the entire area within the boundaries of critical habitat likely does not support the primary constituent elements. As an example, the following table demonstrates this information; the acreage for modeled habitat is for the area in which the probability that desert tortoises are present is greater than 0.5. The acreages of modeled habitat are from Service (2010a); they do not include loss of habitat due to human-caused impacts.

Critical Habitat Unit	Gross Acreage	Modeled Habitat
Superior-Cronese	766,900	724,967
Fremont-Kramer	518,000	501,095
Ord-Rodman	253,200	184,155
Pinto Mountain	171,700	144,056
Piute-Eldorado	970,600	930,008
Ivanpah Valley	632,400	510,711
Chuckwalla	1,020,600	809,319
Chemehuevi	937,400	914,505
Gold Butte-Pakoon	488,300	418,189
Mormon Mesa	427,900	407,041
Beaver Dam Slope	204,600	202,499
Upper Virgin River	54,600	46,441
Totals	6,446,200	5,792,986

Condition of the Primary Constituent Elements of Critical Habitat

Human activities can have obvious or more subtle effects on the primary constituent elements. The grading of an area and subsequent construction of a building removes the primary constituent elements of critical habitat; this action has an obvious effect on critical habitat. The revised recovery plan identifies human activities such as urbanization and the proliferation of roads and highways as threats to the desert tortoise and its habitat; these threats are examples of activities that have a clear impact on the primary constituent elements of critical habitat.

We have included the following paragraphs from the revised recovery plan for the desert tortoise (Service 2011f) to demonstrate that other anthropogenic factors affect the primary constituent elements of critical habitat in more subtle ways. All references are in the revised recovery plan (i.e., in Service 2011f); we have omitted some information from the revised recovery plan where the level of detail was unnecessary for the current discussion.

Surface disturbance from off-highway vehicle activity can cause erosion and large amounts of dust to be discharged into the air. Recent studies on surface dust impacts on gas exchanges in

Mojave Desert shrubs showed that plants encrusted by dust have reduced photosynthesis and decreased water-use efficiency, which may decrease primary production during seasons when photosynthesis occurs (Sharifi et al. 1997). Sharifi et al. (1997) also showed reduction in maximum leaf conductance, transpiration, and water-use efficiency due to dust. Leaf and stem temperatures were also shown to be higher in plants with leaf-surface dust. These effects may also impact desert annuals, an important food source for [desert] tortoises.

Off-highway vehicle activity can also disturb fragile cyanobacterial-lichen soil crusts, a dominant source of nitrogen in desert ecosystems (Belnap 1996). Belnap (1996) showed that anthropogenic surface disturbances may have serious implications for nitrogen budgets in cold desert ecosystems, and this may also hold true for the hot deserts that [desert] tortoises occupy. Soil crusts also appear to be an important source of water for plants, as crusts were shown to have 53 percent greater volumetric water content than bare soils during the late fall when winter annuals are becoming established (DeFalco et al. 2001). DeFalco et al. (2001) found that non-native plant species comprised greater shoot biomass on crusted soils than native species, which demonstrates their ability to exploit available nutrient and water resources. Once the soil crusts are disturbed, non-native plants may colonize, become established, and out-compete native perennial and annual plant species (DeFalco et al. 2001, D'Antonio and Vitousek 1992). Invasion of non-native plants can affect the quality and quantity of plant foods available to desert tortoises. Increased presence of invasive plants can also contribute to increased fire frequency.

Proliferation of invasive plants is increasing in the Mojave and Sonoran deserts and is recognized as a significant threat to desert tortoise habitat. Many species of non-native plants from Europe and Asia have become common to abundant in some areas, particularly where disturbance has occurred and is ongoing. As non-native plant species become established, native perennial and annual plant species may decrease, diminish, or die out (D'Antonio and Vitousek 1992).

Land managers and field scientists identified 116 species of non-native plants in the Mojave and Colorado deserts (Brooks and Esque 2002).

Increased levels of atmospheric pollution and nitrogen deposition related to increased human presence and combustion of fossil fuels can cause increased levels of soil nitrogen, which in turn may result in significant changes in plant communities (Aber et al. 1989). Many of the non-native annual plant taxa in the Mojave region evolved in more fertile Mediterranean regions and benefit from increased levels of soil nitrogen, which gives them a competitive edge over native annuals. Studies at three sites within the central, southern, and western Mojave Desert indicated that increased levels of soil nitrogen can increase the dominance of non-native annual plants and promote the invasion of new species in desert regions. Furthermore, increased dominance by non-native annuals may decrease the diversity of native annual plants, and increased biomass of non-native annual grasses may increase fire frequency (Brooks 2003).

This summary from the revised recovery plan (Service 2011f) demonstrates how the effects of human activities on habitat of the desert tortoise are interconnected. In general, surface disturbance causes increased rates of erosion and generation of dust. Increased erosion alters additional habitat outside of the area directly affected by altering the nature of the substrate, removing shrubs, and possibly destroying burrows and other shelter sites. Increased dust affects photosynthesis in the plants that provide cover and forage to desert tortoises. Disturbed substrates and increased atmospheric nitrogen enhance the likelihood that invasive species will become established and outcompete native species; the proliferation of weedy species increases the risk of large-scale fires, which further move habitat conditions away from those that are favorable to desert tortoises. The following paragraphs generally describe how the primary constituent elements are affected by the threats described in the revised recovery plan.

Sufficient space to support viable populations within each of the six recovery units and to provide for movement, dispersal, and gene flow. Urban and agricultural development, concentrated use by off-road vehicles, and other activities of this nature completely remove habitat. Although we are aware of local areas within the boundaries of critical habitat that have been heavily disturbed by the unauthorized use of such activities, we do not know of any areas that have been disturbed to the intensity and extent that this primary constituent element has been compromised. To date, the largest losses of critical habitat are likely the result of the widening of existing freeways. Despite these losses of critical habitat, which occur in a linear manner, the critical habitat units continue to support sufficient space to support viable populations within each of the six recovery units.

In some cases, major roads likely disrupt the movement, dispersal, and gene flow of desert tortoises. Highways 58 and 395 in the Fremont-Kramer Critical Habitat Unit and Fort Irwin Road in the Superior-Cronese Critical Habitat Unit are examples of large and heavily travelled roads that likely disrupt movement, dispersal, and gene flow. Roads that have been fenced and provided with underpasses may alleviate this fragmentation to some degree; however, such facilities have not been in place for sufficient time to determine whether they would eliminate this effect.

The threats of invasive plant species described in the revised recovery plan generally do not result in the removal of this primary constituent element because they do not convert habitat into impervious surfaces, such as urban development would.

Sufficient quality and quantity of forage species and the proper soil conditions to provide for the growth of these species. This primary constituent element addresses the ability of critical habitat to provide adequate nutrition to desert tortoises. As described in the revised recovery plan and 5-year review, grazing, historical fire, invasive plants, altered hydrology, drought, wildfire potential, fugitive dust, and climate change/temperature extremes contribute to the stress of “nutritional compromise.” Paved and unpaved roads through critical habitat of the desert tortoise provide avenues by which invasive native species disperse; these legal routes also provide the means by which unauthorized use occurs over large areas of critical habitat. Nitrogen deposition from atmospheric pollution likely occurs throughout all of the critical habitat units and

exacerbates the effects of the disturbance of substrates. Because paved and unpaved roads are so widespread through critical habitat, we expect that this threat has, to some degree, compromised the conservation value and function of critical habitat throughout the range of the desert tortoise. Appendix 2 depicts the routes by which invasive weeds have access to critical habitat; we expect that the routes shown on this map are a subset of the actual number of routes that actually cross critical habitat of the desert tortoise.

Suitable substrates for burrowing, nesting, and overwintering. Surface disturbance, motor vehicles traveling off route, use of off-highway vehicle management areas, off-highway vehicle events, unpaved roads, grazing, historical fire, wildfire potential, altered hydrology, and climate change leading to shifts in habitat composition and location, storms, and flooding can alter substrates to the extent that they are no longer suitable for burrowing, nesting, and overwintering; erosion caused by these activities can alter washes to the extent that desert tortoise burrows placed along the edge of a wash, which is a preferred location for burrows, could be destroyed. We expect that the area within critical habitat that is affected by off-road vehicle use to the extent that substrates are no longer suitable is relatively small in relation to the area that desert tortoises have available for burrowing, nesting, and overwintering; consequently, we expect that off-road vehicle use does not have a substantial effect on this primary constituent element.

