

**Special Award Condition**

*Compliance with Environmental Protocols and Measures*

**Broadband Technology Opportunities Program Grant  
Nevada Hospital Association  
Nevada Broadband Telemedicine Initiative Project**

**This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Nevada Hospital Association (NHA), Nevada Broadband Telemedicine Initiative Project. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.**

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological and historic and cultural resources. These consultations identified specific protocols or environmental protection measures. These protocols or protective measures may be either required or recommended to be included in the implementation of the Project to minimize potential impacts to biological resources and effects on historic and cultural resources. The protocols and measures are listed below.

Note that this Special Award Condition does not distinguish requirements identified during the consultations from recommendations that were also provided. NHA shall implement the identified protocols and measures without regard to this distinction and advise the Federal Project Officer (FPO) immediately if any issues arise related to the ability to comply fully with any requirement or recommendation listed below.

For each protocol or measure listed, NHA shall include the following information in its periodic report to the FPO administering the grant:

- a. Specifically where and when the protocol has been used or a measure has been implemented during the reporting period, and
- b. Whether full compliance with the protocol or measure was achieved.

The FPO may, if they determine necessary, require additional information to ensure compliance with the protocol or measure. If, at any time, NHA has questions or requires clarification regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

**Biological Resource Protection Protocols and Measures**

NHA consulted with the U.S. Fish and Wildlife Service (USFWS) and Nevada Department of Wildlife (NDOW) regarding potential Project impacts on biological resources for the Project. NHA provided recommended best management practices (BMPs) and avoidance measures for fiber installation activities to avoid impacts to federally listed species potentially occurring along the Project route. USFWS concluded that, based on the information and protective measures provided by NHA, the Project is not likely to adversely affect federally listed species known to

occur within the Project area. Based on these consultations, NHA will implement the following BMPs and avoidance measures for the Project:

1. For all construction areas south of Springdale, NHA will implement a contractor education program. The program shall include a tri-fold brochure with important information for workers, which will be handed out during the training. Only workers who have successfully completed the education program shall be allowed to enter the construction site. Desert tortoise (*Gopherus agassizii*) education shall, at a minimum, include information on the biology and distribution of the desert tortoise, general behavior and ecology of the desert tortoise, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties for violations of Federal and State laws, the measures designed to minimize the effects of construction activities, and reporting procedures to be used in the event that a desert tortoise is encountered. *Final EA Section 2.4, USFWS Biological Opinion dated December 15, 2011*
2. NHA will flag the boundaries of disturbance before beginning any activities, and all disturbances shall be confined to the flagged areas. Project personnel will be instructed that their activities must be confined to within the flagged areas. Cross-country travel, travel outside flagged construction zones, and disturbance beyond the flagged areas are generally prohibited. All disturbances within the construction boundary shall be restricted to the minimum area necessary to complete Project activities. *USFWS Biological Opinion dated December 15, 2011*
3. For all areas south of Springdale, a 25-mile per hour speed limit shall be followed for all access and construction roads. A litter control program, including use of covered, raven-proof trash receptacles, disposal of edible trash in trash receptacles, and daily trash removal shall be implemented. *Final EA Section 2.4, USFWS Biological Opinion dated December 15, 2011*
4. No construction activities shall begin until USFWS authorized biologists and desert tortoise monitors are approved. A USFWS authorized biologist shall possess thorough and current knowledge of desert tortoise behavior, natural history, ecology, physiology, and shall demonstrate substantial field experience and training to safely and successfully:
  - Handle and temporarily hold desert tortoises;
  - Excavate burrows to locate desert tortoises or eggs;
  - Relocate/translocate desert tortoises;
  - Unearth and relocate desert tortoise eggs; and
  - Locate, identify, and record all indicators of desert tortoise presence.*Final EA Section 2.4, USFWS Biological Opinion dated December 15, 2011*
5. Two rounds of pre-construction clearance surveys shall be conducted by an authorized desert tortoise biologist to locate desert tortoise in Project areas and remove them prior to surface disturbance. *USFWS Biological Opinion dated December 15, 2011*
6. Workers shall check underneath all vehicles and equipment before moving. If a desert tortoise is observed, the vehicle or equipment shall remain in place until the tortoise

moves on its own or an authorized desert tortoise biologist moves the tortoise. *USFWS Biological Opinion dated December 15, 2011*

