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

Environmental Assessment

DOI-BLM-NV-S010-2012-0135-EA

N-91382

Right-of-Way

for an Access Road and Landscaping Buffer

APPLICANT

Nevada Power Company d/b/a NV Energy

LOCATION

Northern Clark County north of I-15, Southwest of Moapa Nevada located at the Reid Gardner Generating Station.

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

BLM

Environmental Assessment
Right-of-Way for an Access Road and Landscaping Buffer on Public Lands

Identifying Information:

DOI-BLM-NV-S010-2012-0135-EA

Title, EA Number, and Type of project:

Title: Right-of-Way for an Access Road and Landscaping Buffer on Public Lands.

EA Number: DOI-BLM-NV-S010-2012-0135-EA

Type: Right-of-Way

Location of Proposed Action:

Located Northeast of the Las Vegas Valley, North of I-15 and Southwest of Moapa, Nevada. Access Road to NV Energy's Reid Gardner Generating Station.

LEGAL DESCRIPTION:

Mount Diablo Meridian, Nevada, T. 15 S., R. 66 E., section 5,

S½SW¼NE¼, SE¼NE¼SW¼NE¼, S½NW¼SE¼NE¼, N½SW¼SE¼NE¼.

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-91382 - Nevada Power Company d/b/a NV Energy.

Applicant Name:

Nevada Power Company d/b/a NV Energy (Casefile N-91382)

Purpose and Need for Action:

Description: The application is for a right-of-way over public lands for an access road and landscaping. The access road will provide access to NV Energy's Reid Gardner Generating Station and the Landscaping buffer is requested pursuant to a request of the Clark County Planning commission to add landscaping to the access road. The right-of-way is necessary to provide access to NV Energy's facilities at the Reid Gardner Generating Station .

Scoping, Public Involvement and Issues:

Located Northeast of the Las Vegas Valley, North of I-15 and southwest of Moapa, Nevada. The Road provides access to NV Energy's Generating Station.

The access road provides access to the NV Energy Reid Gardner Generating Station. The landscaping request is pursuant to a Clark County Planning Commission request for landscaping.

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.

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-S010-2012-0135-EA.

Proposed Action and Alternatives

Description of the Proposed Action — Alternative Number 1:

Description: Nevada Power company d/b/a NV Energy applied for a right-of-way ROW over public lands for an access road and landscaping. The access road is an existing paved road partially on private land and partially on Public Lands administered by BLM. The road ROW being requested would be 40 feet wide, 2,011 feet in length and approximately 1.85 acres. The ROW being requested for the landscaping would be 20 feet wide on either side of the access road, 1,695 feet long, and approximately 1.56 acres. The total ROW being requested for the road and landscaping is 3.41 acres. NV Energy plans to design the landscaping with native and regionally native plants to add to the existing creosote bushes which are located on this land. The existing land contours would be maintained with the exception of a few areas with obvious past human interventions and these areas would be re-contoured in a natural configuration. .

The requested road right-of-way would be 40 feet wide which is the current width of the paved road to allow for continuous access to the Reid Gardner facility. The requested right-of-way would provide access to the existing facilities authorized by N-82003. The right-of-way is necessary to provide access to the generating station.

The request for ROW for landscaping is per direction from the Clark County Planning Commission who has stipulated that NV Energy must provide a landscaping plan. The Landscaping ROW would be 40 feet wide (20' on either side of the access road) by 1,695 feet long.

Because the need for the roadway is ongoing, the request is for a ROW for 30 years.

Description of OtherAlternatives 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 NV Energy being unable to secure access to their facility.

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		All soil disturbing activities require dust mitigation measures be implemented for the duration of the project. Ensure a dust control permit is obtained through Dept. of Air Quality (DAQ) for all soil disturbing activity of .25 acres or greater, in the aggregate, and permit stipulations are in compliance for the duration of the activity.
Area of Critical Environmental Concern (ACEC)	X			The proposed project area is not within an ACEC or any critical desert tortoise habitat.
Cultural/Historical	X			A reconnaissance level inventory of Wally Kay Road was completed seven years ago in preparation for the installation of a gas line that runs parallel to the road and into the plant. There are no historic properties within the proposed area of potential effect (APE). No further analysis is required.
Paleontological Resources	X			No fossil-bearing geological strata will be adversely affected by the undertaking as proposed.
Environmental Justice		X		Any minority of low income group present within the project area would not be disproportionately impacted by health or environmental effects from this project.
Farmlands Prime or Unique	X			There are no prime or unique farmland designations in the District.
Noxious Weeds/Invasive Non-native Species		X		Disturbance is minimal, however, there is still potential to introduce and spread noxious weeds. follow the LVFO Noxious Weed Plan to meet noxious weed compliance requirements, and prevent and/or control weed species along the ROW. In the case that the "access road landscaping" includes plantings the proponent will need to submit a plat palette (list of plants to be used) for review, in order to avoid the introduction of noxious and/or invasive plant species. In addition, to avoid spreading noxious and/or invasive weeds project activities shall include the following stipulations: 1) Avoid or minimize all types of travel through weed-infested areas. If a problem is identified and avoidance is not possible, the project proponent shall set up inspection and equipment cleaning sites to prevent the spread of weeds upon departure. 2) Limit ground disturbance to the minimum necessary to safely construct and operate the

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
				proposed project. The applicant would avoid creating soil conditions that promote weed germination and establishment. 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.
Native American Religious Concerns	X			No impacts to properties of religious or traditional significance are anticipated. Any disturbances to the visual or audible environment will be short-term and temporary.
Floodplains	X			There are no floodplains present in the project area.
Riparian/Wetlands	X			There are no wetlands/riparian zones present in the project area.
Threatened, Endangered or Candidate Plant Species	X			Not Present.
Threatened, Endangered or Candidate Animal Species.			X	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 the Programmatic Biological Opinion 84320–2010–F-0365, contingent on compliance with the attached terms. The proponent will be required to pay remuneration fees of $824/acre for 3.41 acres, totaling $2,809.84. Historical survey data indicates that the area within and surrounding the project sites are in low density tortoise habitat. 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 harm's way). An authorized biologist is required to clear the site of desert tortoises. Minimization measures in the above mentioned Biological Opinion contain measures to reduce potential impacts to desert tortoise. A copy of the terms and conditions has been uploaded in ePlanning (Sec 7 Log # NV-052–013–048). This notice