Most livestock allotments have been eliminated from within the boundaries of critical habitat. Additionally, we expect that livestock would compact substrates to the extent that they would become unsuitable for burrowing, nesting, and overwintering only in areas of concentrated use, such as around watering areas and corrals. Because livestock grazing occurs over a relatively small portion of critical habitat and the substrates in most areas within livestock allotments would not be substantially affected, we expect that suitable substrates for burrowing, nesting, and overwintering remain throughout most of the critical habitat units.

Burrows, caliche caves, and other shelter sites. We expect that human-caused effects to burrows, caliche caves, and other shelter sites likely occur at a similar rate as effects to substrates for burrowing, nesting, and overwintering for the same general reasons. Consequently, we expect that sufficient burrows, caliche caves, and other shelter sites remain throughout most of the critical habitat units.

Sufficient vegetation for shelter from temperature extremes and predators. In general, sufficient vegetation for shelter from temperature extremes and predators remains throughout critical habitat. In areas where large fires have occurred in critical habitat, many of the shrubs that provide shelter from temperature extremes and predators have been destroyed; in such areas, cover sites may be a limiting factor. The proliferation of invasive plants poses a threat to shrub cover throughout critical habitat as the potential for larger wildfires increases.

In 2005, wildfires in Nevada, Utah, and Arizona burned extensive areas of critical habitat (Service 2010a). Although different agencies report slightly different acreages, the following table provides an indication of the scale of the fires.

Critical Habitat Unit	Total Area Burned (acres)	Percent of the Critical Habitat Unit Burned
Beaver Dam Slope	53,528	26
Gold-Butte Pakoon	65,339	13
Mormon Mesa	12,952	3
Upper Virgin River	10,557	19

The revised recovery plan notes that the fires caused statistically significant losses of perennial plant cover, although patches of unburned shrubs remained. Given the patchiness with which the primary constituent elements of critical habitat are distributed across the critical habitat units and the varying intensity of the wildfires, we cannot quantify precisely the extent to which these fires disrupted the function and value of the critical habitat.

Habitat protected from disturbance and human-caused mortality. In general, the Federal agencies that manage lands within the boundaries of critical habitat have adopted land management plans that include implementation of some or all of the recommendations contained in the original recovery plan for the desert tortoise. (See pages 70 to 72 of Service 2010a.) To at least some degree, the adoption of these plans has resulted in the implementation of management actions that are likely to reduce the disturbance and human-caused mortality of desert tortoises. For example, these plans resulted in the designation of open routes of travel and the legal closure (and, in some cases, physical closure) of unauthorized routes. Numerous livestock allotments have been relinquished by the permittees and retired by the Bureau and National Park Service. As a result of planning efforts, the Bureau's record of decision included direction to withdraw areas of critical habitat from mineral entry. As a result of actions on the part of various agencies, many miles of highways and other paved roads have been fenced to prevent desert tortoises from wandering into traffic and being killed. The Service and other agencies of the Desert Managers Group in California are implementing a plan to remove common ravens that prey on desert tortoises and to undertake other actions that would reduce subsidies (i.e., food, water, sites for nesting, roosting, and perching, etc.) that facilitate their abundance in the California desert (Service 2008).

Despite the implementation of these actions, disturbance and human-caused mortality continue to occur in many areas of critical habitat (which overlap the desert wildlife management areas to a large degree and are the management units for which most data are collected) to the extent that the conservation value and function of critical habitat is, to some degree, compromised. For example, many highways and other paved roads in California remain unfenced. Twelve desert tortoises have been reported to be killed on paved roads from within Mojave National Preserve in 2011; we fully expect that desert tortoises are being killed at similar rates on many other roads, although these occurrences are not discovered and reported as diligently as by the National Park Service. Employees of the Southern California Gas Company reported two desert tortoises in 2011 that were crushed by vehicles on unpaved roads.

Unauthorized off-road vehicle use continues to disturb habitat and result in cleared areas within the boundaries of critical habitat (e.g., Coolgardie Mesa in the Western Mojave Recovery Unit); although we have not documented the death of desert tortoises as a result of this activity, it likely occurs. Additionally, the habitat disturbance caused by this illegal activity exacerbates the spread of invasive plants, which displace native plants that are important forage for the desert tortoise, thereby increasing the physiological stress faced by desert tortoises.

Although the Bureau has approved, through its land use planning processes, the withdrawal of areas of critical habitat from mineral entry, it has not undertaken the administrative procedures to complete withdrawals in all areas. Absent this withdrawal, new mining claims can be filed and further disturbance of critical habitat would likely occur.

Finally, the Bureau has not allowed the development of solar power plants within the boundaries of its desert wildlife management areas (which largely correspond to the boundaries of critical habitat). Conversely, it is considering the approval of at least one wind energy facility within critical habitat; the County of San Bernardino is also circulating planning documents for the construction and operation of at least two such facilities within the boundaries of the Superior-Cronese Critical Habitat Unit.

Summary of the Status of Critical Habitat of the Desert Tortoise

As noted in the revised recovery plan for the desert tortoise and 5-year review (Service 2011f, 2010a), critical habitat of the desert tortoise is subject to landscape level impacts in addition to the site-specific effects of individual human activities. On the landscape level, atmospheric pollution is increasing the level of nitrogen in desert substrates; the increased nitrogen exacerbates the spread of invasive plants, which outcompete the native plants necessary for desert tortoises to survive. As invasive plants increase in abundance, the threat of large wildfires increases; wildfires have the potential to convert the shrubland-native annual plant communities upon which desert tortoises depend to a community with fewer shrubs and more invasive plants. In such a community, shelter and forage would be more difficult for desert tortoises to find.

Invasive plants likely have already compromised the conservation value and function of critical habitat to some degree with regard to the second primary constituent element (i.e., sufficient quality and quantity of forage species and the proper soil conditions to provide for the growth of these species). These effects likely extend to the entirety of critical habitat, given the numerous routes by which invasive plants can access critical habitat and the large spatial extent that is subject to nitrogen from atmospheric pollution. Appendix 2 demonstrates the extent of the threat of invasive plants; Appendix 3 illustrates the 12 critical habitat units of the desert tortoise and the aggregate stress that multiple threats, including invasive plants, place on critical habitat.

We also expect that critical habitat has also been compromised to some degree with regard to the last primary constituent element (i.e., habitat protected from disturbance and human-caused mortality) as a result of the wide variety of human activities that continues to occur within its

boundaries. These effects result from the implementation of discrete human activities and are thus more site-specific in nature.

Although the remaining primary constituent elements have been affected to some degree by human activities, we expect that these impacts have not, to date, substantially compromised the conservation value and function of the critical habitat units. We have reached this conclusion primarily because we expect the impacts to be more localized and thus not affect the conservation value and function over large areas of critical habitat.

Land managers have undertaken actions to improve the status of critical habitat. For example, as part of its efforts to offset the effects of the use of additional training maneuver lands at Fort Irwin (Service 2004), the Army acquired the private interests in the Harper Lake and Cronese Lakes allotments, which are located within critical habitat in the Western Mojave Recovery Unit; as a result, cattle have been removed from these allotments. (On April 20, 1994, the Service issued a biological opinion that evaluated the effects of cattle grazing on critical habitat of the desert tortoise, which had recently been designated; the Service concluded that the Bureau's rangewide cattle grazing program was not likely to adversely modify critical habitat of the desert tortoise (Service 1994d).) Numerous other allotments have been retired through various means throughout the range of the desert tortoise. The retirement of allotments assisted in the recovery of the species by eliminating disturbance to the primary constituent elements of critical habitat by cattle and range improvements.

ENVIRONMENTAL BASELINE

Description of the Action Area

The implementing regulations for section 7(a)(2) of the Act define the "action area" as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action" (50 CFR § 402.02). The analyses of the environmental baseline, effects of the action, and cumulative effects in this biological opinion are based upon the action area. For this proposed action, we define the action area as the area within the 20-foot project right-of-way that is subject to surface and subsurface disturbance, the roads that provide access to the proposed project, and any additional areas to which desert tortoises may be moved to protect them from the effects of the proposed project.

Existing Conditions in the Action Area

Those portions of the action area that occur adjacent to major highways likely contain degraded habitat due to frequent disturbance from road maintenance activities and use by motorists who pull off the paved highways. The habitat adjacent to county-maintained roads is likely degraded to some degree, though the quality of the habitat would likely depend on its proximity to development. For example, habitat located closer to development could increase the number of motorists that may travel off road, thus increasing the frequency and amount of disturbance the habitat receives. Vegetation within these disturbed areas likely contains non-native plant species, such as cheat grass (*Bromus tectorum*) and Mediterranean grass (*Schismus barbatus*).

