

**U.S. Department of the Interior  
Bureau of Land Management**

---

**Environmental Assessment  
DOI-BLM-NV-S010-2013-0007-EA**

**N-43022-01**

**Right-of-Way**

**For a short term Right-of-way for staging on Public Lands**

**APPLICANT**

**Nevada Power Company d/b/a NV Energy**

**LOCATION**

**Southern Clark County, North of Laughlin Highway off of Christmas Tree Pass Drive.**

**PREPARING OFFICE**

**U.S. Department of the Interior  
Bureau of Land Management  
Las Vegas Field Office  
4701 N Torrey Pines  
Las Vegas, Nevada 89130  
702-515-5000**





# **Environmental Assessment**

## **Right-of-Way for a Short Term Right-of-way for staging on Public Lands**

### **Identifying Information:**

DOI-BLM-NV-S010-2013-0007-EA

### **Title, EA Number, and Type of project:**

Title: Right-of-Way for a Short Term Right-of-way (STR) for construction staging on Public Lands.

EA Number: DOI-BLM-NV-S010-2013-0007-EA

Type: Right-of-Way

### **Location of Proposed Action:**

Located in Southern Clark County, north of Laughlin Highway, off of the Christmas Tree Pass access road leading to the Christmas Tree Pass Communication Site.

### **LEGAL DESCRIPTION:**

Mount Diablo Meridian, Nevada, T. 31 S., R. 65 E., section 18,

SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ .

### **Name and Location of Preparing Office:**

Department of the Interior  
Bureau of Land Management  
Las Vegas Field Office  
4701 N. Torrey Pines  
Las Vegas, NV 89130

Office Number: LLNVS00560

### **Identify the subject function code, lease, serial, or case file number:**

Casefile Number: N-43022-01 - Nevada Power Company d/b/a NV Energy.

### **Applicant Name:**

Nevada Power Company d/b/a NV Energy (Casefile N-43022-01)

### **Purpose and Need for Action:**

Description: The application is for a Short Term Right-of-way (STR) for a construction staging area. NV Energy and BLM are currently in the process of amending two (2) NV Energy ROW authorizations in support of NV Energy's Christmas Tree Pass Communication Site. The two authorizations are N-43022 which is for an upgrade to the Communication site facilities to sustain critical infrastructure operations and N-4188 & N-4188-01 which is an upgrade to the 15kV distribution line needed to provide reliable power to the Communication Site. The purpose of STR N-43022-01 is for a construction staging area for the two (2) upgrade projects. The vehicles hauling the construction equipment cannot make it up the access road leading to the project

sites, therefore a staging area approximately 2.5 miles down the mountain from the project sites is required to stage the equipment.

### **Scoping, Public Involvement and Issues:**

Located in Southern Clark County, north of Laughlin Highway, off of Christmas Tree Pass near the NV Energy Christmas Tree Pass communication site.

The authorizations that this STR is in support of are existing facilities that are being upgraded to improve safety and reliability. The road leading to the communication site and power line is narrow, steep in some areas and not maneuverable for large vehicles. The STR is needed for a staging area for the construction equipment to be brought up the mountain by smaller vehicles. There are other ROW authorizations in the area, however, NEPA has never been done in the area where the STR is requested.

Stipulations will be attached to the right-of-way grant which will include conservation and protection of the natural resources, cultural resources, Threatened and Endangered (T&E) Species, and the environment.

The project area this staging area supports in located approximately 1/4 mile south of the southern boundary of the Spirit Mountain Traditional Cultural Property. This sacred Native American landscape is listed on the National Register of Historic places as the place of creation for all the Native American tribes who live along the lower Colorado River, All construction related activities/vehicles will remain within the graded Christmas Tree Pass Road ROW.

Ingress and egress to and from the project area is within the Paiute-Eldorado Area of Critical Environmental Concern (ACEC). Christmas Tree Pass Road will include a tortoise monitor to be present during all on-site activities to require escort of all construction vehicles and ensure protection of desert tortoise and the surrounding habitat.

This proposal has been reviewed by Bureau of Land Management (BLM) resource team members. Their comments and evaluations are included in this environmental assessment.