7. All burrows found within areas proposed for disturbance, whether occupied or vacant, shall be excavated by an authorized desert tortoise biologist and collapsed or blocked to prevent desert tortoise re-entry. All burrows will be excavated with hand tools to allow removal of desert tortoise or desert tortoise eggs. All desert tortoise handling and excavations, including nests, will be conducted by an authorized desert tortoise biologist in accordance with USFWS approved protocol (USFWS 2010a). Desert tortoise burrows located outside the areas proposed for disturbance must be clearly marked or flagged to prevent crushing. *USFWS Biological Opinion dated December 15, 2011*
8. A USFWS authorized biologist will be present during all construction activities within desert tortoise habitat without existing exclusionary fencing. Vehicles and construction equipment shall be monitored by desert tortoise monitors walking ahead of equipment. *Final EA Section 2.4*
9. All trenches shall be backfilled or covered at the end of each day during hours of inactivity or the trenches shall be dug in such a manner that the side and/or end walls are contoured to allow any animals that inadvertently fall in, a means to climb out. Stockpiled pipes and excavations that pose a threat or potential to entrap or injure tortoises shall be capped, temporarily fenced, and/or escape ramps installed. *Final EA Section 2.4, USFWS Biological Opinion dated December 15, 2011*
10. For work activities located in rural areas, Project personnel shall halt activities when the continuation of such activities may endanger a desert tortoise or if a tortoise is found on a Project site. Encounters with desert tortoises shall be immediately reported to an on-call USFWS authorized biologist, who respond to the sighting within one hour of notification during normal operating hours. Project activities will resume after the biologist assessed the situation and takes appropriate action to avoid or minimize direct impact to the tortoise. In rural areas, an authorized desert tortoise biologist may relocate all desert tortoises and desert tortoise eggs 300 to 1,500 feet into adjacent undisturbed habitat. (Refer to Desert Tortoise Field Manual, [http://www.fws.gov/ventura/species\\_information/protocols\\_guidelines/index.html](http://www.fws.gov/ventura/species_information/protocols_guidelines/index.html)) *USFWS Biological Opinion dated December 15, 2011; USFWS email dated February 8, 2011*
11. The USFWS authorized biologist shall maintain a record of all desert tortoises encountered, including mortalities, during Project activities. Information recorded for each desert tortoise shall include: the location (narrative, vegetation type, and maps); date; time of observation; whether the tortoise was handled; general 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). The authorized desert tortoise biologist shall also include the names of all monitors approved for the project, and the activities and level of involvement during the project. *USFWS Biological Opinion dated December 15, 2011, Final EA Section 2.4*

Any desert tortoises found within the Project area in urban areas, such as the City of Las Vegas, must be transported to the Desert Tortoise Conservation Center in accordance

with approved protocol (USFWS 2010a). Any desert tortoise found within one hour before nightfall must be placed in a separate clean cardboard box and held in a cool, predator-free location. The box must be covered and kept upright at all times. Each box will be used once and disposed of properly. The desert tortoise must be transported to the Desert Tortoise Conservation Center the next day. Each desert tortoise will be handled with new disposable gloves. *USFWS Biological Opinion dated December 15, 2011; USFWS email dated February 8, 2011*

12. A USFWS authorized biologist shall have the authority to halt all non-emergency project activity should danger to a desert tortoise arise. Work shall proceed only after hazards to the listed species are cleared or removed, the species is no longer at risk, or the species has been moved from harm's way by the USFWS authorized biologist. *Final EA Section 2.4*
13. If a dead or injured desert tortoise is found, the USFWS shall be notified immediately by phone. Written notification shall be made within 72 hours of the date and time of the finding or incident (if known), and shall include location of the carcass, a photograph, cause of death (if known), and other pertinent information. *Final EA Section 2.4*
14. Prior to surface-disturbing activities, NHA will pay remuneration fees to the San Diego Zoo that will be applied towards costs associated with operation of the Desert Tortoise Conservation Center. NHA shall pay remuneration fees at the rate of \$786 per acre of disturbance for 3.6 acres, for a total of \$2,829.60. If fees are paid after March 1, 2012, the rate will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U). *USFWS Biological Opinion dated December 15, 2011*
15. NHA will submit a report documenting the effectiveness and compliance with the desert tortoise protection measures to the USFWS Nevada Fish and Wildlife Office in Las Vegas within 90 days of completion of construction of the Project. *USFWS Biological Opinion dated December 15, 2011*
16. The contractor education program will include Gila monster (*Heloderma suspect cincum*) education and will be required for all workers in Gila monster habitat. The program will include:
  - Gila monster identification and how it is distinguished from other lizards such as chuckwallas and western banded geckos ;
  - Gila monster reporting protocol requirements to the NDOW;
  - The consequences of a Gila monster bite resulting from carelessness or unnecessary harassment; and
  - Gila monster protective measures provided under State law. *Final EA Section 2.4*

