

# **Categorical Exclusion (CX)**

## **Right-of-Way N-92427 for Transmission Lattice Tower Structures and Access Road Previously Granted as N-4790 /E/**

### **A. Background**

NEPA NUMBER: DOI-BLM-NV-S010-2014-0004-CX

On July 2, 1970, Las Angeles Department of Water and Power (LADWP) applied for the Navajo-McCullough Transmission line transmits power from the Navajo Generating Plant at Page, Arizona to the McCullough Switching Station near Boulder City, Nevada. At the McCullough Switching Station, power is delivered to LADWP ( 48.9 %), Nevada Power Company d/b/a NV Energy (26.1 %), and the Bureau of Reclamation (25%). September 30, 1969 a participation agreement , contract No. 14-06-300-2131, was signed by LADWP, owning 21.2% of the interest, Arizona Public Service Co., owning 14% of the interest, Nevada Power Company, 11.3 % of the interest, Salt River Project Agricultural Improvements and Power District, 46 % of the interest, and Tucson Gas and Electric Company, owning 7.5% of the interest. On October 8, 1970, LADWP advised the Bureau of Land Management (BLM) of their plans to include participating agencies as co-tenants on the right-of-way (ROW) grant.

On May 23, 1972 LADWP was granted the ROW for the 500 KV transmission line. On October 21, 1985 LADWP sent a letter stating the intent to assign the ROW interest to NV Energy and Salt River Project. On December 19, 1985 BLM sent a letter to LADWP requesting additional information and documents needed to process the assignment. The assignment was never finalized.

On June 28, 2005, NV Energy applied for a ROW grant for the construction, operation, and maintenance of transmission lattice tower structures with related appurtenances to allow for the crossing of the Harry Allen to Mead 500 KV circuits to cross under the existing Navajo-McCullough 500 KV line totaling 0.22 acres. The ROW was granted August 22, 2005, under N-4790 amendment E.

On October 17, 2013, Nevada Power Company d/b/a NV Energy applied for a right-of-way (ROW) grant for the operation and maintenance of transmission lattice tower structures with related appurtenances and access roads to allow for the crossing of a transmission line (Harry Allen-Mead N-76327), which was previously granted as an amendment to N-4790/ E/ issued August 22, 2005. A separate grant is needed for the lattice tower structures as NV Energy is not a named holder for N-4790. Original documentation relating to this ROW issued under N-4790 has been placed in casefile N-92427. The acreage within the ROW amendment will be removed from N-4790 and will remain in casefile N-92427.

**BLM Office:**

Bureau of Land Management  
Las Vegas Field Office  
4701 N. Torrey Pines Office  
Las Vegas, Nevada 89130

LLNVS01000

**Lease/Serial/Case File No.:**

N-92427

**Proposed Action Title/Type:**

ROW grant for the operation and maintenance of transmission lattice tower structures with related appurtenances and access roads to allow for the crossing a now existing transmission line (Harry Allen-Mead N-76327), which was previously granted as an amendment to N-4790, issued August 22, 2005 (N-4790E). A separate grant is needed for these existing facilities originally permitted by the amendment N-4790, as NV Energy is not a named holder for N-4790.

**Location of Proposed Action:**

Existing line runs through portions of Henderson.

M.D.M., Nevada, T. 23 S., R. 63 E., sec. 3, Lots 19, 23 & 24; sec.4, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ; sec. 8, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ .

**Description of Proposed Action:**

Operation and maintenance of transmission lattice tower structures with related appurtenances and access roads to allow for the crossing of a now existing transmission line (Harry Allen-Mead N-76327), which was previously granted August 22, 2005. as an amendment to N-4790/E/ The transmission lattice tower structures are needed to obtain sufficient clearance for the Harry Allen to Mad 500 KV circuits to cross under the existing Navajo-McCullough 500 KV line. The lattice tower structures are 100 ft in width by 100 ft in length and the access road is 24 ft in width. The existing right-of-way is approximately .22 acres.

This is a CX per 516 DM 11.9 E. Realty (12) "Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-ways."

**B. Land Use Plan Conformance**

**Land Use Plan Name:**

Las Vegas Resource Management Plan and Final Environmental Impact Statement (RMP), and the record of decision for the approved Las Vegas Resource Management Plan and Final Environmental Impact Statement.

**Date Approved/Amended:**

RMP dated October 5, 1998

**The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s), objectives, terms, and conditions:**

ROW Management Objective: RW-1-h. "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.

Management Direction. Objective: RW-1-h. "all public land within the planning area, excepted as stated in RW 1-c through 1-g, are available at the discretion of the agency for rights-of-way under the authority of the Federal Land Policy and Management Act."

**C. Compliance with NEPA:**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 2, Appendix 1, or 516 DM 11.9, E/ (12): "Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-ways."

ROW N-4790/E/ was previously granted.

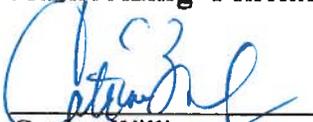
This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

Comments providing substantive new information relevant to the analysis and mitigation measures have been incorporated into the Exhibit A Stipulations which are attached to this document.

I have reviewed the plan conformance statement and have determined that the proposed action is in conformance with the approved land use plan and that no further environmental analysis is required.