A summary of this EA is available for review by the public on the internet on the DOI.GOV website under NEPA number: DOI-BLM-NV-S010-2013-0007-EA.

Notifications have been sent to all adjacent ROW holders in the area to ensure there are no conflicts with the projects at Christmas Tree Pass. .

## **Proposed Action and Alternatives**

### **Description of the Proposed Action — Alternative Number 1:**

Description: NV Energy applied for a Short Term Right-of-way (STR) for a construction staging area over public lands. The STR is in support of BLM authorizations N-43022 for upgrades to the Christmas Tree Pass Communication Site and N-4188 & N-4188-01 for upgrades to an existing underground 15kV Electric line. The vehicles carrying the construction materials cannot safely navigate up the mountain to communication site and power line, therefore the STR is being requested approximately 2.5 miles down the mountain to stage the equipment to then be brought up the mountain by smaller vehicles. The staging area would be approximately 40'x 40' or 0.04 acres needed for 6 months.

### **RIGHT-OF-WAYS OR PENDING ACTIONS WITHIN THE PROJECT AREA:**

There are several Communication Sites in the project area; however, none appear to be in conflict with NV Energy's proposed projects. Notification has been sent to all proponents with facilities in the area for their review and comments.

### **CONSTRUCTION:**

The STR will be needed for approximately 6 months to stage construction equipment while N-43022 and N-4188 are under construction. The work force is anticipated to include 5 or 6 people, which will include supervisors, laborers and equipment operators. Construction equipment will include trucks, a trencher, small front-end loader and a backhoe. This translates into an estimated 5 or 6 vehicles. A few pick-ups and smaller trucks would also be used for crews and other miscellaneous uses. All vehicles would be kept within the permitted 40'x 40' right-of-way.

**RECLAMATION:** The final phase of construction would be cleanup and reclamation. Waste would be removed from the site and would be disposed of at an approved site. The disturbed area within the staging area would be returned to its original state.

### **Description of Other Alternatives Analyzed in Detail:**

#### **NO ACTION ALTERNATIVE NUMBER 2:**

Under a "no action" alternative, BLM land would not be made available for issuance of the right-of-way. No action would result in difficulty for NV Energy to get construction equipment and materials to the project sites and would result in longer construction times.

#### **Alternatives Considered but not Analyzed in Detail:**

#### **ALTERNATE NUMBER 3:**

No other alternatives were considered.

### **Conformance**

The proposed action is in conformance with the Las Vegas Resource Management Plan (RMP) decisions RW-1, and RW-1-h, approved October 5, 1998.

- RW-1 — "Meet public demand and reduce impacts to sensitive resources by providing an orderly system of development for transportation, including legal access to private inholdings, communications, flood control, major utility transmission lines, and related facilities."

- RW-1-h— “All public land within the planning area, except as stated in RW-1-c through RW-1-g, are available at the discretion of the agency for rights-of-way under the authority of the Federal Land Policy Management Act.”

Rights-of-ways are allowable on BLM-administered lands per Title V of the Federal Land Policy and Management Act of 1976 and the BLM regulations (43 CFR 2800), at the discretion of the Secretary of the Interior or his/her delegated officer.

## Affected Environment:

### SUPPLEMENTAL AUTHORITIES

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Air Quality		X		
Area of Critical Environmental Concern (ACEC)	X			
Cultural/Historical	X			
Paleontological Resources	X			
Environmental Justice	X			
Farmlands Prime or Unique	X			
Noxious Weeds/Invasive Non-native Species		X		
Native American Religious Concerns	X			
Floodplains	X			
Riparian/Wetlands	X			
Threatened, Endangered or Candidate Plant Species	X			
Threatened, Endangered or Candidate Animal Species.			X	
Migratory Birds		X		
Waste - Hazardous/Solid	X			
Water Quality		X		
Wild & Scenic Rivers	X			
Wilderness (Study Area)	X			
Forests and Rangelands (HFRA only) Woodlands	X			
Human Health and Safety	X			

Other resources of the human environment that have been considered for this environmental assessment (EA) are listed in the table below. Elements that may be affected are further described in the EA. Rationale for those elements that would not be affected by the proposed action and alternative is listed in the table below.