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
				will serve as the Section 7 Determination and no additional paperwork will be provided.
Migratory Birds			X	Migratory birds, including the BLM sensitive species the western burrowing owl (Athene cunicularia), may be present on the project site. 1) To prevent undue harm, habitat-altering projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 1st — August 31st. 2) 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 the commencement of construction activities. This shall include burrowing and found 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.
Waste - Hazardous/ Solid		X		No hazmat issues present. Include standard hazmat stipulations in ROW grant.
Water Quality		X		No new issues as this project is located next to the Reid Gardner Generating Station and the general area is already disturbed.
Wild & Scenic Rivers		X		The eligible Muddy river would not be impacted by this action.
Wilderness (Study Area)	X			The proposed action is not located within or adjacent to WSAs, ISAs, or designated Wilderness.
Forests and Rangelands (HFRA only) Woodlands		X		Cactus and yucca may be present within the project impact area. Cactus and yucca are considered government property and are regulated under the Nevada BLM forestry program. If unable to be avoided, all cactus and yucca within permanent and temporary impact areas must be salvaged and replanted within the project area. Unless otherwise directed by the BLM botanist, all replanted cactus and yucca must be watered and otherwise maintained for a period of one year. To ensure successful salvage and transplant, all cactus and yucca must be salvaged using a contractor (or other approved by the BLM) with at least three years experience salvaging and maintaining plant materials in the Mojave or Sonoran Deserts. The Plan of Development states that landscaping will be designed with native plants and the Ocotillos may be used; however, Ocotillos are not native to this area and are

Supplemental Authority	Not Present	Present/Not Affected	Present/May be Affected	Rationale
				not recommended for use in landscaping intended to reflect native species of this area of the Mojave Desert. Any existing cactus and yucca on the site are optimal for use and if additional cactus and yuccas (Joshua trees. Mojave yuccas) are needed there may be an opportunity to obtain them from the BLM. Please coordinate with the BLM Botanist to see about obtaining additional cactus and/or yuccas. To the extent practical, existing vegetation should be left in place.
Human Health and Safety		X		No issues. Have proponent follow best management practices and health and safety regulations for construction.

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			The proposed action area is not located in any authorized grazing allotments.
Green House Gas Emissions (Climate Change)		X		Currently there are no emission limits for suspected Greenhouse Gas (GHG) emissions, and no technically defensible methodology for predicting potential climate changes from GHG emissions. However, there are, and will continue to be, several efforts to address GHG emissions from federal activities, including BLM authorized uses.
Minerals		X		Any necessary excavation that produces mineral materials within the ROW must be used within the ROW or stockpiled on site for sale by the BLM.
Socio-Economic Values		X		This project will not disproportionately impact social or economic values.
Soils/Hydrology		X		No new issues as this project is located next to the Reid Gardner Generating Station and the general area is already disturbed. Even though the proposed action will cause some disturbance, these disturbances should not cause new significant impacts to the hydrologic conditions, due to the general disturbances within the vicinity of the project.
Vegetation		X		There are no known occurrences of BLM sensitive species within the area. If there are unknown occurrences of BLM sensitive species within the project site, due to the small amount of disturbance, potential impacts would be negligible.

Other Resources	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Visual Resources	X			The proposed action is in VRM Class III, which aims to partially retain the existing character of the landscape. Levels of change to the landscape can be moderate, but should not dominate the view of the casual observer. Since the proposed action is adjacent to the existing developments, it is not expected to dominate the view of the casual observer. Please ensure that change repeats the basic elements of form, line, color, and texture found in the natural landscape to the extent practical. No Issues
Recreation		X		No change to current recreation use is expected.
Fish and Wildlife excluding Federally Listed Species		X		Wildlife species in the general area include small mammals rodents, birds and reptiles. Additionally, the BLM sensitive species western burrowing owl, Mojave Sidewinder, chuckwalls, Gila monster, Mojave shovel-nosed snake, and desert glossy snake may be present in the general area. These species would be displaced as lands are disturbed within the project area. The primary direct impacts of the proposed action on wildlife would be killing or maiming of ground dwelling animals less mobile species (such as reptiles) during construction, displacement of individuals, the loss and fragmentation of habitat and increased potential for harassments of wildlife. Additional impacts associated with the mortality from vehicular traffic may also be realized upon the completion of construction and subsequent use of the project area. Wildlife species in the general area are common and widely distributed throughout the area and the loss of some individuals and/or their habitat would have a negligible impact on populations of the species throughout the region. Impacts to BLM Sensitive Species are not anticipated to lead to further decline of the species range wide as the total disturbance for this project is relatively small.

Migratory Birds:

Under the Migratory Bird Treaty Act of 1918 (MBTA) and subsequent amendments (16 U.S.C. 7033–711), it is unlawful to take, kill, or possess migratory birds. A list of the protected bird species can be found in 50 C.F.R. § 10.13. The list of birds protected under this regulation is extensive and the project site has potential to support may of these species, including the BLM sensitive species the western burrowing owl (Athene cunicularia). Typically, the breeding season is when these species are most sensitive to disturbance, which generally occurs from March 1st through August 31st.

Threatened & Endangered or Candidate Animal 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. Historical survey data indicates that the area surrounding the project site is low density desert tortoise habitat.

Environmental Effects:

Migratory Birds:

Migratory birds, including the BLM sensitive species the western burrowing owl (Athene cunicularia), may be present on the project site. The Proposed Action Alternative will have a negative effect on migratory birds as it would remove vegetation which provides suitable habitat utilized for foraging, breeding, nesting sites, perches and cover. The proponent will be required to adhere to the following mitigation measures:

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 1st - August 31st.

2) 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.

Threatened, Endangered, or Candidate Animal Species:

This project will disturb a total of 3.41 acres of tortoise habitat within the project area. Since tortoise sign has been found in the vicinity and undisturbed habitat exists in the area, there is potential for tortoises to wander into the project area. If not noticed and avoided during construction, desert tortoises could be either injured or killed (by crushing) or harassed (by being moved out of harm's way). Section 7 Consultation for this project is covered under the Las Vegas Valley Biological Opinion 84320–2010–F-0365, contingent on compliance with the attached terms and conditions. Minimization measures in the Biological Opinion contain measures to reduce potential impacts to desert tortoise.