Along some portions of the proposed project route through desert tortoise habitat (e.g., portions of State Route 58), the fiber optic cable and associated infrastructure would be placed between the highway boundary fence and the highway. In these areas, road construction and maintenance activities have completely removed vegetation.

Status of the Desert Tortoise in the Action Area

We have used data from the Service's range-wide monitoring program from the Fremont-Kramer Critical Habitat Unit (where a substantial portion of the proposed project occurs within desert tortoise habitat) to estimate the number of desert tortoises that may occur within the action area. The Service's range-wide monitoring program collects data on the number of desert tortoises (with a mean carapace length of greater than 180 millimeters) observed during sampling; we have used other information to calculate the number of juvenile desert tortoises (i.e., individuals less than 180 millimeters) within the action area. The estimated desert tortoise density within the Fremont-Kramer Critical Habitat Unit is 6.5 desert tortoises per square mile (Service 2010c). Using the estimated density within the Fremont-Kramer Critical Habitat Unit and the estimated acreage of desert tortoise critical habitat without existing desert tortoise exclusion fencing (31.34 acres) and suitable habitat (370 acres) affected by the proposed project, we estimate the action area contains 4 desert tortoises greater than 180 millimeters. We did not include the 26 acres of critical habitat with existing desert tortoise exclusion fencing because the fencing was designed to prevent desert tortoises from attempting to cross major highways; therefore, these linear stretches of habitat are unlikely to contain desert tortoises.

In an attempt to estimate the number of desert tortoises smaller than 180 millimeters, we used a life table and the 4 desert tortoises over 180 millimeters to further calculate the number of desert tortoises in other size classes. The size ranges and percentages in the life-table distribution column are generally from Turner et al. (1987). We divided Turner et al.'s 140-to-179-millimeter class into classes of 140 to 159 and 160 to 179 and then grouped the larger size class with larger individuals because field workers can reasonably be expected to detect desert tortoises that are 160 millimeters long (Service 2010i). We consider the division of Turner et al.'s 4.5 percent for the 140-to-179-millimeter class into 2.3 and 2.2 percent for the separated classes to be reasonable because the difference in the proportion of desert tortoises in each class is much less between the 140 to 179 and 180 to 207 classes than between any of the smaller classes, which indicates the rate of survivorship within the 140 to 179 class has increased to the point where the smaller individuals in this class are likely to not substantially outnumber the larger ones.

Mean Carapace Length (mm)	Life-table Distribution (percentage)	Estimated Number of Desert Tortoises in the Project Right-of-way	Estimated Number of Desert Tortoises in the Project Right-of-way (Rounded)
<60	39.7	12.27	12
60 - 99	32.0	9.89	10
100 - 139	10.7	3.31	3
140 - 159	2.3	0.71	1

160 - 179	2.2	0.68	5
180 - 207	13.2	4.08	
208 - 239			
240+			
Total		30.94	31

We estimate 26 desert tortoises, in size classes smaller than 160 millimeters, occur within the project right-of-way. For those desert tortoises in size classes equal to or greater than 160 millimeters, we estimate 5 desert tortoises occur within the project right-of-way. Therefore, we estimate a total of 31 desert tortoises occur within the project right-of-way. We based our estimate of the number of individuals larger than 180 millimeters on the Service's range-wide monitoring program. The remaining estimations, which we derived from the life table, are subject to numerous sources of potential error associated with the application of this method, but we have determined that it represents a reasonable approach for deriving these estimates based on the best available information. The values derived from this method may overestimate the true population size, particularly in light of the fact that the density of desert tortoises is often reduced adjacent to heavily traveled roads, such as freeways (Hoff and Marlow 2002).

Because of the linear nature of the proposed action, its relatively small size, and the fact that eggs may not be present during the relatively brief period of construction, we have not attempted to quantify the number of eggs that may be present within the project right-of-way. We expect that, given that it comprises a small portion of the overall area available in which desert tortoises may build nests, the project right-of-way would contain few, if any nests. Furthermore, desert tortoises are unlikely to deposit eggs in any of the access roads because vehicle traffic compacts the substrate in the roads and renders them unsuitable for nesting.

Status of Critical Habitat in the Action Area

The action area crosses the Fremont-Kramer Critical Habitat Unit. The biological assessment states that the proposed project activities would occur within 31.34 acres of critical habitat without existing desert tortoise exclusion fence and 26 acres with existing fence. We have not included the 26 acres of critical habitat that have existing desert tortoise exclusion fencing in our analysis of the effects of the action because it no longer contains the primary constituent elements of critical habitat; this loss of function of the primary constituent elements of critical habitat was considered in the biological opinions for the road projects and fence installation in those areas. We provided an assessment of the condition of critical habitat in the action area in the following paragraphs.

Sufficient space to support viable populations and provide for movement, dispersal, and gene flow. The narrow strip of habitat within the action area is generally too small to support viable populations without the habitat value contributed by surrounding lands. The action area allows for movement, dispersal, and gene flow of desert tortoises; however, the highways and county-maintained roads (to a lesser degree) are barriers to movement, dispersal, and gene flow because desert tortoises are frequently killed while attempting to cross these roads.

Sufficient quality and quantity of forage species and the proper soil conditions to provide for the growth of these species; suitable substrates for burrowing, nesting, and overwintering; burrows, caliche caves, and other shelter sites; and sufficient vegetation for shelter from temperature extremes and predators; habitat protected from disturbance and human-caused mortality. We have combined these five primary constituent elements for this discussion because their baseline conditions in the action area are similarly affected by the presence of the adjacent roads. Non-native plant species are likely present along most of the project right-of-way because of the presence of the roads, which serve as vectors for the dispersal of these species. The degree to which these primary constituent elements function properly is likely related to their distance from the paved surface of the roads. That is, the closer to the project right-of-way is to the road, the less functional the primary constituent elements would be because of the ongoing effects of road maintenance and use by motorists.

EFFECTS OF THE ACTION

Effects of Construction on Desert Tortoises

Capture and Relocation of Desert Tortoises within the Action Area

The primary effects of the proposed action would result from the capture and relocation of desert tortoises during the proposed construction activities. Prior to all ground-disturbing activities, experienced biologists, authorized by the Service (i.e., authorized biologist), and biological monitors (under the supervision of the authorized biologist) would conduct clearance surveys of work areas. During construction activities, the authorized biologists may also capture and relocate desert tortoises found underneath project vehicles or equipment, or that are otherwise in harm's way. The authorized biologist would relocate any desert tortoises found within work areas the minimum distance required to move them from harm's way or to suitable habitat and no further than the distances described in the protective measures.

Some potential exists that capturing desert tortoises may cause elevated levels of stress that may render these animals more susceptible to disease. However, because NTIA will ensure CBC uses authorized biologists to capture desert tortoises, it is unlikely that collected desert tortoises would suffer substantially elevated stress levels. Additionally, researchers working with desert tortoises near Fort Irwin did not detect any difference in stress hormones among translocated, resident, and control animals (Averill-Murray 2011); in some cases, these translocated animals were moved miles from their home territory. For this proposed action, authorized biologists would move desert tortoises a short distance and they would most likely remain within their home territory. Therefore, it is highly unlikely these short-distance movements would cause increased stress levels in desert tortoises.

Handling may cause several effects to desert tortoises. Handling desert tortoises sometimes causes them to void the contents of their bladder, which may represent loss of important fluids that could be fatal (Averill-Murray 1999 in Boarman 2002). Averill-Murray 1999 (in Boarman 2002) provided some evidence that handling-induced voiding may adversely affect survivability, although the amount of fluid discharged is usually small. In addition, disease transmission could occur if people handle more than one desert tortoise without using appropriate sterile techniques

(Roskopf 1991, Berry and Christopher 2001 all in Boarman 2002). NTIA would ensure CBC has authorized biologists follow guidance on handling desert tortoises, as described in the Desert Tortoise Field Manual (Service 2009), and use the appropriate handling techniques to minimize disease transmission. For these reasons, we anticipate that little, if any, injury or mortality of individuals would occur due to handling.

