

Appendix B

Biological Opinion 84320-2010-F-0365.R003

Case Number: N-78443
NEPA Project #: DOI-BLM-NV-S020-2015-0008-EA
Sec. 7 Log #: NV-052-15-135

TERMS AND CONDITIONS for ROWs: BO File No. (File No. 84320-2010-F-0365.R003)

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

RPM 1: **Applies towards lands and realty, ROWs, and mining actions and other activities that involve vehicle and equipment use, excavations, or blasting.** *BLM, and other jurisdictional Federal agencies as appropriate, shall implement or ensure implementation of measures to minimize injury or mortality of desert tortoises due to project construction, operation and maintenance; and most actions involving habitat disturbance.*

Terms and Conditions:

- 1.a. ***Field Contact Representative***—BLM shall ensure 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.c). 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***— **This project will require an authorized desert tortoise biologist to present a tortoise education program to workers, conduct desert tortoise clearance surveys after temporary tortoise fencing is installed, and to be on call at all times for construction activities.**

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.

1. c. 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.

An authorized desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related field. The biologist must have demonstrated prior field experience using accepted resource agency techniques. As a guideline, Service approval of an authorized biologist requires that the applicant have at least 60 days project experience as a desert tortoise monitor. In addition, the biologist shall have the ability to recognize and accurately record survey results and must be familiar with the terms and conditions of the biological opinion that resulted from project-level consultation between BLM and the Service. All tortoise biologists shall be familiar with the field manual (Service 2009).

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 maintenance activities by an 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 (the definition of "take" will also be explained), 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). Workers and project associates will be encouraged to carpool to and from the project sites. 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.

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.

1.h. *Desert tortoise clearance*— **Required for this project.**

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.

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. ***Temporary tortoise-proof fencing***— All construction areas shall be fenced with temporary tortoise-proof fencing (e.g., silt fencing) and inspected by an authorized desert tortoise biologist or tortoise monitor at the end of the day and immediately the next morning. BLM and the Service will determine the appropriate length of open trench that will be allowed on the project.

Fencing will be designed in a manner that reduces the potential for desert tortoises and hatchlings to access the construction areas. Thus, the lower 6 to 12 in of fencing will be folded outward (i.e., away from the construction area and towards the direction a tortoise would approach the work area), and covered with sufficient amount of soil, rocks, and staking to maintain zero ground clearance and secure the bottom section of material. An authorized desert tortoise biologist will check the integrity of the fencing every 2 hours and ensure that there are no breaches in the fencing and no desert tortoises pacing the fence. After the fencing is erected and secure, the inside will be cleared by an authorized desert tortoise biologist. The fencing must remain closed during any construction activities.

- 1.m. *Permanent tortoise-proof fencing*—Not required for this project.
- 1.n. *Wildlife escape ramps*— See measure 8.d. for trenches.
- 1.o. *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.p. *Blasting*— If blasting is required in desert tortoise habitat, detonation shall only occur after the area has been surveyed and cleared by an authorized desert tortoise biologist. A 200-ft radius area around the blasting site shall be surveyed and all desert tortoises aboveground within this 200-ft radius of the blasting site shall be moved 500 ft from the blasting site, placed in unoccupied burrow, and temporarily penned (see Term and Condition 1.k.) to prevent tortoises that have been temporarily relocated from returning to the site. Tortoises in burrows would be left in their burrows. All burrows, regardless of occupied status, will be stuffed with newspapers, flagged, and location recorded using a GPS unit. Immediately after blasting, newspaper and flagging will be removed. If a burrow or cover site has collapsed which could be occupied, it shall be excavated to ensure that no tortoises have been buried and are in danger of suffocation.
- 1.q. *Power transmission projects*—not applicable to this project.
- 1.r. *Timing of construction*—The BLM shall ensure that 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.