CUMULATIVE IMPACTS:

The proposed action is a right-of-way for an access road with a landscaping buffer to an existing power generation station over public land. The Road ROW would be approximately 2,011 feet in length, 40 feet wide, and approximately 1.85 acres. The proposed Landscaping buffer would be approximately 1,695 feet in length, 40 feet wide (20 feet on either side of the ROW) and approximately 3.41 acres. The proposed action is located northeast of the Las Vegas Valley, North of I-15 and southwest of Moapa, Nevada. The proposed right-of-way area is an existing road providing access to for NV Energy to the Reid Gardner Generation Station.

Future impacts associated with this action should be minor, since the project is for an existing road and natural landscaping. This project provides access to the Reid Gardner Generating Station. Since NV Energy is in control of the Generating Station, and it is their application, there is no conflict with this right-of-way.

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	Applicant	They applied for the right-of-way.

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, Visual Resources
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), Forest Initiative, Healthy (Cactus/Yucca), Threatened, Endangered or Candidate (Plant Species), Vegetation Excluding Listed Species
Boris Poff	Hydrologist	Floodplains, Hydrologic Conditions, Riparian/Wetlands, Soils,Water Resources/Quality (Drinking/Surface/Ground), Wetlands/Riparian Zones, Wild & Scenic Rivers
Amelia Savage	Wildlife Biologist	Fish & Wildlife, Migratory Birds, Threatened, Endangered or Candidate (Animal Species), ACEC's
George Varhalmi	Geologist	Geology/Mineral Resources/Energy Production,
Marilyn Peterson	Recreation Specialist	Recreation, Wild and Scenic Rivers
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	Fire Management Specialist	Fuels/Fire Management
Sendi Kalcic	Wilderness Planner	Areas with Wilderness Characteristics, BLM Natural Areas
Mike Moran	Environmental Protection Hazmat Specialist	Wastes (hazardous or solid)

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.

1.4 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 1st – August 31st.

1.5 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 the construction activities. This shall include burrowing and found 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.

1.6 The Plan of Development states that landscaping will be designed with native plants and that Ocotillos may be used; however, Ocotillos are not native to this area and are not recommended for use in landscaping intended to reflect native species of this area of the Mojave Desert. Any existing cactus and yucca on the site are optimal for use and if additional cactus and yuccas (Joshua trees, Mojave yuccas) are needed there may be opportunity to obtain them from the BLM. Please coordinate with the BLM Botanist to see about obtaining additional cactus and/or yuccas. To the extent practical, existing vegetation should be left in place.

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.

Case Number: N-91382
NEPA Project #: DOI-BLM-NV-S010-2012-0135-EA
Sec. 7 Log #: NV-052-13-048

Terms and Condition of Programmatic Biological Opinion
File No. **84320-2010-F-0365**
In order to be exempt from the prohibitions of section 9 of the Act, the Bureau must comply with the following terms and conditions, which implement the reasonable and prudent measures described above. These terms and conditions are non-discretionary.

1. To implement Reasonable and Prudent Measure Number 1 **Applies towards lands and realty, ROWs, and mining actions and other activities that involve vehicle and equipment use, excavations, or blasting,** the Bureau shall fully implement the following measures:

1.a. *Field Contact Representative—A* Field Contact Representative (FCR) (also called a Compliance Inspection Contractor) is generally designated for each contiguous stretch of construction activity for linear projects or isolated work areas for non-linear projects. The FCR will serve as an agent of BLM and the Service to ensure that all instances of non-compliance or incidental take are reported. BLM has discretion over approval of potential FCRs; however, those who also may be acting as authorized desert tortoise biologists, and must also be approved by the Service (see Term and Condition 1.d). All FCRs will report **directly** to BLM and the Service.

The FCR, authorized desert tortoise biologist, and monitors (see Term and Condition 1.c.) shall have a copy of all stipulations when work is being conducted on the site and will be responsible for overseeing compliance with terms and conditions of the ROW grant, including those for listed species. BLM shall ensure the FCR and authorized desert tortoise biologists have authority to halt any activity that is in violation of the stipulations. The FCR shall be on site year-round during all project activities.

Within 3 days of employment or assignment, the project proponent and BLM shall provide the Service with the names of the FCR.

1.b. *Authorized desert tortoise biologist*—All authorized desert tortoise biologists (and monitors) are agents of BLM and the Service and shall report directed to BLM and the proponent concurrently regarding all compliance issues and take of desert tortoises; this includes all draft and final reports of non-compliance or take. The initial draft report shall be provided to BLM and Service within 24 hours of the observation of take or non-compliance.

An authorized desert tortoise biologist will be assigned to each piece/group of large equipment engaged in activities that may result in take of desert tortoise (*e.g.*, clearing, blasting, grading, lowering in pipe, hydrostatic testing, backfilling, recontouring, and reclamation activities) and other work areas that pose a risk to tortoises. BLM may use their discretion to require a monitor instead of an authorized desert tortoise biologist to monitor equipment that is low risk to tortoises.

Authorized desert tortoise biologists, monitors, and the FCR (see Term and Condition 1.a.) shall be responsible for ensuring compliance with all conservation measures for the project. This responsibility includes: (1) enforcing the litter-control program; (2) ensuring that desert tortoise habitat disturbance is restricted to authorized areas; (3) ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously-disturbed areas or designated areas; (4) ensuring that all vehicles associated with construction activities remain within the proposed construction zones; (5) ensuring that no tortoises are underneath project vehicles and equipment prior to use or movement; (6) ensuring that all monitors (including the authorized desert tortoise biologist) have a copy of the required measures in their possession, have read them, and they are readily available to the monitor when on the project site.

An authorized desert tortoise biologist will serve as a mentor to train desert tortoise monitors and will approve monitors if required. An authorized desert tortoise biologist is responsible for errors committed by desert tortoise monitors.
An authorized desert tortoise biologist shall record each observation of desert tortoise handled in the tortoise monitoring reports. Information will include the following: location (GPS), date and time of observation, whether the desert tortoise was handled, general health and whether it voided its bladder, location desert tortoise was moved from and location moved to, unique physical characteristics of each tortoise, and effectiveness and compliance with the desert tortoise protection measures. This information will be provided **directly** to BLM and the Service.