Relocated desert tortoises occasionally try to return to their original capture site and thus spend relatively greater amounts of time above ground. This behavior may expose them to elevated risks of predation and exposure to temperature extremes that they would otherwise avoid. In such cases, relocation could result in injury or mortality of desert tortoises. However, as mentioned previously, these desert tortoises would likely remain within their home territory containing known burrows and shelter sites, thus reducing their exposure to predation and temperature extremes. Additionally, NTIA would ensure CBC would have authorized biologists implement measures to minimize a relocated desert tortoise's exposure to temperature extremes. CBC would not erect exclusion fence around work areas; therefore, relocated desert tortoises could return to work areas. This would require the capture and relocation of desert tortoises more than once and potentially cause greater stress to the animal. We anticipate that the potential stress associated with repeated capture and relocation would be minimal because authorized biologists would follow the appropriate guidance, as described in the Desert Tortoise Field Manual (Service 2009), on capturing and releasing desert tortoises. Because relocated desert tortoises would remain within their home territory containing known burrows and shelter sites and the measures proposed by NTIA and CBC would minimize stress to desert tortoises during capture and relocation and their exposure to predation and temperature extremes, we conclude that the potential effects associated with the relocation of desert tortoises would result in the injury or mortality of few, if any, animals.

Relocated desert tortoises could come into contact with desert tortoises carrying infectious diseases. However, because desert tortoises would likely remain within their home territory, they would likely have previous contact with other animals in the area. Therefore, moving desert tortoises short distances into adjacent habitat would not exacerbate the spread of disease.

The relocation of desert tortoises from work areas into surrounding habitat has the potential to disrupt the behavior and social structure of resident animals. This could impair the breeding, feeding, and sheltering behavior of both relocated and resident animals by elevating the frequency and intensity of aggressive interactions between individuals. Overall, we anticipate that such an effect is likely minor given that the small, linear action area and because relocated desert tortoises would remain in close proximity to their capture site and likely within their home territory.

Injury or Mortality from Construction Activities

As we discussed in the Environmental Baseline section of this biological opinion, we estimate that 5 larger desert tortoises (160 millimeters or greater) and 26 smaller desert tortoises (less than 160 millimeters) may occur within the action area. We anticipate that surveyors would find most, if not all, of the larger desert tortoises in the work areas. However, because of the small

size and cryptic coloration of smaller desert tortoises, surveyors may miss many of them. Consequently, smaller desert tortoises may remain within work areas following surveys. In addition, desert tortoises could enter those work areas that remain unfenced or they could enter through a gap in a fenced work area.

NTIA would ensure CBC implements measures to minimize the likelihood that desert tortoises enter work areas following surveys. In work areas adjacent to existing desert tortoise exclusion fence, an authorized biologist will survey the fence prior to the onset of construction activities to ensure it is intact. Additionally, if construction activities occur in close proximity to the fence and could damage the fence, an authorized biologist will survey the fence daily to ensure it remains intact. If construction activities damage the fence, then CBC would ensure the damaged area is repaired immediately and under the supervision of an authorized biologist. In work areas without desert tortoise exclusion fence, an authorized biologist will survey the area prior to the initiation of construction activities. Any desert tortoises found within these work areas will be captured and relocated. Because NTIA would ensure CBC implements measures to prevent desert tortoises from entering fenced or unfenced work areas and authorized biologists will capture and relocate them if they do, we anticipate that construction activities would injure or kill few, if any, desert tortoises.

Those desert tortoises that re-enter work areas during non-work hours could encounter other sources of mortality. Occasionally, desert tortoises seek shade underneath a parked vehicle or equipment. When workers move the vehicle or equipment, they may injure or kill the desert tortoise. In addition, in unfenced work areas, desert tortoises may fall into open trenches or holes and become trapped. These animals may sustain injuries attempting to escape or die due to exposure to the elements or predators. NTIA and CBC have proposed measures to minimize these potential sources of injury or mortality. NTIA will ensure CBC implements a worker education program that would inform workers to check for desert tortoises underneath project vehicles and equipment prior to moving them. Any desert tortoises found underneath project vehicles or equipment would be captured and relocated by an authorized biologist. CBC would also ensure the contractor covers or ramps any trenches or holes left open overnight so animals do not become trapped or can escape. In addition, authorized biologists would inspect trenches or holes for desert tortoises prior to the contractor backfilling them. Because NTIA would ensure CBC implements measures to minimize these other sources of potential injury or mortality, we anticipate that those construction activities described above would injure or kill few, if any, desert tortoises that re-enter work areas during non-work hours.

Project vehicles and equipment traveling along access roads may injure or kill desert tortoises. Because CBC would use existing access roads, we cannot separate the potential effects of project-associated vehicles and equipment from those of the general public. However, on unpaved access roads, project vehicles and equipment may comprise the majority of the traffic. NTIA and CBC will implement a 20-mile-per-hour speed limit, where it does not conflict with an existing speed limit, on unpaved access roads. This speed limit may allow drivers to see some desert tortoises; however, at this speed, drivers may not see all desert tortoises, especially smaller desert tortoises. Because construction would occur over a relatively short time and a worker

education program would inform workers that desert tortoises could occur on access roads, we anticipate that project vehicles and equipment would injure or kill few, if any, desert tortoises.

Because of their small size and cryptic coloration, surveyors may miss many smaller desert tortoises during surveys; therefore, construction activities could potentially injure or kill those smaller desert tortoises that remain in work areas and go undetected. We estimated that 26 smaller desert tortoises may occur within the action area. However, the actual number of smaller desert tortoises within the action area would vary depending on whether construction occurred during the active or less active season, the surveyor's ability to locate smaller desert tortoises, and the effort surveyors make to find smaller desert tortoises. For these reasons, we cannot predict how many of these individuals construction activities would likely injure or kill.

Habitat Disturbance

The biological assessment states that the proposed project would result in the temporary disturbance of approximately 370 acres of desert tortoise habitat (Chambers Group, Inc. 2011a). This figure does not include the amount of desert tortoise critical habitat that the proposed project would disturb. We discuss the potential effects to desert tortoise critical habitat in the Effects of Construction, Operation, and Maintenance on Critical Habitat section. The ground disturbance associated with the proposed project could potentially result in the disturbance of desert tortoise habitat through the compaction or erosion of soil, or the crushing or removal of vegetation. These potential effects would primarily occur during construction of the proposed project.

The temporary disturbance of desert tortoise habitat would not compromise the ability of desert tortoises to inhabit the action area because it represents a small, linear portion of the overall habitat available to those individuals in the region. Furthermore, ground disturbance would occur in areas within existing right-of-ways or easements and adjacent to existing roads. These areas likely experience some degree of periodic disturbance; therefore, they likely contain lower quality habitat that is not important in supporting viable populations.

Increased Predation by Common Ravens

Over the past 30 to 40 years, the number of common ravens in the Mojave Desert has increased (Boarman and Kristian 2007). This is because human development in the desert provides subsidies (food, water, nesting substrates) that are otherwise not present, allowing common raven populations to persist and increase (Restani et al. 2001 in Boarman and Kristian 2007). During proposed construction activities, human activity may attract common ravens to work areas and lead to the increased predation of desert tortoises. However, this increase in human activity would occur over a relatively short time as construction proceeds on the proposed project. Additionally, NTIA would ensure CBC implements a litter-control program (i.e., placing litter into predator-proof containers with re-sealable lids and promptly removing litter) to minimize the potential for project activities to provide food subsidies and attract common ravens.

We cannot assess the degree to which the number of common ravens would increase or reasonably predict the amount of predation by common ravens that the proposed project may add to baseline levels within the action area. However, because human activity associated with construction activities would occur over a relatively short time and NTIA would ensure CBC implements measures to minimize subsidies to common ravens, we conclude that predation by common ravens would likely injure or kill few, if any, desert tortoises in the action area.

Increase in Invasive Non-Native Plant Species

Numerous features associated with the proposed project (e.g., project vehicles and equipment) may serve as vectors for introducing invasive non-native plant species into the action area and ground-disturbing activities may favor the establishment of invasive non-native plant species. This potential increase in the abundance or distribution of invasive non-native plant species could result in an increase in fire risk, which may increase the risk of future habitat loss. A loss of habitat could reduce the number and distribution of desert tortoises within the action area.

