

U.S. FISH AND WILDLIFE SERVICE
Endangered Species Act - Section 7
Informal Consultation Form

(Pages 1-3 to be completed by Federal Agency, except Service File No. field)

Date: February 5, 2014

Service File No.: 84320-2014-I-0102 **Agency/Case Project No.:** S020-2013-0013-EA

Species: Mojave Desert Tortoise (*Gopherus agassizii*)

Project Name: Geotechnical Boring for BLM-FHWA RRCNCA Scenic Drive Road Improvement Project

County/State: Clark County / Nevada

Jurisdictional land managers: Bureau of Land Management

Federal Agency

Name: Bureau of Land Management

Address: 4701 N. Torrey Pines Drive

City/State/Zip: Las Vegas, NV 89130

Contact/Title: Carla Wise / Wildlife Biologist

Phone/Fax: (702) 515-5102

Project Proponent

Name: BLM – Red Rock Canyon National Conservation Area

Address: 4701 N. Torrey Pines Drive

City/State/Zip: Las Vegas, NV 89130

Contact/Title: Glen Marsh

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Phone/Fax: (702) 515-5384

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Brief Project Description:

(exact location, size, prior site disturbance, starting date, and duration; attach photos of site if available.)

The geotechnical investigation is being done independently but in support of two larger projects; the Low Water Crossing Replacement Project and the Scenic Loop Drive and Parking Project, both of which are located along the Scenic Loop Road.

The geotechnical investigation involves the drilling of 39 pavement borings, and 9 bridge borings. Only the 9 bridge borings will create new disturbance. All other borings will be in pavement. A geophysical seismic survey will also be conducted. The proposed boring locations are shown in Figures 2 and 3 (see maps at end of document).

The geotechnical drill rigs to be used for the subsurface exploration typically involve a truck and track mounted drill rig. Both types of drill rigs are planned for use in this project. The truck rig will be used for all pavement borings as well as the easily accessible bridge borings. The track rig will be used where it is not feasible for the truck rig to access the desired drilling location (SW-B01 and SW-B06). Pavement borings will be drilled using 4-inch diameter solid-stem auger techniques to depths of 5 to 10 feet. Bridge borings will be completed using 8-inch diameter hollow stem auger techniques and advanced to depths ranging from 15 to 75 feet. Soil samples will be obtained at intervals determined by the on-site engineer. All borings will be backfilled with native material and pavement borings will be patched with cold patch asphalt.

In addition to completing the borings, geophysical seismic surveys will also be completed. The survey will consist of P-wave Seismic Refraction Tomography (SRT) and Multichannel Analysis of Surface Waves (MASW). This investigation will help determine the potential for caliche deposits at the site. Geophysical testing methods are relatively non-invasive. To complete the test, a sledgehammer is used to strike a metal plate placed on the ground surface to provide a vibration source. A string of geophones are laid across the ground surface to measure vibrations from the impact of the sledgehammer. Testing is typically completed by two individuals on foot. Heavy equipment is not required to complete testing.

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Habitat Description (including surveys conducted and results):

In general, the project area can be described as poor quality tortoise habitat as evidenced by previous tortoise surveys completed throughout the area. The area is situated in very low density tortoise habitat that has an elevation between approximately 3600 feet and 4700 feet in elevation. About 2/3 of the length of the Scenic Loop Drive contains portions of or is entirely within the necessary vegetation community for suitable habitat, but habitat suitability has been reduced by various impacts, mainly the fires of 2005 and 2006 that burned over significant portions of land within the Scenic Loop Drive. The project's high elevation and transition from creosote-bursage into a blackbrush community is usually associated with very low density tortoise populations.

Less than 0.25 acres of creosote-bursage scrub and Mojave mixed scrub habitat will be disturbed through drive and crush of vegetation. Less than 0.25 acres of additional acres in desert wash and sparsely-vegetated areas will also be driven on by the boring truck, but will not crush any vegetation. The remainder of the borings will occur on pavement around the Scenic Loop Drive. The direct effects associated with this action from drive and crush of vegetation for geotech borings is less than 0.25 acres of desert tortoise habitat. The area is considered to be very low tortoise density habitat, and the project will occur during the inactive tortoise season (scheduled to take place between February 18 and 28, 2014).