Potential authorized desert tortoise biologists must submit their statement of qualifications to the Service's Nevada Fish and Wildlife Office in Las Vegas for approval, allowing a minimum of 30 days for Service response. The statement form is available on the internet at: *http://www.fws.gov/nevada/desert_tortoise/auth_dt_form.htm*.

Prior to final approval to begin work on the project, the authorized desert tortoise biologists will have read the required measures (terms and conditions and other stipulations) and have a copy of the measures available at all times while on the project site. BLM shall provide the appropriate agency contact for the project to the Service and the Service will include the forms with approval letters. Biologists and monitors should be visibly identifiable on the project site, which may include use of a uniquely designated hardhat or safety vest color.

1.d. *Desert tortoise monitor*—Desert tortoise monitors assist an authorized desert tortoise biologist during surveys and serve as apprentices to acquire experience. Desert tortoise monitors ensure proper implementation of protective measures, and record and report desert tortoises and sign observations in accordance with Term and Condition 1.c. They will report incidents of noncompliance to the authorized desert tortoise biologist or FCR. No monitors shall be on the project site unless supervised by an authorized desert tortoise biologist or approved by the BLM.

If a desert tortoise is immediately in harm's way (*e.g.*, certain to immediately be crushed by equipment), desert tortoise monitors may move the desert tortoise then place it in a designated safe area until an authorized desert tortoise biologist assumes care of the animal.

Desert tortoise monitors may not conduct field or clearance surveys or other specialized duties of an authorized desert tortoise biologist unless directly supervised by an authorized desert tortoise biologist or approved to do so by the Service; "directly supervised" means an authorized desert tortoise biologist has direct sight and voice contact with the desert tortoise monitor (*i.e.*, within approximately 200 ft of each other).

Within 3 days of employment or assignment, the project proponent and BLM shall provide the Service with the names of desert tortoise monitors who would assist an authorized desert tortoise biologist.

1.e. *Desert tortoise education program*—A desert tortoise education program shall be presented to all personnel on site during construction activities by an agency or authorized desert tortoise biologist. The Service, BLM, and appropriate state agencies shall approve the program. At a minimum, the program shall cover desert-specific Leave-No-Trace guidelines, the distribution of desert tortoises, general behavior and ecology of this species, sensitivity to human activities, threats including introduction of exotic plants and animals, legal protection, penalties for violation of State and Federal laws, reporting requirements, and project measures in this biological opinion. All field workers shall be instructed that activities must be confined to locations within the approved areas and their obligation to walk around and check underneath and vehicles and equipment before moving them (or be cleared by an authorized desert tortoise biologist). In addition, the program shall include fire prevention measures to be implemented by employees during project activities. The program shall instruct participants to report all observations of desert tortoise and their sign during construction activities to the FCR and authorized desert tortoise biologist.

1.f. *Vehicle travel*— Project personnel shall exercise vigilance when commuting to the project area to minimize risk for inadvertent injury or mortality of all wildlife species encountered on paved and unpaved roads leading to and from the project site. Speed limits will be clearly marked, and all workers will be made aware of these limits. On-site, personnel shall carpool to the greatest extent possible.

During the desert tortoise less-active season (generally November through February), vehicle speed on project-related access roads and in the work area will not exceed 25 mph. All vehicles and construction equipment will be tightly grouped.

During the more-active season (generally March through October), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days, vehicle speed on project-related access roads and in the work area will not exceed 15 mph. All vehicles and construction equipment will operate in groups of no more than three vehicles. An authorized desert tortoise biologist and desert tortoise monitor will escort or clear ahead of vehicles and equipment for ROW travel. The escort will be on foot and clear the area of tortoises in front of each traveling construction equipment group (see *Desert tortoise clearance*). The escort will use a recreational vehicle with ground visibility (*e.g.*, UTV); however, at least one authorized desert tortoise biologist and one desert tortoise monitor must ride together and survey both sides of the vehicle. The speed/pace will be determined by an authorized desert tortoise biologist and shall be slow enough to ensure adequate inspection.

New access and spur road locations will be sited to avoid potentially active tortoise burrows to the maximum extent practicable.

1.g. *Unauthorized access*—BLM shall ensure that unauthorized personnel, including the public and off-duty project personnel, do not travel on project-related temporary access roads, to the greatest extent practicable.

During the more-active season (generally March through October), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days, project- and non-project-related activities on all access roads that intersect the ROW will be monitored and logged. During construction, the ROW will be fenced at public roads that intersect the ROW. Signs will say that access on the ROW is strictly prohibited except by authorized personnel and that violators will be prosecuted.

1.h. *Desert tortoise clearance*—Prior to surface-disturbing activities, authorized desert tortoise biologists potentially assisted by desert tortoise monitors, shall conduct a clearance survey to locate and remove all desert tortoises from harm's way including areas to be disturbed using techniques that provide full coverage of all areas (Service 2009). During the more-active season, clearance surveys will be conducted either the day prior to, or the day of, any surface-disturbing activity. During the less-active season, clearance surveys will be conducted within 7 days prior to any surface-disturbing activity. No surface-disturbing activities shall begin until two consecutive surveys yield no individuals.

An authorized biologist shall excavate all burrows that have characteristics of potentially containing desert tortoises in the area to be disturbed with the goal of locating and removing all desert tortoises and desert tortoise eggs. During clearance surveys, all handling of desert tortoises and their eggs and excavation of burrows shall be conducted solely by an authorized desert tortoise biologist in accordance with the most current Service-approved guidance (currently Service 2009). If any tortoise active nests are encountered, the Service must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action. Unoccupied burrows shall be collapsed or blocked to prevent desert tortoise entry. Outside construction work areas, all potential desert tortoise burrows and pallets within 50 ft of the edge of the construction work area shall be flagged. If the burrow is occupied by a desert tortoise during the less-active season, the tortoise shall be temporarily penned (see Term and Condition 1.k.). No stakes or flagging shall be placed on the berm or in the opening of a desert tortoise burrow. Desert tortoise burrows shall not be marked in a manner that facilitates poaching. Avoidance flagging shall be designed to be easily distinguished from access route or other flagging, and shall be designed in consultation with experienced construction personnel and authorized biologists. All flagging shall be removed following construction activities.