Other Resources	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Grazing Management	X			
Green House Gas Emissions (Climate Change)		X		
Minerals		X		
Socio-Economic Values		X		
Soils/Hydrology		X		
Vegetation	X			
Visual Resources		X		
Recreation		X		
Fish and Wildlife excluding Federally Listed Species	X			

### Threatened & Endangered Species:

Threatened and endangered species are placed on a federal list by the U. S. Fish and Wildlife Service (USFWS) and receive protection under the Endangered Species Act of 1973, as amended. The only T&E species known to occur in the vicinity of the project area is the threatened desert tortoise (*Gopherus agassizii*).

In the Mojave region, the desert tortoise occurs primarily on flats and bajadas with soils ranging from sand to sandy-gravel characterized by scattered shrubs and abundant inter-shrub space for herbaceous plant growth. They are also found on rocky terrain and slopes.

Photos provided confirm that the proposed project area is highly disturbed. The project area is surrounded by large tracts of undisturbed, very low density desert tortoise habitat, Area C.

## **Environmental Effects:**

### **Threatened and Endangered Species:**

historical survey data indicates that the area within and surrounding the projects sites are in very low density tortoise habitat. Although this project will not create new surface disturbance, it is adjacent to undisturbed, contiguous habitat so there is potential for tortoises to wander into the project area. If not noticed and avoided, desert tortoises could be either injured or killed (by crushing) or harassed (by being moved out of harms way). As no new habitat disturbance would occur during this action, desert tortoise clearance surveys are not required. Since tortoises have been found in the vicinity and undisturbed habitat exists on the project sites, there is potential for tortoises to wander into the project area. If not noticed and avoided during construction activities, desert tortoises could be either injured or killed (by crushing) or they may be harassed (being moved out of harms way).

The above action has a may affect determination for the threatened desert tortoise (*Gopherus agassizii*). This project will have no affect on any other federally listed species or designated critical habitat. Section 7 Consultation for this project is covered under Programmatic Biological Opinion for Multiple Use Activities (1-5-97-F-251) contingent on compliance with the attached terms and condition for Area C. Minimization measures in the above mentioned Biological Opinion contain measures to reduce potential impacts to desert tortoise.

## **CUMULATIVE IMPACTS:**

The proposed action is for a short term right-of-way for a construction staging area over public land, approximately 40' x 40' and approximately 0.04 acres. The proposed action is located in southern Clark County, north of Laughlin Highway off of Christmas Tree Pass Road.

## **PAST, PRESENT, AND FUTURE ACTIONS CONSIDERED:**

Future impacts associated with this action should be minor, since the project is for a short term staging area only. Upon completion of construction, appropriate stabilization and rehabilitation measures will be completed in conformance with the requirements of BLM, the State of Nevada Division of Environmental Protection, and Clark County Department of Air Quality and Environmental Management.

## Tribes, Individuals, Organizations, or Agencies Consulted:

Table 1. List of Persons, Agencies and Organizations Consulted

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
Nevada Power Company d/b/a NV Energy, P.O. Box 98910, Las Vegas, NV 89151-0001	Applicant	

## List of Preparers

**Table 2. List of Preparers:**

Name	Title	Responsible for the Following Section(s) of this Document
Cheri B. Woodward	Realty Specialist	Introduction, Purpose and Need, Scoping, Land/Access
Lisa Christianson	Environmental Protection Specialist	Air Quality, Greenhouse Gas Emissions
Fred Edwards	Botanist	Botanist, Forest Initiative, Healthy (Cactus/Yucca), Threatened, Endangered or Candidate (Plant Species), Vegetation Excluding Listed Species
Susanne Rowe	Archaeologist	Cultural Resources, Native American Religious Concerns, Paleontology,
Katie Kleinick	Natural Resource Specialist	Fish & Wildlife, Migratory Birds, Threatened, Endangered or Candidate (Animal Species),
Boris Poff	Hydrologist	Floodplains, Hydrologic Conditions, Riparian/Wetlands, Soils, Water Resources/Quality (Drinking/Surface/Ground), Wetlands/Riparian Zones, Wild & Scenic Rivers
Jessie Stegmeier	Wildlife Biologist	Fish & Wildlife, Migratory Birds, Threatened, Endangered or Candidate (Animal Species)
Lori Dee Dukes/George Varhalmi & Evan Allen	Geologist	Geology/Mineral Resources/Energy Production,
Marilyn Peterson/Chris Linehan	Recreation Specialist	Recreation
Krystal Johnson	Wild Horse and Burro Specialist	Farmlands, Prime or Unique
Billy Williams	Natural Resource Specialist	Invasive Species/ Noxious Weeds
John Evans	Planning and Environmental Coordinator	Environmental Justice
Sean McEldery/Lucas Rhea	Fire Management Specialist	Fire Management
Sendi Kalcic	Wilderness Planner and Visual Resources	Areas with Wilderness Characteristics