A site visit was conducted by BLM wildlife biologist Carla Wise on January 28, 2014. No tortoise sign was found within, along, or around the drill truck routes and drill sites. Based on the sparse vegetation along the drive routes of SW-B01 through B05, BLM believes that the overall disturbance acreage has been overestimated. The access route to SW-B06 is the only tortoise habitat disturbance. Since this disturbance is less than 0.25 acres, no tortoise fees are required. No tortoises are expected to be impacted due to the geotechnical investigation taking place during non-active tortoise season and the adherence to minimization measures.

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Minimization Measures:

1. *Speed limit:* The speed limit is 35 miles-per-hour on the Red Rock Scenic Loop road; this speed will be established for all activities at all times unless otherwise designated.
2. *Vehicles:* All project/event-related individuals shall check underneath stationary vehicles before moving them.
3. *Vehicle traffic:* Shall be restricted to existing Scenic Loop Drive, unless otherwise authorized by BLM and the Service (those boring locations identified off of the road).
4. *Litter-control:* Will be implemented and enforced by the project proponent or BLM. Trash containers shall remain covered, must be raven-proof, and emptied frequently enough to prevent overflow of materials. Trash, litter, project debris, etc. shall be transferred to a designated solid waste disposal facility. Vehicles hauling trash must be secured to prevent litter from blowing out along the road.
5. *Tortoise mortality/injury:* BLM wildlife staff (702/515-5000) and the Service (702/515-5230) must be notified of any desert tortoise death or injury due to the project implementation by close of business on the following work day. In addition, the Service's Division of Law Enforcement shall be notified in accordance with the reporting requirements of this biological opinion.
6. *Tortoise activity:* The period of greatest tortoise activity is generally defined as March 1 - Oct 31. However, unseasonably warm weather and/or precipitation outside this period may result in tortoise activity, particularly by hatchling and juvenile tortoise, and thus warrant adherence to requirements established for periods of greater activity. Similarly, BLM may determine that additional measures are appropriate for projects planned for the end or beginning of either period if conditions are suitable for desert tortoises to be active. **Geotech investigation will only occur during the non-active season for tortoise (November through February).**
7. *Education Program:* BLM or their designee shall present a tortoise education program to all workers, permittees, and other employees or participants involved on projects covered under this opinion. The program will consist of either a presentation or fact sheet as determined by project level consultation between BLM and the Service. The program or fact sheet will include

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information on the life history of the desert tortoise, legal protection for desert tortoises, penalties for violations of Federal and State laws, general tortoise activity patterns, reporting requirements, measures to protect tortoises, terms and conditions of the biological opinion, and personal measures employees can take to promote the conservation of desert tortoises. The definition of "take" will also be explained. Workers and project associates will be encouraged to carpool to and from the project sites. Specific and detailed instructions will be provided on the proper techniques to capture and move tortoises which appear onsite if appropriate, in accordance with Service-approved protocol. Currently, the Service-approved protocol is Desert Tortoise Council 1994, revised 1999.

10. *Tortoise in harm's way:* If a tortoise is found within the project/activity site in harm's way, all potentially harmful activity shall cease until the tortoise moves or is moved out of harm's way by an authorized biologist. If a desert tortoise is in *imminent danger*, the tortoise shall be moved out of harm's way and on to adjacent BLM land, using techniques described in the tortoise education program.

11. *Moving tortoises:* Tortoises that are moved offsite and released into undisturbed habitat on public land, must be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernaculum in which it was found, or in an artificially constructed burrow in accordance with the tortoise handling protocol. Tortoises encountered shall be treated in a manner consistent with the appropriate measures in this biological opinion.

12. *Permits:* All appropriate State and Federal permits, including NDOW and Service permits for handling desert tortoises or their parts, must be acquired by the tortoise biologists or other personnel before project initiation and prior to handling any desert tortoise or their parts, or conducting any activity requiring a permit.

13. *Project oversight:* A BLM representative(s) shall be designated who will be responsible for overseeing compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion. The designated representative shall provide coordination among the permittee, project proponent, BLM, and the Service.

14. *Desert tortoise burrows:* A desert tortoise monitor will walk in front of the boring truck between sites SW-B05 and SW-B06 to look for tortoise burrows. If a burrow is located, the truck will be rerouted around the burrow to prevent damage.

17. *Reporting:* The project proponent, permittee, or project lead if an internal action, must submit a document to BLM wildlife biologist within 30 days of completion of the project

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showing the number of acres disturbed, remuneration fees paid, and number of tortoises observed or taken, which includes capture and displacement, killed, injured, or harassed by other means, during implementation of programmatic actions.