NTIA and CBC have proposed the development and implementation of a noxious weed plan for each county the proposed project crosses to minimize the spread of invasive non-native plant species (referred to as noxious weeds in the biological assessment). Because these noxious weed plans are not yet available, we cannot analyze the effectiveness of these plans or the degree to which they may minimize the introduction or spread of non-native invasive plant species. Therefore, we cannot predict the associated change in fire risk that may occur or the amount of desert tortoise habitat that may subsequently be degraded. However, the greatest potential to affect desert tortoise habitat in this manner would occur in areas adjacent to existing roads and highways; these areas have already been degraded to some degree by non-native invasive plant species. The most likely worst-case scenario is that non-native invasive plant species that are already present in the action area would increase in density to some degree within the area of disturbance of the proposed project. The introduction of a new non-native invasive plant species into the region would have the most damaging effect and is most likely to occur soon after construction, when most ground-disturbing activities would occur.

Effects of Operation and Maintenance on Desert Tortoises

Operation and maintenance activities would occur over the life of the project. In general, these activities would involve surveyors driving along existing access roads to inspect the project right-of-way for damage following storm events and stopping to open manholes or hatches to access vaults. Minimal ground disturbance would occur during operation and maintenance activities and would likely involve the repair of erosion control devices or conduits following events that may cause damage (e.g., storm events, landslides, or other emergencies). These activities could occur across the action area, which includes areas with and without existing desert tortoise exclusion fence. In areas without existing desert tortoise exclusion fence, operation and maintenance activities have some potential to injure or kill desert tortoises; in fenced areas, the potential that operation and maintenance activities would injure or kill desert tortoises is extremely low. Because operation and maintenance activities would occur in unfenced areas, desert tortoises may need to be captured and relocated; however, the capture and relocation of desert tortoises would likely occur infrequently due to the limited activities

performed during operation and maintenance activities. Based on the description of operation and maintenance activities in the biological assessment, we anticipate that injury or mortality would primarily result from project vehicles and equipment or during ground-disturbing activities.

During operation and maintenance activities, NTIA and CBC have proposed a 20-mile-per-hour speed limit, where it does not conflict with an existing speed limit, for project vehicles and equipment using unpaved access roads. As mentioned previously, this speed limit may allow drivers to see some desert tortoises but they may miss smaller desert tortoises. NTIA and CBC have also proposed having an authorized biologist present if ground disturbance would occur within desert tortoise habitat. The authorized biologist would be responsible for capturing and relocating any desert tortoises in harm's way.

We cannot predict the number of desert tortoises that operation and maintenance activities may injure or kill. For instance, operation and maintenance activities are less likely to injure or kill desert tortoises if they occur during a time when desert tortoises are less active and spend most of their time underground. Furthermore, the time of year would also influence the number of smaller desert tortoises, such as hatchlings, within the action area. However, we anticipate that operation and maintenance activities would injure or kill few desert tortoises because those activities that would result in ground disturbance would occur infrequently and within a limited area (e.g., repairing damaged sections of conduit, opening access vaults). In addition, we expect that the measures proposed by NTIA and CBC would minimize the potential injury or mortality associated with the use of project vehicles and equipment. Finally, these activities would generally occur in areas adjacent to highways and roads where few desert tortoises reside; over time, as the amount of desert tortoise exclusion fencing increases along these highways, we expect that the number of desert tortoises encountered during operations and maintenance will decrease.

Effects of Construction, Operation, and Maintenance on Critical Habitat

In general, our previous discussions of the effects of the proposed action with regard to disturbance of habitat and increase in invasive non-native plant species also apply to critical habitat. Therefore, in the following paragraphs, we consider these effects specifically within the context of their effects on the primary constituent elements of critical habitat of the desert tortoise.

Reduction of Space

With regard to the first primary constituent element, the proposed project would likely result in the temporary reduction of the space available to support viable populations and to provide for movement, dispersal, and gene flow. This temporary reduction in critical habitat would occur during construction activities, such as the installation of new conduit and access vaults. Ground-disturbing activities may also occur during operation and maintenance activities; however, these would likely occur infrequently and on a smaller scale than construction activities. The degree to which a reduction in space would affect desert tortoises is a function of the location and quality

of the disturbed habitat. Generally, habitat that is of lower quality is not as important for supporting viable populations. Additionally, the proposed construction, operation, and maintenance of the fiber optic line and associated infrastructure would not impede the movement, dispersal, or gene flow of desert tortoises except for during the brief period of construction.

Reduction in Food and Shelter

The second through fifth primary constituent elements represent the plant species desert tortoises require for food and shelter, the substrates that are necessary for these plants to grow and for desert tortoises to construct burrows, and the burrows and other shelter sites they use. These features are the components of the environment necessary to meet desert tortoises' need for food and shelter.

The proposed project would result in the temporary disturbance of habitat providing those features necessary for food and shelter. As we discussed above, the proposed project would result in the temporary disturbance of a small percentage of the total critical habitat; because of the proximity of the project right-of-way to highways and roads, at least a portion of the area where CBC proposes to conduct project activities would occur within habitat where these primary constituent elements have already been disturbed to some degree. Consequently, the temporary disturbance of these primary constituent elements would not affect the ability of the critical habitat unit to provide food and shelter for desert tortoises to a measurable degree.

The potentially more damaging effect of the proposed action on these primary constituent elements would be longer-term degradation of habitat that could occur if new species of non-native invasive plant species are introduced during construction. NTIA and CBC have proposed to develop and implement a noxious weed plan for each county the proposed project crosses to reduce or eliminate this potential. Although we cannot assess the effectiveness of these plans at this time, we expect that new species of non-native invasive plant species would most likely become established in areas subject to frequent disturbance (i.e., the edge of the highways and roads). Conversely, these non-native invasive plant species are less likely to become established in those areas containing less disturbed, intact habitat.

Reduction in Protected Habitat

The sixth primary constituent element is habitat protected from disturbance and human-caused mortality. The proposed action would lead to an increase in disturbance and human-caused mortality only during the brief periods when construction, operation, and maintenance activities occur. These brief periods of activity will not impair the function of this primary constituent element. Additionally, at least some portion of the disturbance caused by construction, operation, and maintenance activities would be masked by the disturbance associated with the nearby highways and roads. For these reasons, we conclude that the proposed project would not measurably affect the Fremont-Kramer Critical Habitat Unit's ability to provide habitat protected from disturbance and human-caused mortality.

Summary

Desert Tortoise

In determining whether a proposed action is likely to jeopardize the continued existence of a species, we consider the effects of the action with respect to the reproduction, numbers, and distribution of the species. In the following paragraphs, we will summarize the effects of the proposed action on the desert tortoise in that context.

Reproduction: We do not expect that desert tortoises moved from harm's way will experience any change in their reproductive potential (i.e., the number of eggs laid). However, if the proposed action results in the mortality of larger female desert tortoises, the number of eggs laid in the immediate vicinity of the proposed project would likely decline. Within the context of reproductive effort in the Western Mojave Recovery Unit, the loss of a few adult female desert tortoises would not result in a measurable change. Because the effect on reproduction in the Western Mojave Recovery Unit would not be measurable, the proposed action would not affect reproduction in the Western Mojave Recovery Unit and throughout the range of the listed taxon.

Number: We estimate that 5 larger adult desert tortoises and 26 smaller juvenile desert tortoises likely occupy the project right-of-way. We discussed various sources of injury and mortality associated with the implementation of the proposed action (e.g., vehicle strikes, trapped in trenches or holes). The actual number of desert tortoises that implementation of the proposed action may injure or kill depends on numerous variables. For example, the number of desert tortoises above-ground and that proposed project activities would likely injure or kill would depend on the time of year. However, NTIA and CBC have proposed measures to avoid, minimize, or reduce adverse effects to desert tortoises; therefore, we expect that the proposed project would injure or kill few animals. Consequently, the loss of a few individuals as a result of the proposed action would not appreciably affect the number of desert tortoises in the Western Mojave Recovery Unit.

Distribution: We expect that most of the area disturbed by the proposed project (primarily during construction activities) would eventually support suitable habitat for the desert tortoise. Therefore, the proposed action would not affect the distribution of the desert tortoise.

Effects on Recovery of the Desert Tortoise

The proposed action is unlikely to have any measurable effect on recovery of the desert tortoise because of the small area affected, short duration of construction, short duration and scope of operation and maintenance activities, and the small number of desert tortoises within the project right-of-way.