**D. Approval and Contact Information**

**Authorizing Official:**

  
Catrina Williams  
Assistant Field Manager  
Division of Lands

1/8/13

Date

**Contact Person**

Vivian Browning, Realty Specialist

Las Vegas Field Office  
4701 N. Torrey Pines Drive  
Las Vegas, Nevada 89130  
(702) 515-5013

Exhibit A  
Stipulations N-92427

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**1.0 Special Stipulations**

- 1.1. The Holder must abide by monitoring, maintenance, and reporting requirements per the Biological Opinion (File No. 1-5-04-F-412). Failure to abide by the terms and conditions of the grant and Biological Opinion could result in temporary suspension of all activities within your ROW area per 43 CFR 2807.16 and 43 CFR 2807.17.

**2.0 General Stipulations**

- 2.1. The ROW is issued subject to all valid existing rights.
- 2.2. No signs of 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 ROW 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 ROW 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 ROW within its authorized limits.
- 2.6. Holder shall maintain the ROW 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 this ROW, 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 ROW, 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 ROW, 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 ROW:

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 ROW 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 ROW.

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.

Ensure a dust control permit is obtained through Department 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. All dust control permit conditions and stipulations must be in compliance for the duration of the project activity. At present, water is the only means by which BLM authorizes dust suppression for construction activities, as well as for operations and maintenance of public land activities known to generate fugitive dust.

Prior to relinquishment, abandonment, or termination of this ROW, 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.
- 3.3. Fuels/Fire Restrictions: Throughout the life of the ROW, normal conformance with seasonal fire restrictions is required. Specific noncompliant activities may be waived on a case by case basis by a line officer after review and approval by the Fire Management Officer.

#### 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 ROW 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 ROW potentially affecting the ROW 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 ROW.
- 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 ROW

- 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 ROW, regardless of whether the Holder has actually developed or caused development to occur on the ROW, from the time of the issuance of this ROW to the Holder, and during the term of this ROW. 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 ROW.

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 ROW regardless of whether the Holder has actually developed or caused development to occur on the ROW from the time of the issuance of this ROW to the Holder and during the term of this ROW.

- 5.6. All mineral materials need to be used on site within the ROW or stockpiled on site for disposal by the BLM. If mineral materials are stockpiled on site for future disposal by the BLM, a mineral material contract, free use permit or material site ROW must be issued by the BLM.

If federally owned mineral materials need to be imported for the development of the proposed action, a specific BLM use authorization in accordance with the regulations at 43 CFR 3600, must be obtained from the BLM prior to the importing and use of those mineral materials.

## 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/Soil/Water/Riparian/Woodland/Forestry

- 7.1. There are no conflicts with any T/E plant species. 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. To the extent practical, cacti and yucca within the project area should be avoided by this action. If cactus and yucca are unable to be avoided, due to the small amount of disturbance associated with this project, impacts would be considered negligible.

If unable to be avoided, all cactus and yucca within permanent and temporary impact areas must be salvaged and replanted in temporary impact areas or undisturbed portions of 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 botanist) with at least three years experience salvaging and maintaining plant materials in the Mojave or Sonoran Deserts.

- 7.2. The Holder shall be responsible for weed control on disturbed areas within the limits of the ROW. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the ROW stipulations.

The project proponent will limit the size of any vegetation and/or ground disturbance to the absolute minimum necessary to perform the activity safely and as designed. The project proponent will avoid creating soil conditions that promote weed germination and establishment.

The project proponent will begin project operations in weed free areas whenever feasible before operating in weed-infested areas.

- 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 ROW. 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 Visual Resources

- 8.1. No new disturbance or changes to the existing characteristic landscape will occur.

## **9.0 Migratory Birds**

- 9.1. 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 1 – August 1st.
- 9.2. 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.

## **10.0 Threatened, Endangered or Candidate Animal Species**

- 10.1. 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. Sec. 7 Log # NV-052-14-029. This project is an administrative action to remove a previously granted ROW amendment under case file N-4790. The above action was previously analyzed in casefile number: N-4790. Tortoise remuneration fees have been assessed from the previous analysis. Existing comments, along with terms and conditions from the previous analysis remain in effect. A copy of the previous terms and conditions from the previous analysis is attached.

# **COPY**

**Copy of previous terms and conditions. Proponent shall be aware and comply with the attached stipulation previously attached to an amendment in casefile N-4790.**

**EXHIBIT C**  
**SPECIAL STIPULATIONS**  
**Harry Allen – Mead Transmission Line Project**

1. The Holder shall, prior to any construction activities, complete and have approved by BLM, a Plan of Development (POD), and participate in a Pre-Construction meeting(s). The approved POD, including the BLM's Restoration Plan for the Project, will incorporate the following mitigation measures and stipulations that were identified in the Environmental Assessment, NV-050-2003-97. A notice to proceed will be issued to the proponent prior to start of construction.
2. Holder shall maintain a copy of the authorization, and POD along with stipulations on the construction site at all times.
3. An independent third-party contractor will be hired to oversee compliance with the stipulations of this project. All questions or concerns regarding compliance shall be directed to the BLM as the lead agency through this third-party compliance contractor.
4. All construction vehicle movement outside the right-of-way on dirt roads normally would be restricted to predesignated access or contractor-approved access. Should unforeseeable circumstances occur during construction that require more road access than initially requested, permission must be granted by the Authorized Officer prior to disturbance and appropriate remuneration fees would be assessed.
5. All vehicle traffic will be restricted to existing access roads. New access roads will be created only when approved by the Authorized Officer. Routes for new access roads will be surveyed by the tortoise biologist prior to surface disturbance.
6. The aerial limits of construction activities normally would be predetermined with activity restricted to and confined within those limits. No paint or permanent discoloring agents would be applied to rocks or vegetation to indicate limits of survey or construction activity.
7. In construction areas where recontouring is not required, vegetation would be left in place wherever possible and original contour would be maintained to avoid excessive root damage and allow for resprouting.
8. In temporary construction areas (e.g., pull and tension sites, structure sites) where ground disturbance is substantial or where recontouring is required, surface restoration would occur as required by the land management agency. The method of restoration normally would consist of removing and stockpiling topsoil and large rocks from disturbed areas to return temporarily disturbed areas back to original contours. Other methods include reseeding (if required), installing cross drains for erosion control, placing water bars in the road and filling ditches.
9. Existing improvements would be repaired or replaced if they are damaged or destroyed by construction activities to their condition prior to disturbance as agreed to by the parties involved.
10. Structures and/or ground wire would be marked with highly visible devices where required by governmental agencies (e.g., Federal Aviation Administration).