Exhibit A  
Stipulations N-43022-01

---

**1.0 Special Stipulations**

- 1.1 Avoid or minimize all types of travel through weed-infested areas. If a problem is identified and avoidance or removal is not possible, the project proponent shall set up inspection and equipment cleaning sites to prevent the spread of weeds upon departure.
- 1.2 Limit ground disturbance to the minimum necessary to safely construct and operate the proposed project. The applicant would avoid creating soil conditions that promote weed germination and establishment.
- 1.3 Project related equipment (i.e. undercarriages and wheel wells) will be cleaned of all mud, dirt and plant parts before each tour. Project workers shall inspect, remove and dispose of weed seed and plant parts found on their clothing and personal equipment, bag the product and dispose of in a dumpster. Disposal methods may vary depending on the project. If you have questions, consult with the LVFO Noxious Weed Coordinator.

**2.0 General Stipulations**

- 2.1. The right-of-way is issued subject to all valid existing rights.
- 2.2. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- 2.3. The right-of-way shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. Holder shall mark the exterior boundaries of the right-of-way with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.5. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this right-of-way within its authorized limits.
- 2.6. Holder shall maintain the right-of-way in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.

- 2.7. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments.

At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

- 2.8. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the right-of-way:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;

ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.

CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

### 3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the right-of-way and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

Prior to relinquishment, abandonment, or termination of this right-of-way, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

- 3.2. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

#### 4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

#### 5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the right-of-way area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the right-of-way potentially affecting the right-of-way of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of-way.

- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this right-of-way.

- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the right-of-way), the United States against any liability arising from the Holder's use or occupancy of the right-of way, regardless of whether the Holder has actually developed or caused development to occur on the right-of-way, from the time of the issuance of this right-of-way to the Holder, and during the term of this right-of-way. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the right-of-way.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of way regardless of whether the Holder has actually developed or caused development to occur on the right-of-way from the time of the issuance of this right-of-way to the Holder and during the term of this right-of-way.

- 5.6. Mineral material generated, and not needed for the development of the proposed action within the right-of-way site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of in place excess mineral material. All mineral material needs to be used on site within the right-of-way or stockpiled on site for sale by the BLM.

## 6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

## 7.0 Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian

- 7.1. There are no conflicts with any T/E plant species. This project occurs within the designated "low" density zone for cactus and yucca and has been previously disturbed. All cactus and yucca that might be impacted by this action must be disposed of in an off-site trash receptacle.
- 7.2. The Holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the right-of-way stipulations.

This action will occur within a previously developed/urban setting in the Las Vegas Valley. The potential for noxious weeds to transfer from the proposed project area to BLM managed multiple use lands elsewhere is negligible; therefore, noxious weeds are not considered to be an issue for the proposed project.

- 7.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 7.4. Land surface treatment for areas previously undisturbed: Strip the top three to six inches of soil material with associated plant material over all surfaces to be disturbed by construction. Stockpile this material along the course of construction will be salvaged and transplanted out of harm's way but still within the right of way. At the conclusion, including trench backfilling and compaction, replace the stockpiled soil with plant debris uniformly back on the surface of the disturbed area.

- 7.5. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling.