An authorized desert tortoise biologist will inspect areas to be backfilled immediately prior to backfilling.

1.i. *Desert tortoise in harm's way*—Any project-related activity that may endanger a desert tortoise shall cease if a desert tortoise is found on the project site. Project activities may resume after an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) removes the desert tortoise from danger or after the desert tortoise has moved to a safe area on its own.

During the more-active season and if temperatures are above 60 but below 95 °F for more than 7 consecutive days, at least 1 monitor shall be assigned to observe spoil piles prior to excavation and covering.

1.j. *Handling of desert tortoises*—Desert tortoises shall only be moved by an authorized desert tortoise biologist or desert tortoise monitor (see restrictions in Term and Condition 1.d.) solely for the purpose of moving the tortoises out of harm's way. During construction, operation, and maintenance, an authorized desert tortoise biologist shall pen, capture, handle, and relocate desert tortoises from harm's way as appropriate and in accordance with the most current Service-approved guidance. No tortoise shall be handled by more than one person. Each tortoise handled will be given a unique number, photographed, and the biologist will record all relevant data on the Desert Tortoise Handling and Take Report (Appendix E) to be provided to BLM in accordance with the project reporting requirements.

Desert tortoises that occur aboveground and need to be moved from harm's way shall be placed in the shade of a shrub, 150 to 1,640 ft from the point of encounter. In situations where desert tortoises must be moved more than 1,640 ft (500 m), translocation procedures may be required. Translocation would likely result in a level of effect to the desert tortoise that would require the appended procedures.

If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40 ° F or greater than 95° F), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of an authorized biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be discarded after one use and never hold more than one tortoise. If any tortoise active nests are encountered, the Service must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action.

Desert tortoises located in the project area sheltering in a burrow during the less-active season may be temporarily penned in accordance with Term and Condition 1.k. at the discretion of an authorized desert tortoise biologist. Desert tortoises should not be penned in areas of moderate to heavy public use, rather they should be moved from harm's way in accordance with the most current Service-approved guidance (currently Service 2009).

Desert tortoises shall be handled in accordance with the Desert Tortoise Field Manual (Service 2009). Equipment or materials that contact desert tortoises (including shirts and pants) shall be sterilized, disposed of, or changed before contacting another tortoise to prevent the spread of disease. All tortoises shall be handled using disposable surgical gloves and the gloves shall be disposed of after handling each tortoise. An authorized desert tortoise biologist shall document each tortoise handling by completing the Desert Tortoise Handling and Take Report (Appendix E).

1.k. *Penning*—Penning shall be accomplished by installing a circular fence, approximately 20 ft in diameter to enclose and surround the tortoise burrow. The pen should be constructed with 1-inch horizontal by 2-in vertical, galvanized welded wire. Steel T-posts or rebar should be placed every 5 to 6 ft to support the pen material. Pen material will extend 18 to 24 in aboveground. The bottom of the enclosure will be buried 6 to 12 in or bent towards the burrow, have soil mounded along the base, and other measures implemented to ensure zero ground clearance. Care shall be taken to minimize visibility of the pen by the public. An authorized desert tortoise biologist or desert tortoise monitor shall check the pen at a frequency to ensure that the desert tortoise is secure and not stressed. No desert tortoise shall be penned for more than 48 hours without written approval by the Service. Because this is a new technique, all instances of penning or issues associated with penning shall be reported to the Service within 3 days (see Appendix E).

1.l. *Dust control*—Water applied to for dust control shall not be allowed to pool outside desert-tortoise fenced areas, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks will be repaired to prevent pooling water. An authorized desert tortoise biologist will be assigned to patrol each area being watered immediately after the water is applied and at approximate 60-minute intervals until the ground is no longer wet enough to attract tortoises if conditions favor tortoise activity.

1.m. *Timing of construction*—When possible, the project proponent schedules and conducts construction, operation, and maintenance activities within desert tortoise habitat during the less-active season (generally October 31 to March 1) and during periods of reduced desert tortoise activity (typically when ambient temperatures are less than 60 or greater than 95 °F).

All vehicles and equipment that are not in areas enclosed by desert tortoise exclusion fencing will stop activities in desert tortoise habitat during rainfall events in the more-active season (generally March 1 to October 31), and if temperatures are above 60 but below 95 °F for more than 7 consecutive days. The Field Contact Representative (FCR) or designee will determine, in coordination with the BLM and Service, when it is appropriate for project activities to continue.

1.n. All persons should check under their vehicles for tortoises before moving.

1.o. During construction activities, tortoise burrows shall be avoided whenever possible. If a tortoise is found onsite during project activities which may result in take of the tortoise (*i.e.*, in harm's way), such activities shall cease until the tortoise moves, or is moved out of harm's way.

1.p. Overnight parking and storage of equipment and materials, including stockpiling, shall be in previously disturbed areas or areas cleared by a tortoise biologist. If not possible, areas for overnight parking and storage of equipment shall be designated by the tortoise biologist in coordination with BLM and project proponent, which will minimize habitat disturbance.

1.q. All project areas including construction sites, access routes, staging areas and fencelines will be cleared (all tortoises removed) by an authorized biologist before the start of construction or ground disturbance. The area shall be surveyed for desert tortoises using survey techniques, which provide 100-percent coverage.

1.r. Speed limit: Vehicles will comply with the posted speed limit. A speed limit of 25 mph shall be required on unposted county roads and unpaved roads and trails used to access the project site (except for speed portions of OHV events).

2. **RPM 2:** To implement Reasonable and Prudent Measure Number 2 Predator Control , the Bureau shall fully implement the following measures:

2.a. *Litter control, applies to all projects*—A litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit foxes, coyotes, and common ravens. Trash and food items will be disposed of properly in predator-proof containers with predator-proof lids. Trash containers will be emptied and construction waste will be removed daily from the project area and disposed of in an approved landfill.

2.b. *Deterrence*—The project proponent will implement measures to discourage the presence of predators on site (coyotes, ravens, etc.), including elimination of available water sources, designing structures to discourage potential nest sites, and use of hazing to discourage raven presence.