RPM 2: Predator Control—Applies to all actions. *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to minimize injury to desert tortoises as a result of predators drawn to the project area from construction, operation, and minor maintenance activities:*

Terms and Conditions:

- 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. Vehicles hauling trash to the landfill or transfer facility must be secured to prevent litter from blowing out along the road.
- 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.
- 2.c. *Monitoring and predator control*—Not applicable to this project.
- 2.d. *Evaporation ponds and open water sources*—Not applicable for the proposed action.

RPM 3: Impacts to Desert Tortoise Habitat—Applies towards all actions that involve habitat impacts. *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to minimize loss and long-term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, crushed vegetation, and introduction of weeds or contaminants from construction, operation, and minor maintenance activities:*

Terms and Conditions:

- 3.a. *Habitat protection plans*—Applicants will 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 if resource specialists require them.
- 3.b. *Restoration plan*—BLM shall ensure that the applicant develop and implement a restoration/reclamation plan to restore the old road. The plan will describe objectives and methods to be used, species of native plants and/or seed mixture to be used, time of planting, success standards, actions to take if restoration efforts fail to achieve the success standards, and

follow-up monitoring. The plan will be prepared and approved prior to the surface disturbance phase of the project. Reclamation will be addressed on a case-by-case basis.

- 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*— **As proposed, this project will disturb 18.89 acres of desert tortoise habitat. The total fees assessed are \$15,924.27.**

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 \$843 per ac of disturbance, as indexed for inflation, effective March 1, 2015. The next adjustment will become effective March 1, 2016. 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.nr0.htm>.

RMP 7: Compliance and Reporting—Applies towards all actions. *BLM, and other jurisdictional Federal agencies as appropriate, shall ensure their agency personnel, the project proponent, and their contractors implement the following measures to comply with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements*

contained in this biological opinion:

Terms and Conditions:

- 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 (702/515-5230), BLM wildlife staff (702/515-5000) 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.c. *Fence inspection*—Fencing is not required for this project.
- 7.d. ***Project reporting requirements***— Project proponents will provide BLM with compliance reports. Quarter (non-appended actions), 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 are required for all appended actions (except those completed and provided in a prior annual report). 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 for non-appended actions 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.

8: Minimization Measures

- 8.a. ***The project applicant shall notify BLM wildlife staff at 702-515-5000 at least 10 days before initiation of the project.*** Notification shall occur before any activities begin that will damage or

remove vegetation, such as off-road vehicle travel for surveys, soil testing, and clearing vegetation off the project site. The purpose of the notification is to ensure that the proper education program is given and to review expectations for compliance with the terms and conditions of the biological opinion.

- 8.b. 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.
- 8.c. Within desert tortoise habitat, any construction pipe, culvert, or similar structure with a diameter greater than 3 inches stored less than 8 inches above the ground will be inspected for tortoises before the material is moved, buried, or capped.
- 8.d. **Trenches:** All trenches and holes will be covered, fenced or backfilled to ensure desert tortoises do not become trapped unless alternate measures are in place as agreed by BLM and the Service. If trenches or holes are to remain open during construction, they will be checked for tortoises at least four times a day, at the start of day, at mid-morning, early afternoon, and at the end of the work day. The trenches or holes will also be checked immediately before backfilling regardless of the season. Tortoises found in the trench will be reported and moved out of harm's way in accordance with handling protocols (Service 2009).
- 8.e. Ravens and other avian tortoise predators: not applicable to this project.
- 8.f. **Vehicles:** All project/event-related individuals shall check underneath stationary vehicles before moving them. Tortoises often take cover under vehicles. All vehicle use will be restricted to existing roads. New access roads will be created only when absolutely necessary and only when approved by BLM. Workers shall not 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 shall be used during grinding or welding.