## 8.0 Migratory Birds

- 8.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

## 9.0 Threatened and Endangered Wildlife and Plant Species Stipulations

- 9.1. The Holder will comply with the terms and conditions of the **Biological Opinion for this project** on file at the Bureau of Land Management, Las Vegas Field Office and included below.

NEPA#: DOI-BLM-NV-S010-2013-0007-EA  
Section 7 log #: NV-052-13-027

### Terms and Conditions of Biological Opinion in Area C

File No. 1-5-97-F-251

In order to be exempt from the prohibitions of section 9 of the Act, the applicant must comply with the following terms and conditions, which implement the reasonable and prudent measures described below. These terms and conditions are non-discretionary.

1. Measures shall be taken to minimize take of desert tortoises due to project-related activities.
  - a. The Bureau, or their designee, shall provide a fact sheet to all foremen, workers, and other employees working on the project. The fact sheet will include information on the life history of the desert tortoise, legal protection for desert tortoises, penalties for violations of Federal and State laws, general tortoise activity patterns, reporting requirements, measures to protect tortoises, terms and conditions of the biological opinion, and personal measures employees can take to promote the conservation of desert tortoises. The definition of "take" will also be explained. Workers are encouraged to carpool to and from project site. The fact sheet shall be approved by the Service prior to implementation.
  - b. A speed limit of 25 miles per hour shall be required for all vehicles on the project site and unposted dirt access roads.

- c. During construction activities, tortoise burrows should be avoided whenever possible. If a tortoise is found onsite during project activities which may result in take of the tortoise (e.g., in harms way), such activities shall cease until the tortoise moves, or is moved, out of harms way. The tortoise shall be moved by either a qualified tortoise biologist or individual trained in the proper technique of handling and moving desert tortoises. **All workers will also be instructed to check underneath all vehicles before moving such vehicles. *Tortoises often take cover under vehicles.***
- d. A tortoise biologist shall not be required onsite during construction activities unless explicitly determined by the Bureau, or Bureau and Service, that an onsite biologist is necessary.
- e. The Fish and Wildlife Service (FWS) must approve the selected consulting firm/biologist to be used by the applicant to implement the terms and conditions of this biological opinion or permit issued by the Bureau. Any biologist and/or firm not previously approved must submit a curriculum vitae and be approved by the FWS before authorized to represent the Bureau in meeting compliance with the terms and conditions of this biological opinion. Other personnel may assist with implementing mitigation measures, but must be under direct field supervision by the approved qualified biologist.

In accordance with *Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise* (Service 1992), a qualified desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields as determined by the Bureau. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign, which should include a minimum of 60 days field experience. All tortoise biologists shall comply with the Service-approved handling protocol (Desert Tortoise Council 1994, revised 1999) prior to conducting tasks in association with terms and conditions of this biological opinion. In addition, the biologist shall have the ability to recognize and accurately record survey results..

- f. The search for, and removal of, tortoises (i.e., clearance) is voluntary, unless explicitly required by the Bureau, or Bureau and Service. If tortoise clearance is not required, applicants or project proponents may voluntarily choose to search for and remove tortoises from lands to be disturbed within the project area. However, applicants/project proponents that voluntarily choose to clear project areas of desert tortoises, shall follow measures required in terms and conditions of this biological opinion. Specific and detailed instructions will be provided on the proper techniques to capture and move tortoises which appear onsite, in accordance with Service-approved protocol. Currently, the Service-approved protocol is Desert Tortoise Council 1994, revised 1999.
- g. The project shall not require fencing unless determined by the Bureau, or Bureau and Service, that fencing is necessary. Projects that generally require fencing are large projects with a high level of ongoing activity, such as gravel pits and airports.