3. **RMP3:** To implement Reasonable and Prudent Measure Number31 **Impacts to Desert tortoise habitat,** the Bureau shall fully implement the following measures:

3.a. *Habitat protection plans*—BLM shall ensure that the applicants develop and implement an approved fire prevention and response plan, erosion control plan, and a weed management plan approved by BLM prior to surface disturbance.

3.c. *Minimizing new disturbance*—Cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and construction materials shall be restricted to the designated areas and new disturbance will be restricted to the minimum necessary to complete the task (*e.g.*, such as construction of one-lane access roads with passing turnouts every mile rather than a wider two-lane road).

All work area boundaries shall be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities.

3.d. *Weed prevention*—Vehicles and equipment shall be cleaned with a high pressure washer prior to arrival in desert tortoise habitat and prior to departure from areas of known invasive weed and nonnative grass infestations to prevent or at least minimize the introduction or spread these species.

3.e. *Chemical spills*—Hazardous and toxic materials such as fuels, solvents, lubricants, and acids used during construction will be controlled to prevent accidental spills. Any leak or accidental release of hazardous and toxic materials will be stopped immediately and cleaned up at the time of occurrence. Contaminated soils will be removed and disposed at an approved landfill site.

3.f. *Residual impacts from disturbance*—BLM shall collect remuneration fees to offset residual impacts to desert tortoises from project-related disturbance to desert tortoise habitat.

Remuneration fees will be used for management actions expected to promote recovery of the desert tortoise over time, including management and recovery of desert tortoise in Nevada. Actions may involve habitat acquisition, population or habitat enhancement, increasing knowledge of the species' biological requirements, reducing loss of individual animals, documenting the species status and trend, and preserving distinct population attributes. Fees will be used to fund the highest priority recovery actions for desert tortoises in Nevada.

The current rate is $824 per ac of disturbance, as indexed for inflation, effective March 1, 2013. The next adjustment will become effective March 1, 2014. The fee rate will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) on January 31st of each year, becoming effective March 1st. Fees assessed or collected for projects covered under this biological opinion will be adjusted based on the current CPI-U for the year they are collected. Information on the CPI-U can be found on the internet at: http://stats.bls.gov/news.release/cpi.nws.htm.

The proponent will be required to pay remuneration fees of $824/acre for 3.41 acres, totaling $2809.84.

4. **RMP 7:** To implement Reasonable and Prudent Measure Number 7 **Compliance and Reporting,** the Bureau shall fully implement the following measures:

7.a. *Desert tortoise deaths*—The deaths and injuries of desert tortoises shall be investigated as thoroughly as possible to determine the cause. The Service and appropriate state wildlife agency must be verbally informed immediately and within 5 business days in writing (electronic mail is sufficient). The Authorized Desert Tortoise Biologist shall complete the Desert Tortoise Handling and Take Report (Appendix E).

7.b. *Non-compliance*—Any incident occurring during project activities that was considered by the FCR, authorized desert tortoise biologist, or biological monitor to be in non-compliance with this biological opinion shall be immediately documented by an authorized desert tortoise biologist. Documentation shall include photos, GPS coordinates, and details on the circumstances of the event. The incident will be included in the annual report and post-project report.

7.d. *Project reporting requirements*—Quarter, annual, and comprehensive final project reports will be submitted to BLM and the Service's Nevada Fish and Wildlife Office in Las Vegas. Annual reports will cover the calendar year and are due April 1st of the following year (*e.g.*, the annual report for calendar year 2013 is due April 1, 2014). Quarterly reports are due 15 calendar days following the quarter. Final project reports are due within 60 days following completion of the project or each phase of the project.

The Programmatic Biological Opinion Report to the Fish and Wildlife Service (Appendix G) will be used for quarterly, annual, and final project reports, and shall include all Desert Tortoise Handling and Take Reports (Appendix E). If available, GIS shape files will be included.

7.e. *Operation and maintenance*—A written assessment report shall be submitted annually to the Service outlining the operation and maintenance activities that occurred over the past year.

Report to include: It will include frequency of implementation of minimization measures, biological observations, general success of each of the minimization measures. All deaths, injuries, and illnesses of endangered or threatened species within the project area, whether associated with project activities or not, will be summarized in the annual report. The report is due April 1 of each year.

7.f. *Restoration monitoring*—Vegetation restoration success shall be monitored by project proponent and reported to BLM and the Service. Monitoring will include both qualitative and quantitative data collection and analysis. Monitoring frequency and parameters for restoration success will be described in the required restoration/reclamation plan.

SECTION 7 LAND DISTURBANCE FEE PAYMENT FORM

Biological Opinion File Number: 84320-2010-F-03665
Biological Opinion Issued By: Nevada Fish and Wildlife Office, Reno, Nevada
Species: Desert Tortoise (*Gopherus agassizii*) (Mojave population)
Project Name: Reid Gardner Access Road and Landscaping
Case File/Serial #: N-91382
Project Proponent: NV Energy
Phone Number:

Payment Calculations:	Clark County		County		County	
	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat
# acres anticipated to be disturbed on federal land		3.41				
Fee rate (per acre)		824				
Total cost/habitat type (per county)	$ -	$2809.84 -	$ -	$ -	$ -	$ -
Total cost per county	$ - 2809.84		$ -		$ -	

Total payment required (all counties): $ 2809.84

Amount paid: _____ **Date:** _____ **Check/Money Order #:** _____

Authorizing agencies: Bureau of Land Management, Las Vegas, Nevada

Make check payable to: Bureau of Land Management

Deliver check to:
Physical Address
Bureau of Land Management
Attn: Information Access Ctr.
1340 Financial Blvd.
Reno, NV 89502

Credit Card Payments: Contact BLM State Office Public room at 775-861-6500
For BLM Public Room

Process check to:
Contributed Funds-All Other
WBS: LVTFFX000800
7122 FLPMA
All other Res. Dev. Project and Management
Remarks: LLNV934000 L71220000.JP0000 LVTFFX000800 Desert Tortoise Conservation Program

Please provide a copy of this completed payment form and the payment receipt to NV-930, Attn: T&E Program Lead