11. Prior to construction, all supervisory construction personnel would be instructed on the protection of cultural, paleontological and ecological resources. To assist in this effort, the construction contract would address: (a) Federal, state and tribal laws regarding antiquities, fossils, plants and wildlife, including collection and removal; (b) the importance of these resources and the purpose and necessity of protecting them.
12. Cultural resources would continue to be considered during post-environmental assessment (EA) phases of plan implementation. This would involve pedestrian surveys to inventory and evaluate cultural resources within the selected corridor and any appurtenant impact zones beyond the corridor, such as access roads and construction equipment yards. In consultation with appropriate land managing agencies and state historic preservation officers, specific mitigation measures would be developed and implemented to mitigate any identified adverse impacts. These may include plan modifications to avoid adverse impacts, monitoring of construction activities and data recovery studies.
13. All requirements of those entities having jurisdiction over air quality matters would be adhered to and any permits needed for construction activities would be obtained. Open burning of construction trash would not be allowed.
14. Fences and gates would be repaired or replaced to their original condition prior to disturbance as required by the landowner or the land management agency if they are damaged or destroyed by construction activities. Temporary gates would be installed only with the permission of the landowner or the land management agency and, if required, would be restored to original condition prior to disturbance following construction.
15. No nonbiodegradable debris would be left in the right-of-way.
16. Fueling of vehicles would take place outside of the 500kV transmission line right-of-way in a designated location on private lands.
17. Workers would be instructed not to drive or park vehicles where catalytic converters can ignite dry vegetation and to exhibit care when smoking in natural areas. Fire protective mats or shields would be used during grinding or welding. Vehicles would carry water and shovels or fire extinguishers during times of high fire hazards.
18. Overnight parking and storage of equipment and materials, including stockpiling, shall be within previously disturbed areas or within areas cleared by a tortoise biologist to minimize habitat destruction.
19. Non-specular conductors would be used to reduce visual impacts.
20. All vehicles brought in from out of state would go through high pressure washing prior to arriving on site and before they can be used on the project.
21. In compliance with Clark County and the Federal Clean Water Act, all necessary permits relating to water resources would be obtained.
22. In compliance with the Clark County Department of Air Quality Management (DAQM) dust permit, all roads and structure pads would be watered prior to and during all construction activities. All project personnel would be educated on the site dust mitigation plan.
23. All appropriate NDOW and FWS permits must be obtained prior to initiation of the project.

24. In observance of NRS 503.597 and other applicable NRS and Nevada Administrative Codes, measures, and actions (including mitigation) concerning wildlife not under joint purview of the FWS and Nevada Division of Wildlife, would be reviewed by the Nevada Division of Wildlife.
25. No construction of new roads or upgrading of existing access roads would occur in areas identified for or adjacent to Las Vegas bearpoppy restoration.
26. In designated areas, sensitive plants and/or habitat would be flagged and structures would be placed to allow spanning of these features, where feasible within limits of standard structure design.
27. All new access roads not required for maintenance would be permanently closed using methods approved by the landowner/manager (e.g., stockpiling and replacing topsoil, or rock replacement).
28. Temporary disturbance would be restored using cacti and yucca originally salvaged from the site. The material would be salvaged by an experienced contractor, stockpiled in an area approved by BLM within the right-of-way, and then transplanted to reclaimed sites. BLM's protocols for proper maintenance of the material would be followed. Restoration would be in accordance with a BLM approved plan.
29. All workers will check underneath all vehicles before moving them.
30. In designated areas, structures would be placed to avoid sensitive wildlife and/or to allow conductors to clearly span the features, within limits of standard structure design.
31. If construction of the project is not begun until after the commencement of burrowing owl breeding season (mid March – August), all burrows, holes, crevices, or other cavities on the construction site would be collapsed after a qualified biologist thoroughly checks them for inhabitants. This would discourage owls from breeding on the construction site. If authorization for the plan is not provided until after the commencement of breeding season and burrowing owls can be seen within the area during surveys, behavioral observations would be done by a qualified biologist to determine their breeding status. If breeding behavior is observed, an area large enough to prevent disturbance to the adults (as determined by BLM) would be avoided until the chicks fledge to ensure the chicks do not abandon the nest.
32. In compliance with Nevada Administrative Codes regarding protection of the gila monster, standard NDOW protocols would be followed if a gila monster is encountered during construction activities.
33. Restrict construction activities in the Las Vegas Wash (milepost 26-28) from May-September to avoid the active period for sensitive riparian bird species that could potentially occur in this area.
34. Outside of riparian areas, if construction must occur during the breeding season of migratory birds (March 1 – August 30), the plan area would be surveyed for nests prior to implementation. If a migratory bird nest were found with nestlings present, the area would be avoided until birds fledge. Executive Order 13186 issued January 11, 2001 defines the responsibilities of the Federal Agencies to protect migratory birds; the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711) state that it is