- h. Desert tortoises encountered experiencing heat stress will be placed in a tub by a qualified tortoise biologist with one inch of water in an environment with a temperature between 76 degrees F and 95 degrees F for several hours, until heat stress symptoms are no longer evident.
  - i. Tortoises and nests found shall be relocated by a qualified tortoise biologist in accordance with Service-approved protocol (Desert Tortoise Council 1994, revised 1999). Burrows containing tortoises or nests will be excavated by hand, with hand tools, to allow removal of the tortoise or eggs.
  - j. Tortoises that are moved offsite and released into undisturbed habitat on public land, must be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernaculum in which it was found, or in an artificially constructed burrow in accordance with Desert Tortoise Council (1994, revised 1999).
  - k. Desert tortoises moved during the tortoise inactive season or those in hibernation, regardless of date, must be placed into an adequate burrow. If one is not available, one will be constructed in accordance with Desert Tortoise Council (1994, revised 1999). During mild temperature periods in the spring and early fall, tortoises removed from the site will not necessarily be placed in a burrow.
2. Measures shall be taken to minimize predation on tortoises by ravens drawn to the project area.
- This will involve a litter-control program. This program will include the use of covered, raven-proof trash receptacles, removal of trash from the construction site to the trash receptacles following the close of each work day, and proper disposal of trash in a designated solid waste disposal facility. Vehicles hauling trash to the landfill and leaving the landfill must be secured to prevent litter from blowing out along the road.
3. Measures shall be taken to minimize destruction of desert tortoise habitat, such as soil compaction, erosion, or crushed vegetation, due to project-related activities.
- a. If possible, overnight parking and storage of equipment and materials, including stockpiling, shall be within previously disturbed areas or areas to be disturbed.
  - b. All vehicle traffic will be restricted to existing access roads where possible. New access roads will be created only when absolutely necessary and only when approved by the Bureau.
  - c. Project activity areas will be clearly marked or flagged at the outer boundaries before the onset of construction. All activities shall be confined to designated areas. Blading of vegetation will occur only to the extent necessary and shall be limited to areas designated for that purpose by the Bureau.

- d. Remuneration fees apply to future disturbance in tortoise habitat. Past disturbance or disturbance on land not considered to be tortoise habitat by a tortoise biologist, and approved by the Bureau, are not assessed a tortoise remuneration fee. Remuneration fees will be used to fund management actions which are expected to benefit the desert tortoise. Actions may involve: Habitat acquisition; population or habitat enhancement or protection; research that increases our knowledge of desert tortoise biology, habitat requirements, or factors affecting habitat attributes; reducing loss of individual animals, documenting the species' current status and trend, and preserving distinct population attributes or any other action described in the Management Oversight Group's report titled *Compensation for the Desert Tortoise* (Hastey, et al. 1991) or Recovery Plan.
4. Measures shall be taken to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and consultation reinitiation requirements contained in the biological opinion.
    - a. The project applicant shall notify the Bureau at least 10 days before initiation of the project. Notification shall be made to the Bureau's wildlife staff at (702) 515-5000.
    - b. The Bureau wildlife staff (702/515-5000) and Service (702/515-5230) must be notified of any desert tortoise death or injury due to the project implementation by close of business on the following work day.
    - c. All appropriate NDOW permits or letters of authorization shall be acquired prior to handling desert tortoises and their parts, and prior to initiation of any activity that may require handling tortoise.
    - d. The project proponent must submit a document to the Bureau within 30 days of completion of the project showing the number of acres disturbed; remuneration fees paid; and number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during implementation of programmatic actions.
    - e. For tortoise removals in Clark County, the applicant shall make prior arrangements with Clark County's tortoise pickup service (702/593-9027) at least 10 days prior to the commencement of tortoise collection. Outside Clark County, initial notification shall be made to the Bureau as stated in Term and Condition 4.a. above.

***All necessary information sheets and forms shall be completed by the proponent. Attachment A must be completed and returned to the BLM within 30 days of completion of construction. These forms will be modified as necessary with the Service's concurrence.***

Attachment A

DESERT TORTOISE SECTION 7 COMPLIANCE FORM

Entire form is to be completed by the project proponent and delivered to the Bureau of Land Management within 30 days of project completion

Biological Opinion File Number: 1-5-97-F-251
Species: desert tortoise (Gopherus agassizii)

Project Name: Christmas Tree Pass Staging Area (DOI-BLM-NV-S010-2013-0007-EA)
Case File No: N-43022-01
Acreage of Disturbance Authorized: 0
Acreage Actually Disturbed:
Fees Assessed: 0 Rate: n/a

In accordance with this biological opinion, applicants or project proponents must avoid or remove tortoises from lands to be disturbed within the project area.