Critical Habitat

The proposed action would likely result in the temporary disturbance of critical habitat that contains the primary constituent elements. In the Environmental Baseline section of this biological opinion, we noted that the primary constituent elements of critical habitat along the sides of the highways and roads where the fiber optic cable and associated infrastructure would be placed have been degraded by frequent disturbance from road maintenance activities and motorists. Based on our analysis of the effects associated with the proposed project and information provided in the biological assessment, we conclude that the proposed project would result in the temporary disturbance of approximately 31 acres of critical habitat. This represents a loss of approximately 0.006 percent of the total amount of critical habitat within the Fremont-Kramer Critical Habitat Unit (i.e., 31 acres divided by 518,000 acres = 0.00006; 0.00006 times 100 = 0.006 percent). This disturbance of critical habitat represents a small percentage of the total available critical habitat remaining within the Fremont-Kramer Critical Habitat Unit. Because the proposed action would temporarily affect a small amount of the Fremont-Kramer Critical Habitat Unit, and the primary constituent elements have already been disturbed to some extent by existing conditions, we anticipate that the construction, operation, and maintenance of the fiber optic line and associated infrastructure will not compromise the conservation value and function of critical habitat.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered to have cumulative effects because they require separate consultation pursuant to section 7 of the Act.

The proposed action would occur partially within existing right-of-ways or easements of the California Department of Transportation, Nevada Department of Transportation, and City of Los Angeles Department of Water and Power. Those actions that occur within the California or Nevada Department of Transportation's rights-of-way and are funded by the Federal Highway Administration would require Federal approval and future consultation pursuant to section 7(a)(2) of the Act. Consequently, we know of no actions within these areas are likely to proceed without consultation pursuant to section 7(a)(2) of the Act.

Those actions that occur within right-of-ways or easements that are not funded, authorized, or otherwise carried out by a Federal agency would not be subject to Federal approval. As we stated in our analysis, areas adjacent to major highways and roads likely contain lower quality habitat due to frequent disturbance from road maintenance activities and motorists. This lower quality habitat does not serve an important role in maintaining viable populations of desert tortoise; additionally, the primary constituent elements of critical habitat in these areas have also been disturbed to some extent by their proximity to highways and roads. Consequently, the cumulative effects associated with projects within the action area are unlikely to cause effects to the desert tortoise or its critical habitat. Finally, we are unaware of any actions that are reasonably certain to occur in portions of the action area that are outside of Federal jurisdiction.

CONCLUSION

Desert Tortoise

After reviewing its current status, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, it is the Service's biological opinion that the proposed action is not likely to jeopardize the continued existence of the desert tortoise. We have reached this conclusion because:

1. Project activities are likely to kill or injure few desert tortoises because the NTIA, Bureau, or ACOE, as appropriate, will ensure CBC implements measures to protect desert tortoises during construction, operation, and maintenance (e.g., clearance surveys, translocation, authorized biologists, worker education program).
2. The proposed project would have no measurable effect on the distribution of desert tortoises.
3. Most, if not all, of the reproductive desert tortoises within the project right-of-way would be moved to adjacent areas where they would continue to reproduce.
4. NTIA will ensure CBC implements measures to reduce the potential for increased predation by common ravens and the spread of invasive non-native plant species.
5. The proposed action would result in the temporary disturbance of a small amount of desert tortoise habitat and would not fragment it in a manner that would preclude movement by desert tortoises across the landscape.

Critical Habitat

After reviewing its status, the environmental baseline for the action area, the effects of the proposed action, and the cumulative effects, it is our biological opinion that the proposed action is not likely to destroy or adversely modify the critical habitat of the desert tortoise. We have reached this conclusion because the proposed action would result in the temporary disturbance of a small amount of critical habitat out of the total amount of critical habitat; this temporary disturbance would not compromise the conservation function and value of critical habitat for the desert tortoise.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is

defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of an incidental take statement.

The measures described in this incidental take statement are non-discretionary; the NTIA, Bureau, or ACOE, as appropriate, must make these terms and conditions binding conditions of any authorization provided to CBC. The NTIA, Bureau, or ACOE have a continuing duty to regulate the activities covered by this incidental take statement. If the NTIA, Bureau, or ACOE fails to make these terms and conditions binding conditions of any authorization provided to CBC, the protective coverage of section 7(o)(2) may lapse. To monitor the impact of incidental take, the NTIA, Bureau, or ACOE, as appropriate, must report the progress of its action and its impact on the species to the Service as specified in the incidental take statement (50 *Code of Federal Regulations* 402.14(i)(3)).

We anticipate that all desert tortoises within the project right-of-way will be taken during construction of the project; these individuals will be killed, injured, or captured (as they are moved from harm's way). We estimated that 5 larger desert tortoises and 26 smaller desert tortoises likely occur within the project right-of-way; however, the actual number of desert tortoises within the project right-of-way may vary from this estimate. Because of the proposed protective measures, we anticipate that CBC will capture and move most of these animals from harm's way to nearby suitable habitat.

We anticipate that a small number of desert tortoises will be taken (i.e., killed, injured, or captured to be moved from harm's way) along the access roads during project construction, operation, and maintenance activities. Ground-disturbing activities conducted during operation and maintenance of the project may also take (i.e., kill, injure, or capture to be moved from harm's way) a small number of desert tortoises. Because of the protective measures proposed by NTIA and CBC, we expect that most of the animals encountered along the access roads, or during ground-disturbing activities will be avoided or moved from harm's way.

We cannot estimate the number of desert tortoises that are likely to be encountered within the project right-of-way or on access roads during construction, operation, and maintenance activities because of the numerous variables that we have described previously in this biological opinion. Consequently, we cannot estimate the number of desert tortoises that are likely to be killed or injured as a result of the proposed action. Because we cannot predict the number of desert tortoises that are likely to be killed or injured during construction, operation, and maintenance of the project (and use of the access roads during this time), we will use the terms and conditions of the biological opinion to establish thresholds that, if reached, would trigger the re-initiation of formal consultation.

The exemption provided by this incidental take statement to the prohibitions against take contained in section 9 of the Act extends only to the action area as described in the Environmental Baseline section of this biological opinion.

REASONABLE AND PRUDENT MEASURES

The Service believes the following reasonable and prudent measures are necessary and appropriate to minimize take of desert tortoises during the implementation of the Digital 395 Middle Mile project:

1. The NTIA, Bureau, or ACOE, as appropriate, must minimize adverse effects associated with handling and movement of individual desert tortoises.
2. The NTIA, Bureau, or ACOE, as appropriate, must ensure CBC implements measures to reduce the take of desert tortoises within the action area.
3. The NTIA, Bureau, or ACOE, as appropriate, must ensure that the level of incidental take anticipated in this biological opinion is commensurate with the analysis contained herein.

Our evaluation of the proposed action includes consideration of the protective measures proposed by NTIA and CBC in the biological assessment and re-iterated in the Description of the Proposed Action section of this biological opinion. Consequently, any changes in these protective measures may constitute a modification of the proposed action that causes an effect to the desert tortoise that was not considered in the biological opinion and require re-initiation of consultation, pursuant to the implementing regulations of the section 7(a)(2) of the Act (50 Code of Federal Regulations 402.16). The reasonable and prudent measures and terms and conditions are intended to compliment and clarify the protective measures proposed by NTIA and CBC.

TERMS AND CONDITIONS

To be exempt from the prohibitions of section 9 of the Act, the NTIA, Bureau, and ACOE, as appropriate, must ensure that the CBC complies with the following terms and conditions, which implement the reasonable and prudent measures described in the previous section, and the reporting and monitoring requirements. These conditions are non-discretionary.

1. The following term and condition implements reasonable and prudent measure 1:

The NTIA, Bureau, or ACOE, as appropriate, must ensure that only biologists authorized by the Service under the auspices of this biological opinion conduct clearance surveys for and handle desert tortoises. We request that you require CBC to provide us with the credentials of authorized biologists who it wishes to conduct these duties at least 30 days prior to the time they must be in the field. The authorized biologists we approve, in coordination with the consulting agency, will be responsible for selecting additional biological monitors to ensure that the proposed protective measures and terms and

conditions we require are fully implemented. The authorized biologist will assign appropriate tasks to any additional desert tortoise monitors, based on their experience. The Service has identified appropriate roles and responsibilities for authorized biologists and desert tortoise monitors at the following website:

http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/docs/dt/DT%20Auth%20Bio%20qualifications%20statement%2010_20_08.pdf.

2. The following terms and conditions implement reasonable and prudent measure 2:
 - a. To ensure that the measures proposed by NTIA and CBC are effective and are being properly implemented, the NTIA, Bureau, or ACOE, as appropriate, must contact the Service immediately if it becomes aware that a desert tortoise has been killed or injured by project activities. At that time, the Service and the appropriate agency will review the circumstances surrounding the incident to determine whether additional protective measures are required. Project activities may continue pending the outcome of the review, provided that the proposed protective measures and any appropriate terms and conditions of this biological opinion have been and continue to be fully implemented.
 - b. If four desert tortoises are killed or injured by project activities during construction of the proposed action, NTIA must re-initiate formal consultation with Service.
 - c. If two desert tortoises are injured or killed as a result of operation and maintenance of the project in any calendar year, the NTIA, Bureau, or ACOE, as appropriate, must re-initiate formal consultation with Service.