19. *Project boundaries:* All activities shall be confined to designated areas. When new access routes have been identified, routes will be flagged prior to surface disturbance.

Proposed Measures for Actions Involving New Ground Disturbance:

21. *Fees:* (NV Energy only) Prior to issuance of authorization, and prior to any surface-disturbing activity associated with the proposed project, the project proponent shall pay a remuneration fee of \$824 for each acre of surface disturbance, if paid prior to March 1, 2014. This rate will be indexed annually 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.bls.gov/news.release/cpi.nws.htm>. An exception is made if the disturbance for the project is less than 0.25 acre of disturbance or for activities that result in a long term benefit for the species (e.g., trail realignment to minimize habitat impacts). **Less than 0.25 acres of disturbance are within tortoise habitat; therefore, fees are not required.**

Additional Comments:

There is only one designated route of drive and crush in desert tortoise habitat (from SW-B05 to SW-B06), which involves the drill truck to drive out to the drill site and then back out again. There will be no permanent disturbance, since the vegetation will bounce back after crushing. All geotech boring will occur outside of the desert tortoise active season, so no tortoises will yet be out of their burrows. Since a site visit showed an absence of burrows in the area and a tortoise monitor will walk in front of the truck between sites B05 and B06, there is a may affect, not likely to adversely affect determination proposed.

and the boring activities will be completed outside of the desert tortoise active season, it is the opinion of BLM that this proposed action is a may affect/ not likely to adversely affect for this project.

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Listed Species: Mojave Desert Tortoise (*Gopherus agassizii*)

Determination: No effect (for informational purposes only; no Service response required)

 X Not likely to adversely affect

If determination is *likely to adversely affect*, initiate formal consultation.

Critical Habitat: Yes X No

If yes, determination: Not likely to adversely modify

If determination is *likely to adversely modify*, initiate formal consultation.

Signature: Calla J. Nive February 5, 2014
(Agency Representative) Date

Title: BLM Wildlife Biologist

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Service Response:

Based on the information provided, the agency has determined that the action, as proposed and analyzed, *may affect, but is not likely to adversely affect* listed species. The U.S. Fish and Wildlife Service

 X concurs does not concur (see suggested alternatives) with this determination.

Justification for Response:

Based on the project description, there will be no permanent disturbance to desert tortoise habitat from project implementation. The project would require one overland truck trip across desert tortoise habitat for approximately 3,000 feet. Less than 0.25 acres would be disturbed by this overland travel, and no permanent disturbance to desert tortoise habitat is expected from this trip because any vegetation that is driven over would be crushed but not killed. Pre-project surveys in this area did not detect any desert tortoises or desert tortoise burrows. In general, this area is expected to have a very low to low density of desert tortoises. The project is expected to be completed between February 18 and February 28, 2014, which is outside the desert tortoise active season, so no live tortoises are expected to be encountered during project implementation. In addition, the BLM has proposed to have a biological monitor walk in front of the truck that is conducting the overland travel to ensure no tortoises are present in the area.

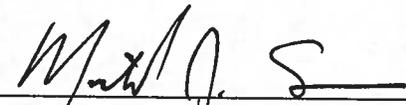
Suggested Alternatives:

We do not have any alternatives to suggest at this time.

Conclusion:

We do not anticipate effects to the desert tortoise based on 1) the low probability of desert tortoise occurrence in the project area; 2) the short duration of the project; 3) implementation during the non-active desert tortoise season; 4) the limited and non-permanent disturbance of habitat; and 5) the use of a biological monitor.

Signature:



Edward D. Koch, State Supervisor
Nevada Fish and Wildlife Office (FOR)