- Area B mandatory desert tortoise clearance survey
Area C mandatory desert tortoise clearance survey
Area C voluntary desert tortoise clearance survey conducted
Area C voluntary desert tortoise clearance survey not conducted

Date(s) clearance survey(s) conducted:
Number of desert tortoises observed:
Number of desert tortoise burrows observed:
Number of desert tortoises injured:
Number of desert tortoises killed:
Number of desert tortoises removed from the project site:

(Provide a report detailing all tortoise encounters and what happened to the animals. This report will include age class, gender, and health of each animal, maps showing where each tortoise was captured and later relocated, and the air temperature during the relocation.)

Company and persons who conducted the survey and removal<sup>1</sup>:

Company:
Name:
Address:
Phone:
State Permit #:

If desert tortoises were encountered, attach a summary of each action. This summary shall include: date encountered; whether the animal was avoided, injured, killed, or moved out of harm's way; and if the animal was handled, please identify where the animal was relocated to.

Deliver this completed form and required supplemental information to:

Bureau of Land Management
Division of Renewable Resources
4701 N. Torrey Pines Drive
Las Vegas, NV 89130
(702) 515-5000

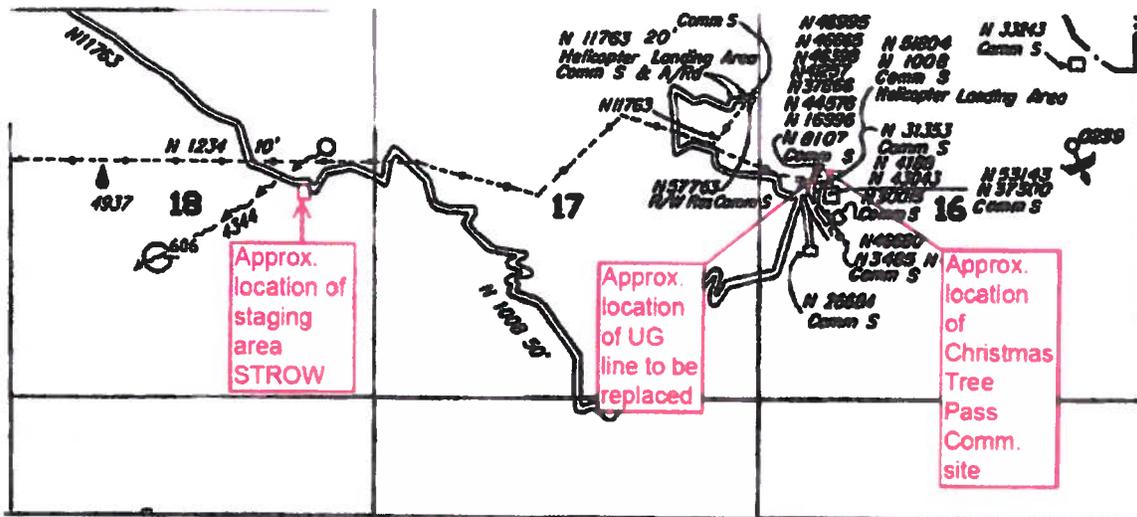
If you have questions, call the BLM's Wildlife staff at (702) 515-5000.

<sup>1</sup> BLM approval of biological monitors/surveyors required. Submit resumes for review/approval 15 days prior to construction.

**Christmas Tree Pass  
 PL#25-2012  
 In support of PL#23-2012 & PL#23-2012A and N-43022/E  
 W.O. 1000161832**

**DESCRIPTION OF RIGHT OF WAY FOR ELECTRICAL FACILITIES**

Short-term right-of-way (STROW) is for staging area of construction equipment. Projects this staging area supports are in the Southwest Quarter of the Northwest Quarter (SW ¼ NW ¼) of Section 16, Township 31 South, Range 65 East, M.D.M., Nevada. The staging area STROW is located in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW ¼ SE ¼ NE ¼) of Section 18, Township 31 South, Range 65 East, M.D.M., Clark County, NV.



**TOTAL (STROW):** Length 40-feet; Width 40-feet; 1,600-square feet; Acres: 0.04 acres