Minimization Measures to Minimize Threat of Nonnative Plants

- 8.g. Rehabilitate, reclaim, or revegetate areas subjected to surface-disturbing activities where feasible. Habitat will be reclaimed so that pre-disturbance conditions can be reached within a reasonable time frame. Reclamation may include salvage and transplant of cacti and yucca, recontouring the area, scarification of compacted soil, soil amendments, seeding, vertical mulch, and transplant of seedling shrubs. If necessary subsequent seeding or transplanting efforts may be required, should monitoring indicate that the original effort was not successful.
- 8.h. Complete a Weed Risk Assessment for the proposed project prior to construction activities. This document will address the presence of any weeds; the potential for weeds within the project area to be spread to non-infested areas within the project area; the potential for introducing weeds into the project area via vehicles, equipment, fill material, and water brought in from an outside source; and minimization to reduce the potential for spreading weeds.
- 8.i. If off-site fill material is used, survey the site where the fill source comes from for noxious plants. Only fill from non-contaminated sites shall be used.
- 8.j. Certify that all plant material including animal feed and material used for erosion control (straw, etc.) is weed-free.

- 8.k. Clean all equipment of weed and grass seeds, stems, stalks, etc., prior to arrival and release from the project site. The washdown will concentrate on the undercarriage, with special emphasis on axles, crossmembers, motor mounts, and on and underneath steps, running boards and front bumper/bushguard assemblies.
- 8.l. Should there be concentrated areas of noxious weeds within the project area, additional spraying of equipment may be required to prevent the contamination of uninfested areas.
- 8.m. Wash sites will be mapped for future monitoring of weed infestations.
- 8.n. Mechanized treatments will not be conducted on slopes greater than 30 percent to minimize erosion.
- 8.o. Treatments that compact and disturb the soil to the degree that runoff and erosion would be increased should be ripped and properly drained.
- 8.p. Untreated islands of natural vegetation would be left to minimize negative impacts of the natural community.

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: Sloan Canyon Access Road NEPA No.: DOI-BLM-NV-S020-2015-0008-EA Case File No./SRP No.: N-78443 BLM Section 7 log no.: NV-052-15-135	Report Date:
Fish and Wildlife Service Append File No.- n/a	
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 <input type="checkbox"/> or killed <input type="checkbox"/> (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 F. SECTION 7 FEE PAYMENT FORM

Biological Opinion File Number: (File No. 84320-2010-F-0365.R003)
Biological Opinion Issued By: Nevada Fish and Wildlife Office, Las Vegas, Nevada
Species: Mojave Desert Tortoise (*Gopherus agassizii*)
Project Name: Sloan Canyon Access Road
NEPA No.: DOI-BLM-NV-S020-2015-0008-EA
Case File/Serial #: N-78443
BLM Sec 7 log: NV-052-15-135
Project Proponent: BLM
Phone Number:

	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	0	18.89				
Fee rate (per acre)		843				
Total cost/habitat type (per county)	\$ -	\$15,924.27	\$ -	\$ -	\$ -	\$ -
Total cost per county	\$15,924.27		\$ -		\$ -	

Total payment required (all counties): \$15,927.27

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 G. PROGRAMMATIC BIOLOGICAL OPINION (FILE NO. 1-5-02-F-476; 84320-2011-F-0337) 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.

Project Name: Sloan Canyon Access Road

NEPA no.: DOI-BLM-NV-S020-2015-0008-EA

Case File no./SRP no.: N-78443

BLM Section 7 log no.: NV-052-15-135

Annual Report

Project Completion Report

1. Date: _____

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

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)
18.89		0	

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.

10. Desert tortoise burrow observed during activity/event:

Total number desert tortoises observed: _____
Total number desert tortoise burrows observed: _____
Attach a summary report detailing each desert tortoise and/or desert tortoise burrows observed during activity/event including tortoise activity when found, how the animal was avoided, what happened to the tortoise, the date and time encountered and GPS location (NAD 83 easting: _____ northing: _____)

11. Contact Information

Name _____ Company _____

Address _____

Phone _____

Signature _____ Date _____

Send completed form to:

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