***T&E Program Lead will provide a copy to the appropriate District Office(s)*

APPENDIX E. DESERT TORTOISE HANDLING AND TAKE REPORT

If a desert tortoise is killed or injured, immediately contact the U.S. Fish and Wildlife Service and BLM, by phone at the numbers below and complete Section 1 of the form.
Completed forms should be submitted to the BLM and Fish and Wildlife Service:

Bureau of Land Management
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5000
U.S. Fish and Wildlife Service
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5230

Project Name:	Report Date:
Fish and Wildlife Service Append File No.- 84320-	
Authorized Desert Tortoise Biologist: _____ Employed by:	
Section 1: Complete all information below if a desert tortoise is injured or killed in addition to initial contact described above.	
If tortoise was injured ☐ or killed ☐ (check appropriate box):	
Date and time found: _____ Found by: _____ GPS location (NAD 83): easting: _____ northing: _____ No. of photos taken: _____ Disposition: _____ _____ _____ _____ Attach report with photos that describe in detail, the circumstances and potential cause of injury or mortality. For injuries include name of veterinarian and detailed assessment of injuries.	

Section 2: Complete all information below for each desert tortoise handled.

All instances of desert tortoise handling must be reported in this section and be included in the quarterly, annual, and final project reports.

Desert tortoise number: _____

Date and time found: _____ Sex of tortoise: _____

Air temperature when found: _____ Air temperature when released: _____

Tortoise activity when found: _____

Handled by: _____ Approx. carapace length _____

GPS location (NAD 83) found: easting: _____northing: _____

GPS location released: easting: _____ northing: _____

Approximate distance moved: _____

Did tortoise void bladder; if so state approximate volume and actions taken:

_____

_____

_____

Post handling or movement monitoring and observations:

_____

_____

_____

_____

Section 3: Complete for each tortoise burrow penned.

All instances of desert tortoise penning must be reported in this section and be included in the quarterly, annual, and final project reports.

Date and time of pen construction:

Began: _____ Completed: _____

Date and time pen removed:

_____

Pen constructed by:

_____

Why was tortoise penned?

_____

How frequently was pen monitored?

_____

Observations of desert tortoise behavior including time and date of observation:

_____

_____

_____

_____

_____

_____

Include photos of pen and burrow with report.

Appendix G. Programmatic Biological Opinion (File No. 84320-2010-F-0365) Report to the Fish and Wildlife Service

The information below should be completed by BLM or the Authorized Desert Tortoise Biologist for the project/action. Reports for all appended actions are required annually (due March 1 of each year for prior calendar year activities) and upon completion of the project/action.

☐ Annual Report ☐ Project Completion Report

1. Date: _____

2. Fish and Wildlife Service File No (for appended actions): 84320-_____

3. Species and critical habitat affected:

☐ Desert tortoise ☐ Desert tortoise critical habitat

Other (identify):

4. Project/action status:

☐ Not begun ☐ In progress* ☐ Completed date _____

If in progress, state approximate percent complete: _____

5. Desert tortoise habitat disturbed:

Non-critical habitat		**Critical habitat**	
Proposed disturbance (ac)	Actual disturbance (ac)	Proposed disturbance (ac)	Actual disturbance (ac)

6. Habitat of other species disturbed (identify species, non-critical, and critical habitat affected below):

7. Summary of individual desert tortoises taken (appended action):

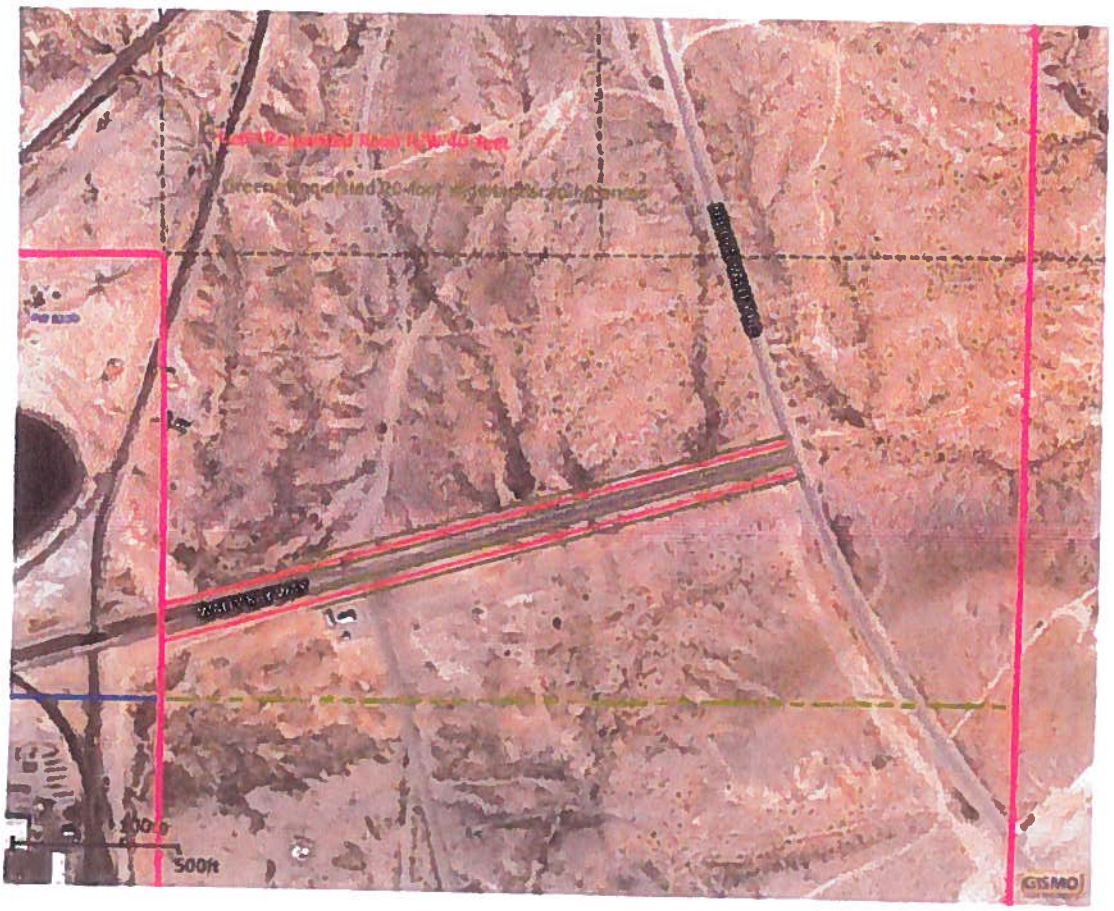
	Desert Tortoise: Adults	Juveniles	Eggs
Exempted			
Actual			