- unlawful to take, kill, or possess migratory birds. A list of those protected birds are in 50 C.F.R. 10.13.
35. Dulled finish structures would be used to reduce visual impacts. Single pole structures would be painted a medium gray.
  36. All new access roads not required for maintenance would be permanently closed using the most effective and least environmentally damaging methods appropriate to that area with concurrence of the landowner (e.g., stockpiling and replacing topsoil, or rock replacement). This would limit new or improved accessibility in the area.
  37. Holder shall mark the exterior boundaries of the ROW 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, after which they will be removed.
  38. 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.
  39. During excavation, backfilling, contouring, and rehabilitation, the disturbed soil should be wetted, chemically treated, or treated by other means satisfactory to the Authorized Officer sufficiently in order to effectively reduce airborne dust and reduce soil erosion. A regular maintenance program shall include, but is not limited to, soil stabilization and re-application of dust abatement methods as necessary.
  40. Prior to relinquishment, abandonment, or termination of the right-of-way, the Holder shall apply permanent dust abatement and control (e.g. rock mulch or other means) acceptable to the Authorized Officer.
  41. Holder shall construct, maintain, operate and/or modify structures and facilities as directed by the Authorized Officer to protect and minimize adverse effects upon raptors and other wildlife.
  42. Holder shall report wildlife fatalities, including raptor electrocutions, that are discovered or near project facilities.
  43. 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 must provide the type and quantity of material to be used; the pest, insect, storage and disposal of containers; and other information that the Authorized Officer may require. 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 grant.

44. Holder agrees to indemnify the United States against any liability arising from the release of any hazardous 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.) on this right-of-way. This agreement applies without regard to whether a release is caused by the Holder/permittee, their agent, or unrelated third parties.
45. Holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, Holder/permittee shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.)
46. Holder shall report any release of hazardous substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release or spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.
47. Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the area authorized by this right-of-way.
48. Holder/Applicant 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 or project area, including temporary rights-of-way, within 30 days of filing an application. Final "as-built" data will be required within 90 days of completion of construction. Acceptable data formats are: (1) Corrected Global Positioning System files with sub-meter accuracy or better, in NAD 27 or NAD 83; (2) An AUTOCadd v. 12 dxf file. Data may be submitted in any of the following formats: (1) ARCInfo export file; (2) On a 3.5 inch floppy in compressed or uncompressed format. Compressed or ZIPed data must include a copy of the UNZIP.EXE file on the disk; (3) Or ARCInfo export files on a CD ROM, 100 mb ZIP disk or 1 gb Jazz disk. All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards.
49. Holder shall protect all survey monuments found within the right-of-way. 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. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or

- references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands of the United States, latest edition. 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 monument, the holder shall be responsible for the survey cost.
50. Holder shall provide for a qualified compliance contractor or person, approved by the Authorized Officer. This compliance position will have oversight and construction compliance monitoring responsibilities and report directly to the Project Manager pursuant to protocols as defined in the Plan of Development and the Master Agreement dated September 19, 2003.
  51. 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 or approved by the Project Manager in consultation with the biological/tortoise monitor.
  52. The Bureau wildlife staff (702/515-5000) and Service (702/515-3230) must be notified of any desert tortoise death or injury due to the project implementation by close of business on the following work day.
  53. 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 Office and/or local authorities for acceptable weed control methods within limits imposed in the grant stipulations.
  54. 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 should 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.
  55. 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 implementation 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.

56. Holder will comply with the following terms and conditions of the **Biological Opinion, File No. 1-5-04-F-412**, on file at the Bureau of Land Management, Las Vegas Field Office:

The Service believes that the following reasonable and prudent measures are necessary and appropriate to minimize take of desert tortoise:

1. BLM and project proponent shall implement measures to minimize injury or mortality of desert tortoises due to project-related activities.
2. BLM and project proponent shall implement measures to minimize predation on tortoises by predators drawn to project areas.
3. BLM and project proponent shall implement measures to minimize destruction of desert tortoise habitat, such as soil compaction, erosion, or crushed vegetation, due to construction activities.
4. BLM and project proponent shall implement measures to ensure compliance with the reasonable and prudent measures and terms and conditions in this Biological Opinion.

#### IV. Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, BLM must fully comply with the following terms and conditions, which implement the reasonable and prudent measures described above.