17. Live Gila monsters found in harm's way on the construction site will be captured and then detained and reported per the NDOW protocol (NDOW, 2007) *Final EA Section 2.4*
18. In the event a Gila monster is injured, it should be transferred to veterinarian proficient in reptile medicine for evaluation of appropriate treatment. NDOW will be immediately notified (Polly Conrad at 702-486-5127 ext 3718.) *Final EA Section 2.4*
19. If an animal is killed or found dead, the carcass will be immediately frozen and transferred to NDOW with a complete written description of the discovery and circumstances, date, time, habitat, and mapped location. *Final EA Section 2.4*
20. To avoid direct and indirect impacts to the southwestern willow flycatcher (*Empidonax traillii extimus*) or yellow-billed cuckoo (*Coccyzus americanus*), removal of nesting vegetation will occur outside the bird-breeding season. If this cannot be avoided, vegetated areas would be surveyed for nesting birds prior to impact. If nesting birds were found, these areas would be avoided by a buffer as determined by BLM and USFWS. *Final EA Section 2.4*
21. NHA will implement the following measures prior to the start of construction:
  - Southwestern willow flycatcher and yellow-billed cuckoo habitat shall be delineated and flagged where it falls within 300 feet of the existing power line.
  - Construction shall not take place between June 1 and August 15 where southwestern willow flycatcher habitat is within 300 feet of the power line unless surveys are conducted during the appropriate time by approved biologists with the required permits issued by the USFWS, and the surveys determine there are no breeding or nesting pairs in the vicinity. *Final EA Section 2.4*
22. To minimize potential impacts to the burrowing owl (*Alasmidonta heterodon*), pre-construction surveys will be conducted by qualified biologists in areas with a high potential for burrowing owl presence, if construction will take place between mid-March and August. If a burrow has an active nest, the site must be avoided until the chicks have fledged. To ensure that birds will not abandon the nest, a buffer of at least a 250-foot radius will be placed around the burrow within which no construction would occur. After the young have fledged, the nest burrow shall be checked for owlets before resuming construction within the buffer area. *Final EA Section 2.4*
23. To minimize potential impacts to the golden eagle, NHA will identify potential eagle habitat by remotely sensed procedures used to identify cliff habitat within five miles of the construction corridor. The Nevada Department of Wildlife raptor database shall be consulted to screen for any known nest locations. If construction is scheduled to occur within two miles of potential eagle habitat during the breeding period (February through July) pre-construction surveys of potential nesting habitat will be conducted at least two weeks prior to construction to determine the status of nesting activity in proximity to the construction corridor. Surveys shall be conducted by qualified biologists in accordance with the *Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance (February 2010)*, or as directed by the USFWS. If breeding activity is confirmed within two miles of the construction corridor,

all construction within the breeding territory shall be suspended until juvenile birds are fledged, or as per USFWS instructions. *Final EA Section 2.4*

24. To avoid direct and indirect impacts to migratory birds, NHA will remove nesting vegetation outside the bird-breeding season (October through July). If this cannot be avoided, vegetated areas will be surveyed for nesting birds prior to impact. If vegetation removal occurs during the nesting season, then a qualified biologist would survey the area prior to initiation of construction. If active nests of migratory birds are located, a buffer will be established around the nests and the area avoided until the nests are no longer active. The size of the buffer is dependent on the identified nesting species and would be determined by the qualified biologist. *Final EA Section 2.4*
25. NHA will develop a project-specific construction timeline by area so that the Project will avoid potential impacts to active migratory bird nests during construction. *Final EA Section 2.4*
26. NHA will minimize potential impacts to migratory birds from construction of new regeneration stations and other structures by not having any holes, gaps, or hollow spaces in the proposed facilities and not using open-ended posts. *Final EA Section 2.4*
27. To avoid direct and indirect impacts to sensitive plants, NHA will have a qualified biologist flag known populations prior to construction for avoidance. This includes a pre-construction survey for the buried section between Goldfield and Lida Junction. Located plant populations will be flagged and avoided. *Final EA Section 2.4*
28. To avoid direct and indirect impacts to sensitive amphibians and fish, NHA will have a qualified biologist flag associated habitat prior to construction for avoidance. Machinery will not be allowed within these habitat boundaries. If it is necessary to cross these areas, it will be done on foot. *Final EA Section 2.4*