Because we do not expect that the handling of desert tortoises to move them from harm's way is likely to result in injury or mortality, we are not establishing a criterion for re-initiation of formal consultation for this activity.

REPORTING REQUIREMENTS

During construction of the project, NTIA must provide annual reports to the Service by January 31 of each year that provides details on the effects of the action on the desert tortoise. Additionally, within 60 days of the completion of construction, NTIA must submit a final report. During operation and maintenance of the project, the Bureau or ACOE, as appropriate, must provide annual reports to the Service by January 31 of each year that provides details on the effects of the action on the desert tortoise. Specifically, these reports must include information on any instances when desert tortoises were killed, injured, or handled; the circumstances of such incidents; and any actions undertaken to prevent similar instances from re-occurring. We recommend that the report include any recommendations that would facilitate the implementation of the protective measures while maintaining protection of the desert tortoise.

We also request that the NTIA, Bureau, or ACOE, as appropriate, provide us with the names of any desert tortoise monitors who assisted the authorized biologist and an evaluation of the

experience they gained on the project; the qualifications form on our website (http://www.fws.gov/ventura/sppinfo/protocols/deserttortoise_monitor_qualifications_statement.pdf), filled out for this project, along with any appropriate narrative would provide an appropriate level of information. This information would provide us with additional reference material in the event these individuals are submitted as potential authorized biologists for future projects.

DISPOSITION OF DEAD OR INJURED DESERT TORTOISES

Within 3 days of locating a dead or injured desert tortoise, the NTIA, Bureau, or ACOE, as appropriate, must notify the Ventura Fish and Wildlife Office by telephone (805-644-1766) and in writing (2493 Portola Road, Suite B, Ventura, California 93003). The report must include the date, time, and location of the carcass, a photograph, cause of death, if known, and any other pertinent information.

Injured desert tortoises must be taken to a qualified veterinarian for treatment. If any injured desert tortoises survive, the Service must be contacted regarding their final disposition.

The NTIA, Bureau, or ACOE, as appropriate, must ensure that CBC takes care in handling dead desert tortoises to preserve biological material in the best possible state for later analysis. If a desert tortoise is killed by project activities, the Service will instruct the NTIA, Bureau, or ACOE, as appropriate, and CBC regarding the final disposition of the carcass.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to use their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

Recently, we have been made aware of cases where collapsed burrows have entrapped desert tortoises; we have also determined that, at least in some cases, these animals cannot escape on their own. We request that the authorized biologists investigate any such collapsed burrows to determine if desert tortoises are entrapped. The authorized biologists should release any desert tortoises found in these burrows in a manner that is most likely to ensure their safety, using the Desert Tortoise Field Manual (Service 2009) as guidance.

As we discussed in the section on the Increase in Invasive Non-Native Plant Species, the introduction and establishment of these species could result in an increased fire risk, which could subsequently result in the loss of desert tortoise habitat. The introduction of these species would likely occur during construction, with establishment occurring a short time after. Consequently, we request that NTIA and CBC address new non-native invasive plant species in their noxious

weed plans and discuss measures to minimize their introduction, spread, and establishment within the action area.

RE-INITIATION NOTICE

This concludes formal consultation on the Digital 395 Middle Mile project in the California counties of San Bernardino, Kern, Inyo, and Mono, and in the Nevada counties of Douglas, Carson City, and Washoe. Re-initiation of formal consultation is required where discretionary federal involvement or control over the action has been retained or is authorized by law and: (a) if the amount or extent of taking specified in the incidental take statement is exceeded; (b) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (c) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or (d) if a new species is listed or critical habitat designated that may be affected by the identified action (50 Code of Federal Regulations 402.16).

In instances where the amount or extent of incidental take is exceeded, the exemption issued pursuant to section 7(a)(2) will have lapsed and any further take would be a violation of section 4(d) or 9. Consequently, we recommend that any construction, operation, or maintenance activities causing such take cease pending re-initiation.

If you have any questions regarding this biological opinion, please contact Erin Nordin of my staff at (909) 382-2959.

Sincerely,



For Diane K. Noda
Field Supervisor

cc: Field Supervisor, Nevada Fish and Wildlife Office, Reno, Nevada
(Attn: Marcy Haworth)

Appendices:

1. U.S. Fish and Wildlife Service. 2010c. Mojave population of the desert tortoise (*Gopherus agassizii*). 5-year review: summary and evaluation. Dated September 30. Desert Tortoise Recovery Office. Reno, Nevada. Available at: http://ecos.fws.gov/docs/five_year_review/doc3572.DT%205Year%20Review_FINAL.pdf or on disk, by request.
2. Map - exotic plant invasion risk.
3. Map - critical habitat units of the desert tortoise and the aggregate stress that multiple threats, including invasive plants, place on critical habitat.

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- National Telecommunications and Information Administration. 2011. Letter discussing the potential effects of the proposed project on the Carson wandering skipper. Dated December 15.
- National Telecommunications and Information Administration. 2012a. Letter discussing changes to the proposed project route. Dated January 12.
- National Telecommunications and Information Administration. 2012b. Electronic mail from China Lake National Warfare Systems indicating that they did not want to be included under the biological opinion. Dated February 13.
- National Telecommunications and Information Administration. 2012c. Electronic mail from the National Telecommunications and Information Administration with comments included in the attached draft biological opinion. Dated March 14.
- National Telecommunications and Information Administration. 2012d. Electronic mail from the U.S. Army Corps of Engineers indicating they had no comments on the draft biological opinion. Dated March 14.
- National Telecommunications and Information Administration. 2012e. Electronic mail from the National Telecommunications and Information Administration with additional comments included in the attached draft biological opinion. Dated March 20.
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- U.S. Fish and Wildlife Service. 2010e. Biological opinion on Tessera Solar's Calico Solar Power Generating Facility, San Bernardino County, California (3031 (P) CA-680.33) (8-8-10-F-34). Dated October 15. Memorandum to Field Manager, Barstow Field Office, Bureau of Land Management, Barstow, California. From Field Supervisor, Ventura Fish and Wildlife Office. Ventura, California.

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U.S. Fish and Wildlife Service. 2011b. Biological opinion on Mojave Solar, LLC's Mojave Solar Project, San Bernardino County, California (8-8-11-F-3). Dated March 17. Letter to Matthew C. McMillen, Department of Energy, Washington, D.C. and Roxie Trost, Bureau of Land Management, Barstow, California. From Diane K. Noda, Ventura Fish and Wildlife Office. Ventura, California.

U.S. Fish and Wildlife Service. 2011c. Biological opinion on BrightSource Energy's Ivanpah Solar Electric Generating System Project, San Bernardino County, California [CACA-48668, 49502, 49503, 49504](8-8-10-F-24R). Memorandum to the District Manager, Bureau of Land Management, California Desert District, Moreno Valley, California. Dated June 10. From Field Supervisor, Ventura Fish and Wildlife Office. Ventura, California.

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DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

REPLY TO
ATTENTION OF

March 14, 2012

Regulatory Division (SPK-2011-00585)

Mr. Michael Ort
California Broadband Cooperative, Inc
1101 Nimitz Avenue
Vallejo, California 94592

RECEIVED MAR 19 2012

Dear Mr. Ort:

We are responding to your 11/08/2011 request for a Department of the Army permit for the Digital 395 Barstow to Reno project. This approximately project involves activities, including discharges of dredged or fill material, in waters of the United States to construct a fiber optic line from Barstow to Reno. The project is located on or near, Section 20, Township 7 N, Range 6 East, Mount Diablo Meridian, Latitude 38.4487215581708°, Longitude -121.344260850565°, , Sacramento County, California.