1. To implement Reasonable and Prudent Measure Number 1, BLM and project proponent shall fully implement the following measures to minimize injury or mortality of desert tortoises due to project-related activities:

- a. All new access roads not required for maintenance would be permanently closed using methods approved by the landowner/manager (e.g., stockpiling and replacing topsoil, or rock replacement).

b. A desert tortoise education program will be presented to all personnel onsite during construction activities. This program will contain information concerning the biology and distribution of the desert tortoise, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties, measures designed to minimize the effects of construction activities, the means by which employees can facilitate this process, and reporting requirements to be implemented when tortoises are encountered. Personnel will be informed to check under vehicles before moving them as tortoises often seek shelter under parked vehicles. Workers will be instructed not to drive or park vehicles where catalytic converters can ignite dry vegetation and to exhibit care when smoking in natural areas. Fire protective mats or shields will be used during grinding or welding. Vehicles will carry water and shovels or fire extinguishers during times of high fire hazards.

c. Project vehicles shall not exceed 25 miles per hour in the project area.

d. The boundaries of all areas to be disturbed will be flagged before beginning any activities, and all disturbances will be confined to the flagged areas. All project personnel will be instructed that their activities must be confined within the flagged areas. Disturbance beyond the construction zone is prohibited.

e. Any desert tortoise found in imminent danger shall be moved out of harm's way and onto adjacent public land by an authorized biologist. All desert tortoises and desert tortoise eggs will be relocated 300 to 1,000 feet offsite into adjacent undisturbed habitat. A pair of new, disposable latex gloves will be used for each tortoise that must be handled. After use, the gloves will be properly disposed.

Tortoises found above ground will be placed under a marked bush in the shade; in an unoccupied burrow of similar size/orientation; or a burrow constructed by the authorized biologist in accordance with Section B-5-f (Desert Tortoise Council 1994, revised 1999). Any tortoise found within one hour before nightfall will be placed individually in a clean cardboard box and kept overnight in a cool, predator-free location. To minimize stress to the tortoise, the box will be covered and kept upright. Each box will be used only once and will then be discarded. The tortoise will be released the next day in the same area from which it was collected and placed under a marked bush in the shade. All tortoises that are handled must be reported to the Service in accordance with Term and Condition 4 below.

f. The project area will be surveyed by an authorized biologist for desert tortoises and their burrows immediately prior (within 24 hours) to the onset of construction in any given area. The surveys will provide 100-percent coverage of the project area. All potential tortoise burrows shall be identified and flagged for avoidance

or excavation. All desert tortoise surveys, handling of desert tortoises, and burrow excavation will be performed only by an authorized biologist.

Special precautions will be taken to ensure that desert tortoises are not harmed as a result of their capture and movement during extreme temperatures (*i.e.*, air temperatures below 55 degrees F or above 95 degrees F). Under such adverse conditions, tortoises captured will be monitored continually by an authorized biologist until the tortoise exhibits normal behavior. If a desert tortoise shows signs of heat stress, procedures shall be implemented as identified in Service-approved protocols (Desert Tortoise Council 1994, revised 1999).

g. Hazardous materials will not be drained onto the ground or into streams or drainage areas. Totally enclosed containment would be provided for all trash. NPC or their agent shall remove all petroleum products and other potentially hazardous materials to a disposal facility authorized to accept such materials.

2. To implement Reasonable and Prudent Measure Number 2, BLM shall fully implement the following measure to minimize predation on tortoises by predators drawn to project areas:

a. A litter-control program will be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit fox, coyotes, and common ravens. Trash and food items will be disposed of properly in predator-proof containers with re-sealing lids. Trash containers will be emptied and construction waste will be removed daily from the project area and disposed of in an approved landfill. No debris would be left in the right-of-way.

b. NPC and BLM shall report any observations of raven predation on desert tortoises in the project area.

3. To implement Reasonable and Prudent Measure Number 3, BLM shall fully implement the following measures to minimize destruction of desert tortoise habitat, such as soil compaction, erosion, or crushed vegetation, due to construction activities:

a. In construction areas where re-contouring is not required, vegetation would be left in place wherever possible and the original contour would be maintained to avoid excessive root damage and allow for re-sprouting.

b. All construction, operation and maintenance activities would be conducted in a manner that would minimize disturbance to vegetation and drainage channels. Cross-country travel and travel outside construction zones will be prohibited.

c. The contractor would use weed-free, native seed mixes for re-vegetation

representative of the species in the adjacent habitat. No species on the "state noxious weed list" would be included in the re-vegetation seed mixes. All vehicles brought in from out of state would go through high pressure washing prior to arriving on site and before they can be used on the project.

d. In temporary construction areas (e.g., pull and tension sites, structure sites) where ground disturbance is substantial or where re-contouring is required, surface restoration would occur as required by the land management agency. The method of restoration normally would consist of removing and stockpiling topsoil and large rocks from disturbed areas to return temporarily disturbed areas back to original contours. Other methods include re-seeding (if required), installing cross drains for erosion control, placing water bars in the road, and filling ditches. NPC will restore the right-of-way to minimize public use as described in Term and Condition 1.a. above.

e. The proposed project would disturb a maximum of 370 acres of desert tortoise habitat on public lands. Prior to surface disturbing activities associated with the proposed project, the proponent will pay remuneration fees to be deposited into the Desert Tortoise Public Lands Conservation Fund (account number 730-9999-23 15) (section 7 account) for compensation of desert tortoise habitat loss. For disturbance of desert tortoise habitat on public lands, the fee will be assessed at the rate of \$660 per acre of disturbance.

These fees will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U). Information on the CPI-U can be found on the internet at:

<http://stats.blm.gov/news.release/cpi.nws.htm>. The next adjustment will occur on March 1, 2005. If paid prior to March 1, 2005, the total fees due will be \$244,200.00.

Clark County serves as the administrator of the funds, but does not receive any benefit from administering these funds. These funds are independent of any other fees collected by Clark County under the MSHCP. None of these funds shall be used to develop a habitat conservation plan.