### **Historic and Cultural Resource Protection Protocols and Measures**

NTIA initiated consultation with the Nevada Department of Conservation and Natural Resources (State Historic Preservation Office [SHPO]) and met with the tribal chairs of the Walker River Paiute Tribe and the Timbisha Tribe in to explain the Project. Specifically, the Project will cross approximately 8 miles of land on existing poles along the north end of Walker Lake owned by the Walker River Paiute Tribe and install approximately 1.5 miles of aerial fiber on existing poles located on Timbisha Tribe land near Lida Junction. Through the Tower Construction Notification System (TCNS), NTIA also provided Project information to 26 interested Tribes.

Project stipulations resulting from these consultations include:

1. NHA will incorporate the recommendations proposed in Table 4 on page 9 of the *Cultural Resources Records Search for Nevada Hospital Association Statewide Fiber Optic Network* (Gnomon, August 29, 2011) into any plans or designs provided to construction crews to ensure the protection of historic properties. *SHPO letter dated September 28, 2011*

2. Prior to construction, NHA will have a professional archaeologist instruct construction personnel on the protection of cultural resources. In addition, NHA will coordinate with the appropriate land management agency along the Carson City route and will have a professional archaeologist conduct archeological monitoring within archaeological site 26Or1 in the Arrowhead/Goni segment in Carson City. *SHPO letter dated September 28, 2011, Final EA Section 2.4*
3. NHA will provide a monitoring report to the SHPO within one month of Project completion within the vicinity of the historic property 26Or1, located in the Arrowhead/Goni segment in Carson City. *SHPO letter dated September 28, 2011*
4. NHA will provide the Walker River Paiute Tribe with copies of Material Safety Data Sheets for hazardous waste that may be stored in vehicles and/or in the construction area on tribal land. NHA will also notify the Tribe in the event of a spill, and will provide the Tribe with copies of all permits obtained from the NDEP. *Walker River Paiute Tribe letter dated November 16, 2011*
5. NHA will continue working with NTIA to provide the Walker River Paiute Tribe with additional project information, as requested by the Tribe, as part of their formal right-of-way (ROW) process, before the start of construction. Should the Walker River Paiute Tribe or any Tribe express any specific cultural resource concerns, NHA will notify NTIA and participate in consultation to resolve their concerns.
6. Construction disturbance must avoid known buried and surface archaeological deposits. *Final EA Section 2.4*

NHA will flag and avoid the fire ring identified by the Walker River Paiute Tribe, which is located within the right-of-way (ROW) between the fourth and fifth poles along the old highway near Reese Canyon. NHA will also provide the tribe with a copy of Material Safety Data Sheets for hazardous waste that may be stored in vehicles and/or in the construction area on tribal land. NHA will notify the tribe in the event of a spill, and will provide the tribe with copies of all permits obtained from the Nevada Department of Environmental Protection (NDEP).

NHA will continue working with the Bureau of Indian Affairs (BIA) on the ongoing easement access for Project activities on tribal land. NHA must receive concurrence from BIA before construction activities may begin within their respective jurisdiction.

If pole replacements are identified, NHA will notify NTIA, Federal land managing agencies, or tribes, as applicable, to determine if further work is required. No groundbreaking, site preparation, or construction activities will commence for such activities until NTIA approves that Section 106 consultations (and any other environmental studies or requirements) have been completed.

If any human skeletal remains or Native objects are discovered during construction, construction will stop immediately, and appropriate authorities, including law enforcement agencies, the SHPO, interested Tribes, and Federal land management agencies, will be informed.