Describe other individuals taken:

8. Name of authorized desert tortoise biologists and monitors on the project and the dates they were on the project.

9. Describe all non-compliance issues and events.

PL#0004-2012LD
NV Energy
Reid Gardner Station
Plant Entrance Road (Wally Kay Way) and Wally Kay Road Landscaping



DESCRIPTION OF RIGHT OF WAY

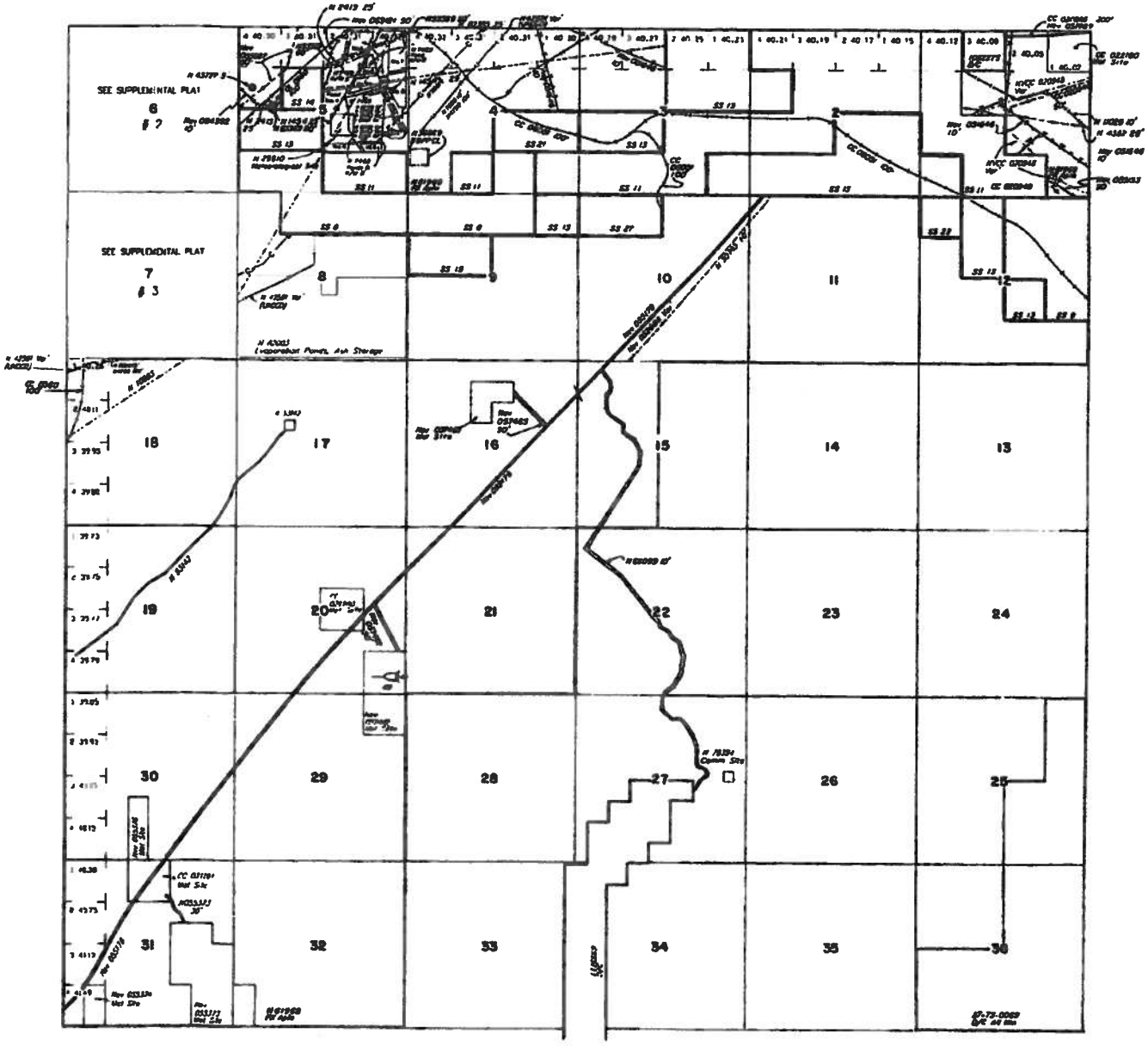
An 40-foot wide by approximately 2,011-feet long right-of-way for an existing road (currently paved to 25-feet width) and two 20-foot wide by approximately 1,695-feet long landscaping areas on either side of the current paved road within the South Half of the Southwest Quarter of the Northeast Quarter (S ½ SW ¼ NE ¼), the Southeast Quarter of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter (SE ¼ SE ¼ NE ¼ SW ¼ NE ¼), the South Half of the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (S ½ NW ¼ SE ¼ NE ¼) and the North Half of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (N ½ SW ¼ SE ¼ NE ¼) Section 5, Township 15 South, Range 66 East, M.D.M., Clark County, NV.

Exhibit B
N-91382

TOWNSHIP 15 SOUTH RANGE 66 EAST OF THE MOUNT DIABLO MERIDIAN, NEVADA

CLARK COUNTY

LAS VEGAS OR DIST



WARNING STATEMENT

This plat is the Bureau's representation of the Record of Title and should be used only as a graphic display of the township survey data. Records herein do not reflect title changes which may have been effected by riparian movements of rivers or other bodies of water. Refer to the cadastral survey for official survey information.

STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

MT PLAT

INDEX TO SEGREGATED TRACTS				
RESURVEY	ORIGINAL SURVEY			
TRACT NO	T	R	SEC	SUBDIVISION

FOR ORDERS AFFECTING DISPOSAL OR USE OF UNAPPROPRIATED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER AND/OR OTHER PUBLIC PURPOSES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

CURRENT TO	BY
8/18/10	MS
10/28/10	MS
1/28/2013	SLP

N-050
T. 15 S
R. 66 E

1

Exhibit C
N-91382