02/10/14
Date

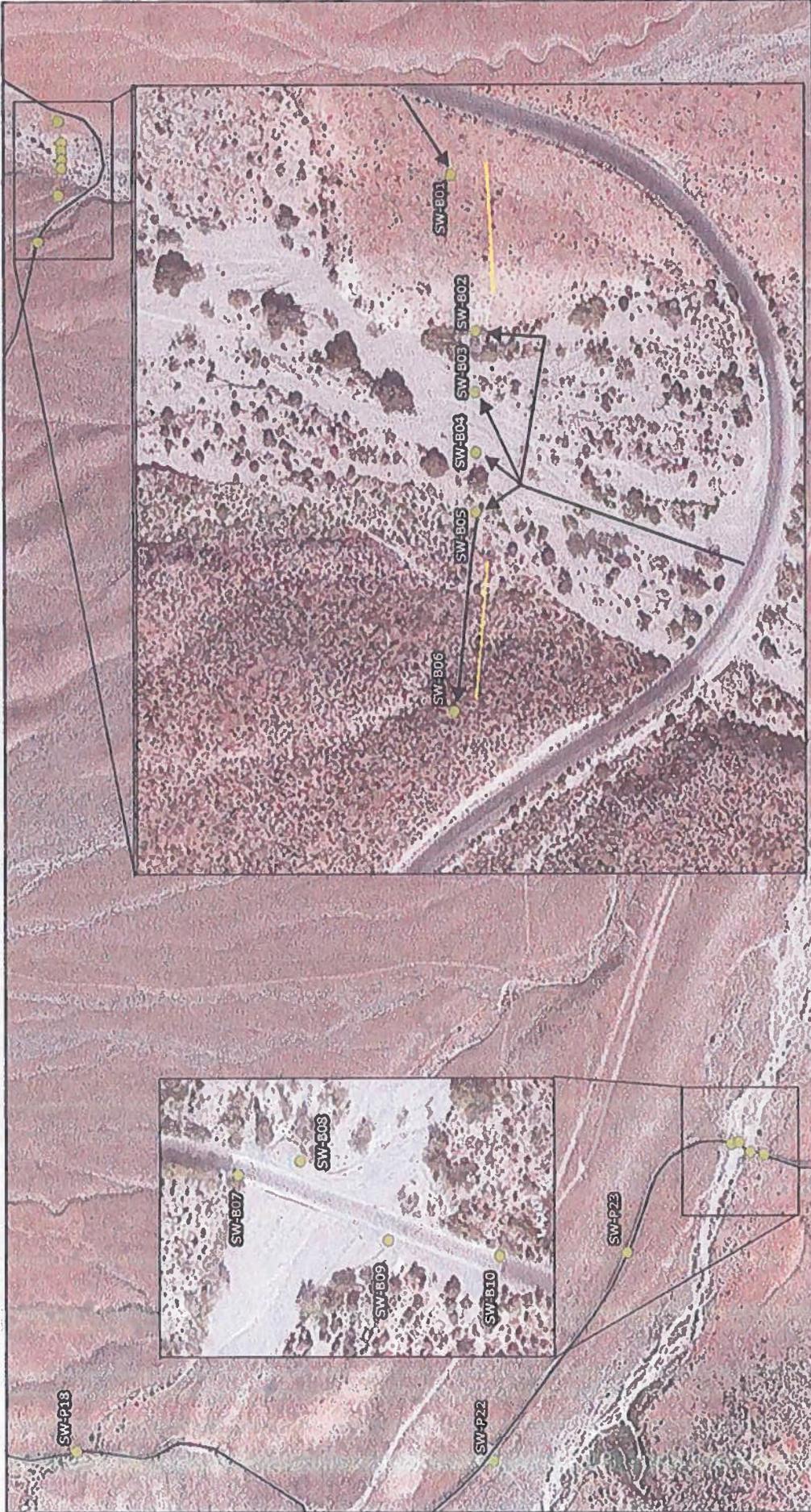
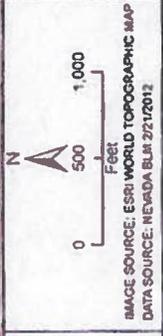


Figure 3
Geotech Boring Locations
 Geotech for BLM-FHWA Red Rock Canyon
 NCA Scenic Drive Road Improvement Project
 DOI-BLM-NV-S020-2013-0013-EA
 Clark County, Nevada
 Data Date: January 21, 2014



- Boring Location
- Proposed Seismic Survey Location
- Proposed Access Route for Drill Rig



Figure 2
Geotech Boring Locations
 Geotech for BLM-FHWA Red Rock Canyon
 NCA Scenic Drive Road Improvement Project
 DOI-BLM-NV-S020-2013-0013-EA
 Clark County, Nevada
 Data Date: January 21, 2014

IMAGE SOURCE: ESRI WORLD TOPOGRAPHIC MAP
 DATA SOURCE: NEVADA BLM 2/21/2012

● Boring Location