Based on available information, **we concur with the amount and location of wetlands and/or other water bodies on the site as depicted on the enclosed January 23, 2012, CBC Digital 395 Wetland Delineation Maps prepared by Chambers Group, Inc.** Further, the proposed activity, resulting in temporary impacts to approximately 0.334 acres of wetlands and other waters of the United States, is authorized by Nationwide Permit (NWP) Number 12, Utility Lines. However, until Section 401 Water Quality Certification for the activity has been issued or waived by the State of California, our authorization is denied without prejudice. Once you have provided us evidence of water quality certification, the activity is authorized and the work may proceed subject to the conditions of certification and the NWP. Your work must comply with the general terms and conditions listed on the enclosed NWP information sheets and the following special conditions:

Special Conditions

1. You shall comply with all terms and condition of the enclosed January 31, 2012, Section 401 Water Quality Certification for work within the State of Nevada.
2. You shall notify the Corps of the start and completion dates for each phase of the authorized work within 14 calendar days prior to initiation of construction activities within waters of the U.S. and 14 calendar days following completion of construction activities.
3. Within 60 days following completion of each phase of the authorized work you shall submit as-built drawings and a description of the work conducted on the project site to this office for review. The drawings shall include the following:

- a. The Department of the Army Permit number.
 - b. A cross section drawing of the location of the authorized work footprint (as shown on the permit drawings) depicting the work. The drawing should show all earth disturbance, wetland impacts, and structures.
 - c. Ground photographs of the completed work. The camera positions and view-angles of the ground photographs shall be identified on a map, aerial photograph, or project drawing.
 - d. A description and list of all deviations between the work as authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings the location of any deviations that have been listed.
4. You are responsible for all work authorized herein and ensuring that all contractors and workers are made aware and adhere to the terms and conditions of this permit authorization. You shall ensure that a copy of the permit authorization and associated drawings are available for quick reference at the project site until all construction activities are completed.
5. The mitigation commitments (including Pre- and Post-Construction Best Management Practices (BMPs)) detailed in the Stormwater Pollution Prevention Plan, dated August 2011 are incorporated by reference as a condition of this verification.
6. You shall clearly identify the limits of disturbance in the field with highly visible markers (e.g. construction fencing, flagging, silt barriers, etc.) prior to commencement of construction activities within waters of the U.S. You shall maintain such identification properly until construction is completed and the soils have been stabilized. You are prohibited from any activity (e.g. equipment usage or materials storage) that impacts waters of the U.S. outside of the permit limits.
7. You shall install buried utility lines to meet the following requirements:
- a. Within 14-days following completion of construction activities, you shall restore the trench area and any temporary stockpiling area in accordance with Special Condition 7.
 - b. Utility lines shall not adversely alter existing hydrology, including the draining of wetlands. In wetland areas, structures such as cut-off walls shall be used within utility trenches to ensure that the trench through which the utility line is installed does not drain waters of the U.S. Clay blocks, bentonite or other suitable material shall be used to seal the trench to prevent the utility line from draining waters of the U.S., including wetlands.
8. You and your authorized contractor shall allow representatives from the Corps to inspect the authorized activity at any time deemed necessary to ensure that work is being or has been accomplished in accordance with the terms and conditions of this verification.

You must sign the enclosed Compliance Certification and return it to this office within 30 days after completion of the authorized work.

This verification is valid until March 18, 2012, when the existing NWP's are scheduled to be modified, reissued, or revoked. It is incumbent upon you to remain informed of changes to the NWP's. We will issue a public notice when the NWP's are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant NWP is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP. Failure to comply with the General Conditions of this NWP, or the project-specific Special Conditions of this authorization, may result in the suspension or revocation of your authorization.

We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under *Customer Service Survey*.

Please refer to identification number SPK-2011-00585 in any correspondence concerning this project. If you have any questions, please contact Ms. Krystal Bell at our California North Branch Office, 1325 J Street, Suite 1350, Sacramento, CA 95814, via email *Krystal.L.Bell@usace.army.mil*, or by telephone at 916-557-7745. For more information regarding our program, please visit our website at *www.spk.usace.army.mil/regulatory.html*.

Sincerely,

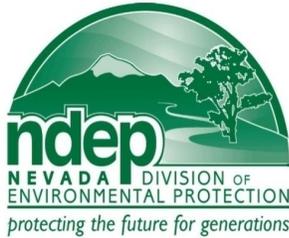
ORIGINAL SIGNED

Nancy Arcady Haley
Chief, California North Branch

Enclosures

Copies Furnished without enclosures:

- ✓ Ms. Lisa Louie, Chambers Group Inc., 5 Hutton Centre Drive, Ste. 750, Santa Ana, CA 92707
- Ms. Genevieve Walker U.S. Department of Commerce, NEPA Coordinator, 1401 Constitution Ave, NW -Room 2830B, Washington, DC 20230
- Ms. Jean Stone, NDEP, 901 S. Stewart Street, Suite 4001 Carson City, Nevada 89701
- Ms. Tobi Tyler, Lahontan Regional Water Quality Control Board, 2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150



STATE OF NEVADA

Department of Conservation & Natural Resources

Brian Sandoval, Governor

Leo M. Drozdoff, P.E., Director

DIVISION OF ENVIRONMENTAL PROTECTION

Colleen Cripps, Ph.D., Administrator

January 31, 2012

Ms. Krystel Bell
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814

Dear Ms. Bell,

The Nevada Division of Environmental Protection (NDEP) grants 401 Water Quality Certification (NV401-12-006) for the Digital 395 Fiber Optic Line Project in Douglas County and Carson City, Nevada. The project will install approximately 33.6 miles of fiber optic line primarily along the Highway 395 transportation corridor. Some of the installation may involve blowing or pulling through existing leased conduit. In other areas, construction methods will include cable plowing, trenching or horizontal directional drilling.

Photographs which document conditions **before, during and after construction** should be submitted to the Bureau of Water Quality Planning (BWQP) following project completion and **must include BMPs used to prevent erosion, control sediment and protect water quality**. These photos should be representative of the drainages the line has crossed using construction methods such as trenching or plowing through a dry drainage or boring underneath a flowing waterbody. If straw bales are selected as BMPs they should be certified as weed free.

Any modifications to original project submittal must be reviewed and approved by this office prior to implementation. All conditions of NDEPs Temporary Authorization To Discharge Permit (Construction / Dewatering Permit) or any other permit issued by NDEP for the project must be followed.

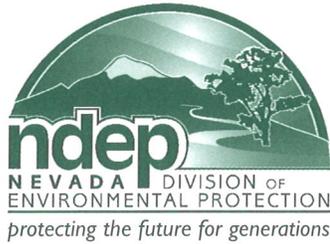
This Section 401 Water Quality Certification is **subject to the acquisition** of all necessary local, regional, state and federal permits and approvals as required by law. Failure to meet any conditions of this 401 Water Quality Certification or the Temporary Authorization Permit (Construction/Dewatering Permit) or any other permit issued by NDEP for this project or any violation of NAC 445A may result in the revocation of this 401 Water Quality Certification.

If you have any questions, please contact me via email or at (775) 687-9456.

Sincerely yours,

Jeanmarie Stone
Environmental Scientist III
Bureau of Water Quality Planning

cc: Lisa Louie, Chambers Group
Jeryl Gardner, NDEP



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

1/20/2012

MR. MICHAEL ORT
PRAXIS ASSOCIATES INC.
6995 SIERRA CENTER PARKWAY
RENO, NV 89511

Dear: MR. MICHAEL ORT

Re: Stormwater General Permit: NVR100000

Project ID Number: CSW-24242

Project Name: Digital 395 Middle Mile Project

Your submittal to be included under the Stormwater General Permit has been approved effective 01/20/2012 . Please note that by submitting an NOI the permittee has certified that the project's Storm Water Pollution Prevention Plan (SWPPP) has been completed, that the SWPPP will be updated as necessary, and that it will be maintained at the permitted site.

At the time of any on-site inspections, our inspectors will ask to review your copy of the SWPPP in an effort to ensure proper compliance with the program.

Also note that Nevada Administrative Code (NAC) 445A.268 Section (5)(b) reads, in part, that a Permittee (discharger) who is covered under a general permit shall pay to the Director a nonrefundable fee of \$200 not later than July 1 of each year that the discharger is covered under that permit.

To Terminate coverage of the Nevada NPDES General Permit for Stormwater Discharges, the Permittee must submit a Notice of Termination ("NOT") form when their facilities no longer have any stormwater discharges associated with Construction activity as defined in the Nevada's General Stormwater Permit or EPA regulations at 40 CFR 122.26, or when they are no longer the operator of the site.

Should you have any questions, I can be reached at (775) 687-9434.

Sincerely,

Michele Reid
Environmental Scientist
Stormwater Program
Nevada Division of Environmental Protection

CC: Mr.Michael Ort Praxis Associates Inc. 6995 Sierra Center Parkway Reno NV 89511