The payments shall be accompanied by the attached Section 7 Fee Payment Form (Attachment B), and completed by the payee. The project proponent or applicant may receive credit for payment of such fees and deduct such costs from desert tortoise impact fees charged by local government entities. Payment shall be by certified check or money order payable to Clark County and delivered to:

Clark County Habitat Conservation  
Department of Comprehensive Planning  
Clark County Government Center, Third Floor  
Attn: Sandy Helvey (702-455-4181)  
500 South Grand Central Parkway  
Las Vegas, Nevada 89155-1712

- f. For disturbance of desert tortoise habitat on private lands, the project proponent will pay \$660 into the MSHCP for each acre of disturbance. Project proponent shall provide BLM a copy of the receipt for payment of fees for disturbance of 97 acres of tortoise habitat on private lands in accordance with the MSHCP.
4. To implement Reasonable and Prudent Measure Number 3, BLM shall fully implement the following measures to ensure compliance with the reasonable and prudent measures and terms and conditions in this Biological Opinion.
- a. An independent third party contractor will be hired to oversee compliance with the stipulations of this project. All questions or concerns regarding compliance shall be directed to BLM through this third party compliance contractor.
- b. In accordance with *Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise* (Service 1992), an authorized desert tortoise biologist shall possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign. In addition, the biologist shall have the ability to recognize and accurately record survey results. The attached *Desert Tortoise Biologist Qualifications Statement* should be completed by potential biologists (Attachment A) and submitted to BLM and Service for review.
- c. The onsite biologist will record each observation of desert tortoise handled. Information will include the following: location, date and time of observation, whether tortoise was handled, general health and whether it voided its bladder, location tortoise was moved from and location moved to, and unique physical characteristics of each tortoise. A final report will be submitted to the Service's Southern Nevada Field Offices in Las Vegas, Nevada within 90 days of completion of construction.

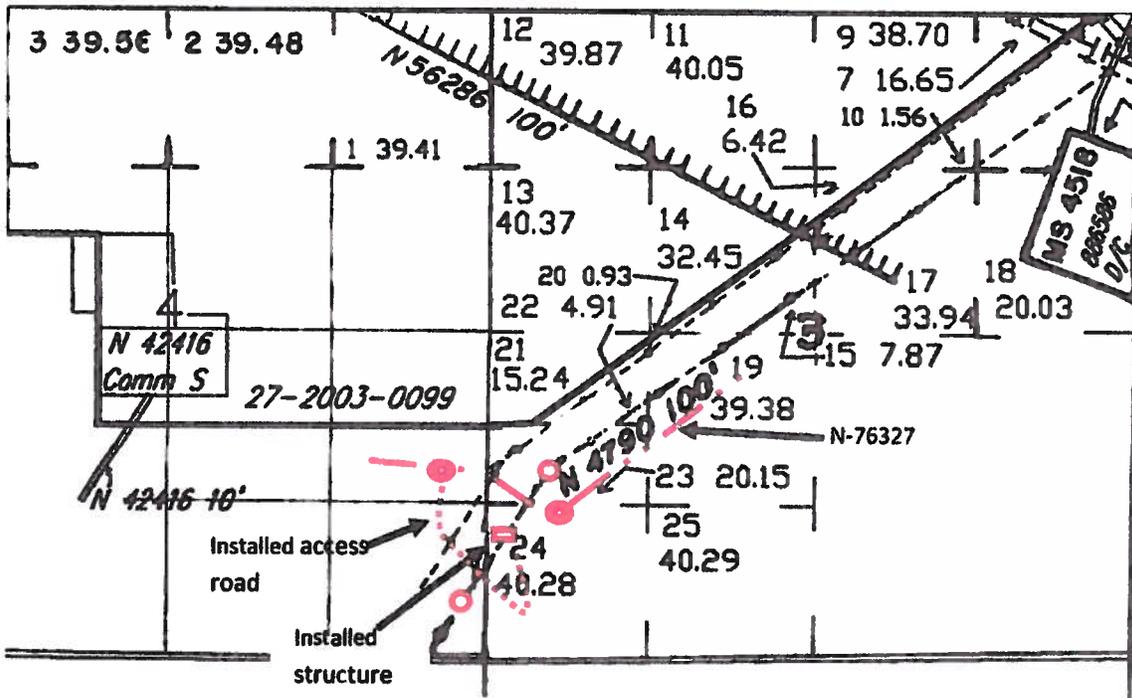
PL#63-2013

**Transmission line loop-in formerly permitted under amendment N-4790E**

Existing transmission line structures, appurtenances and roads currently permitted under N-4790E within Sections 3, 4 and 8, Township 23 South, Range 63 East, all M.D.M., Clark County, NV, described as follows:

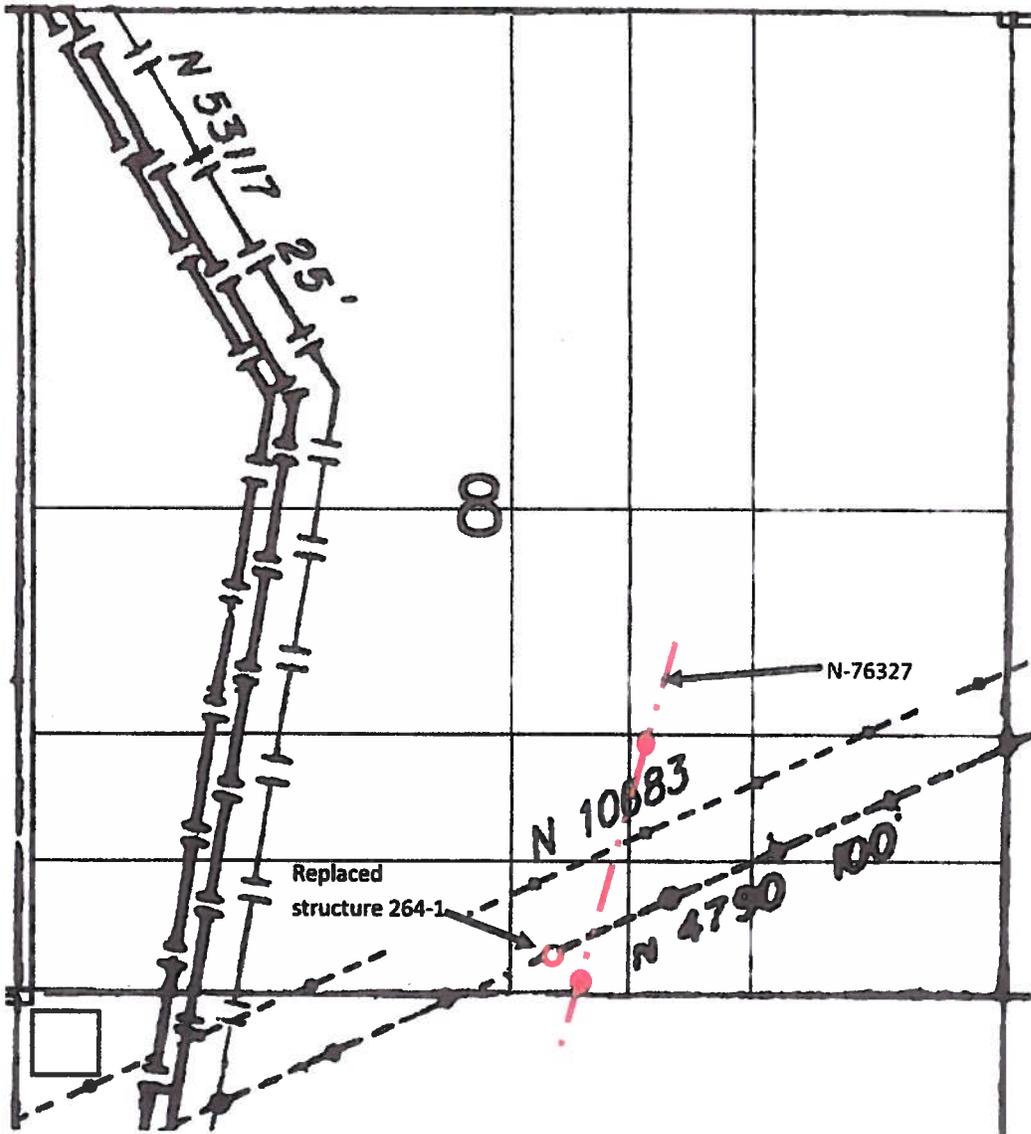
**Parcel 1:**

Government Lots, 19, 23, and 24 in Section 3 and the Southeast Quarter of the Southeast Quarter (SE 1/4 SE 1/4) and the South Half of the Northeast Quarter of the Southeast Quarter (S 1/2 NE 1/4 SE 1/4) of Section 4, both in Township 23 South, Range 63 East, M.D.M., Clark County, NV.



**Parcel 2:**

The Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW ¼ SW ¼ SE ¼) of Section 8,  
Township 23 South, Range 63 East, M.D.M., Clark County, NV.