## **Additional Protection Protocols and Measures**

1. NHA will implement an environmental education program to ensure construction crews are aware of sensitive biological, cultural, and environmental resources and avoidance areas. Habitat preservation education applicable to the entire Project area will also be included, with emphasis on riparian and wetland areas. Sensitive resource and avoidance areas will be catalogued in an environmental compliance summary document and provided to all construction crew chiefs.
2. Specific construction-related activities and safety measures will be implemented during construction in order to prevent fires and to ensure quick response and suppression in the event a fire occurs.
3. NHA will obtain State and local permits, as necessary, including those required from the Nevada Division of Environmental Protection (NDEP).
4. NHA will continue working with the Bureau of Land Management (BLM), U.S. Department of Agriculture – Forest Service (USDA-FS), Bureau of Reclamation (BOR), U.S. Department of Defense (DoD), and Bureau of Indian Affairs (BIA) on the ongoing permitting process for Project activities on Federal and State land. NHA must receive concurrence from Federal and State agencies before construction activities may begin within their respective jurisdiction.
5. NHA will also consult with the BLM, USDA-FS, BOR, DoD, NDOT, BIA, and Tribes to minimize potential impacts to local wildlife and species of concern identified on Federal, State, and tribal lands.
6. NHA will follow permitting and regulatory requirements outlined by the USFWS, BLM, USDA-FS, BOR, DoD, NDOT, BIA, and Tribes for all Project activities.
7. NHA will continue working with the USDA-FS, BLM, BOR, and DoD, as applicable, to determine the potential for visual resource impacts of the Project on Federally managed lands.
8. NHA will continue working with the U.S. Army Corps of Engineers (USACE) on any necessary permits pursuant Section 404 of the Clean Water Act.
9. NHA will avoid the spread of noxious or invasive weeds during construction, operation, or maintenance activities by implementing the following measures:
  - Pre-construction surveys for noxious or invasive weeds will be conducted within the following areas:
    - The buried section between Goldfield and Lida Junction
    - The riparian area of the Carson River on the Silver Springs to Yerington segment

- The wet areas on the north end of Mason Valley on the Silver Springs to Yerington and Yerington to Hawthorne segments
  - The north end of Walker Lake on the Yerington to Hawthorne segment
  - The Amargosa Mesquite Areas of Critical Environmental Concern (ACEC)
- NHA will limit the area of ground disturbance to the minimum necessary to perform the activity safely and as designed.
  - NHA will avoid creating soil conditions that promote weed germination and establishment.
  - All equipment, vehicles, and employees shall be free of soil, seeds, vegetative matter, and other debris before entering the project area and when leaving. Cleaning will focus on power washing the nooks and crannies of vehicle undercarriages.
  - Project operations will be in weed-free areas whenever possible. If equipment must operate in pre-existing areas infested by noxious weeds, the equipment, vehicles, and employees shall be cleaned prior to being moved or transported from the immediate site.
  - Any soil fill materials imported into the project area must come from documented weed free sources.
  - Straw or mulch used for erosion control shall be certified weed-free or, if certified straw is not available, rice straw shall be utilized.
  - Plant seed used for post-construction site stabilization shall be tested and labeled to include its source, species composition, weed content, and weed-free certification.
  - The buried portion of the Project between Goldfield and Lida Junction will be re-seeded using a BLM approved seed mix. *Final EA Section 2.4*
10. To avoid impacts to prime or important farmlands, final project construction plans and alignments shall be designed to avoid adverse impacts to current or customary agricultural production practices occurring on soil map units designated as being prime or statewide important farmlands.
11. State or county surface disturbance and water pollution control permits shall be secured by the Project contractor prior to the initiation of Project construction. All Project construction shall conform to the conditions and BMPs prescribed in these permits to minimize fugitive dust and surface water erosion. Soil disturbance areas will be revegetated in accordance with the requirements of the involved ROW permit. In wetlands, if soil conditions are wet, then the poles would be walked and climbed to avoid soil compaction by heavy machinery.
12. In order to avoid impacts to public land grazing, the following measures will be implemented:
- All private and public range improvements and facilities that fall within the project area, or are otherwise impacted by the proposed project, repaired to its current or better condition, or replaced by the contractor.

- All existing livestock fencing encountered in the project area shall be maintained in its current condition. Any openings in existing project area fencing, either by agreement or accidental damage, shall not be left unattended, and shall be immediately repaired prior to the conclusion of the workday.
- The project proponent, and project contractors, shall immediately close all closed fence gates that are encountered during the construction of this project, unless a previous written agreement is enacted with the lawful owner of the fence line.

13. Cacti and yucca may be present in the project impact area. To the extent practical, cacti and yucca within the Project area will be avoided by this action.

**Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:**

All Environmental Commitments not specifically called out in this Special Award Condition and identified in the EA in Section 2.4, the Biological Assessment prepared by Resource Concepts, Inc. (August 2011), and the Biological Opinion by USFWS (December 15, 2011) are to be strictly adhered to by NHA or its contractors.