**Length: Approximately 0.22-acres**



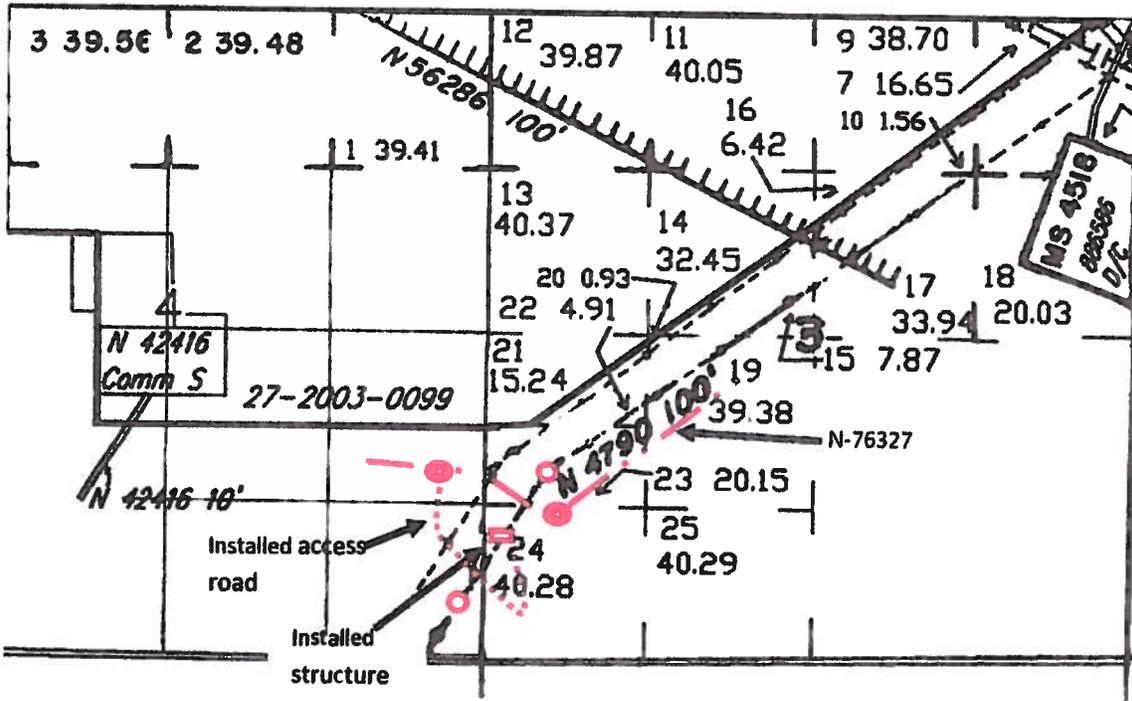
PL#63-2013

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Existing transmission line structures, appurtenances and roads currently permitted under N-4790E within Sections 3, 4 and 8, Township 23 South, Range 63 East, all M.D.M., Clark County, NV, described as follows:

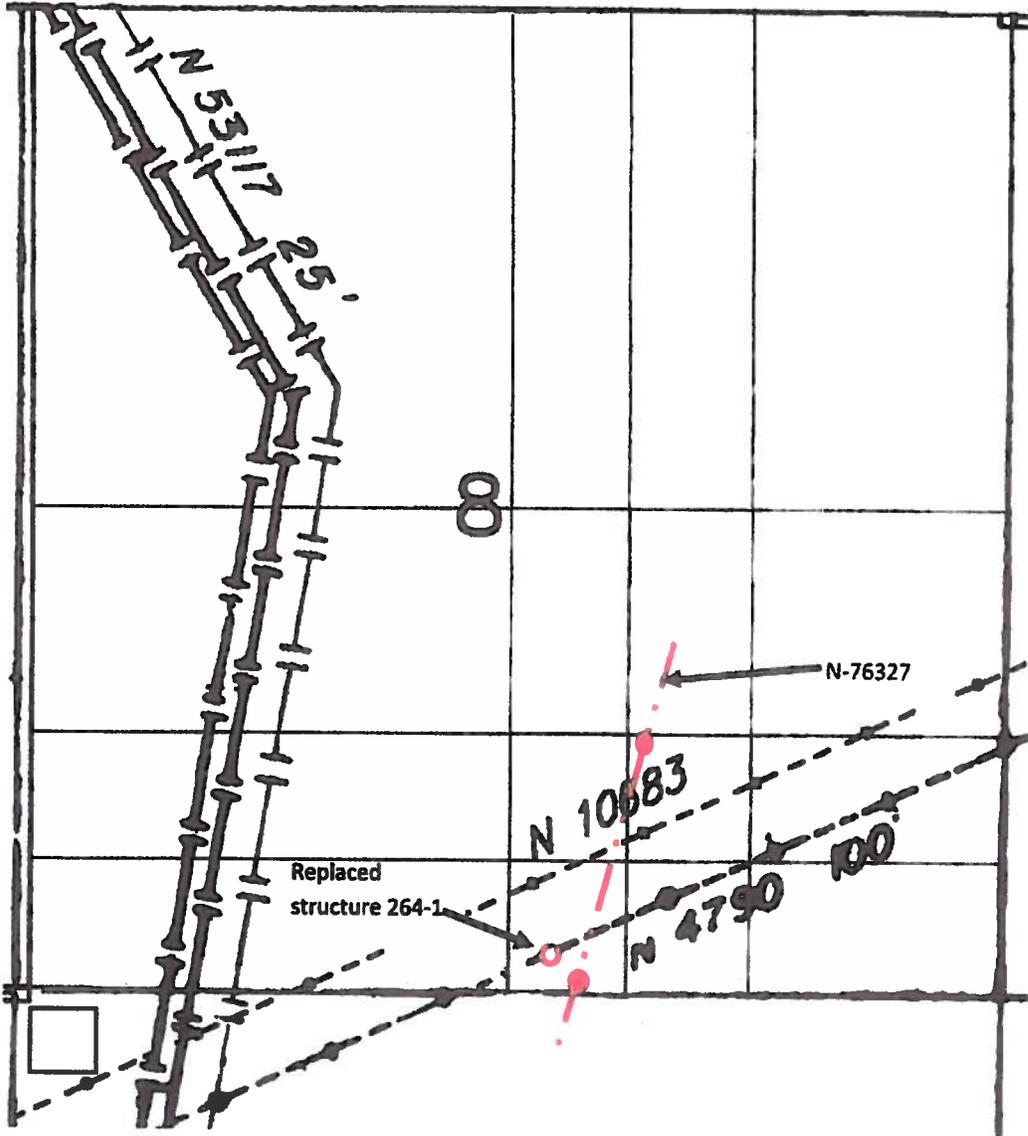
**Parcel 1:**

Government Lots, 19, 23, and 24 in Section 3 and the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) and the South Half of the Northeast Quarter of the Southeast Quarter (S ½ NE ¼ SE ¼) of Section 4, both in Township 23 South, Range 63 East, M.D.M., Clark County, NV.



**Parcel 2:**

The Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW ¼ SW ¼ SE ¼) of Section 8,  
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