



U.S. Department of Energy Categorical Exclusion Determination Form

Submit by E-mail

Proposed Action Title: Mead Administrative Building Demolition

Program or Field Office: Western Area Power Administration, Desert Southwest Regional Office

Location(s) (City/County/State): Mead substation, Clark County, Nevada

Proposed Action Description:

The proposed action is the demolition of the Mead Administration Building, including all sub-grade constructions and the proper, legal, disposal of all removed materials. The Mead Administration Building is located within the Mead Substation. Utilities to the building will be terminated with removal of the septic system and partial removal of the electrical system. Landscape plantings around the building will be removed and the site will be finished with a uniform grade to match current elevations. The 120-by-152-foot Boulder City Area Office Building was created in 1981 by expanding a 62-by-120-foot maintenance shop that had been built in 1969 as part of Mead Substation. A third expansion to the east, measuring 90 by 120 feet, occurred in 1986. In 1990, Western mothballed the building and transferred many of the positions to the Phoenix office. The building no longer meets Western's needs and cannot be sold to the public (GSA concurred with Western's decision in a letter written on 7/29/2011). The building is structurally unsound, unsafe, and dangerous to public health and safety (Civil Design & Engineering 2010). It cannot be reused without renovations to the electrical system, communication system, septic system, potable water system, fire system and plumbing, which are estimated to cost in excess of \$250,000. Mothballing the building would cost \$72,000 a year. It is located with the Mead Substation security perimeter, which would limit its potential for reuse by others.

Special Conditions- See attached biological opinion and asbestos/lead abatement procedures (division 13 for PWS for bldg demo).

Categorical Exclusion(s) Applied:

B1.23 - Demolition and disposal of buildings

For the complete DOE National Environmental Policy Act regulations regarding categorical exclusions, including the full text of each categorical exclusion, see Subpart D of 10 CFR Part 1021.

Regulatory Requirements in 10 CFR 1021.410(b): (See full text in regulation)

The proposal fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D.

To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

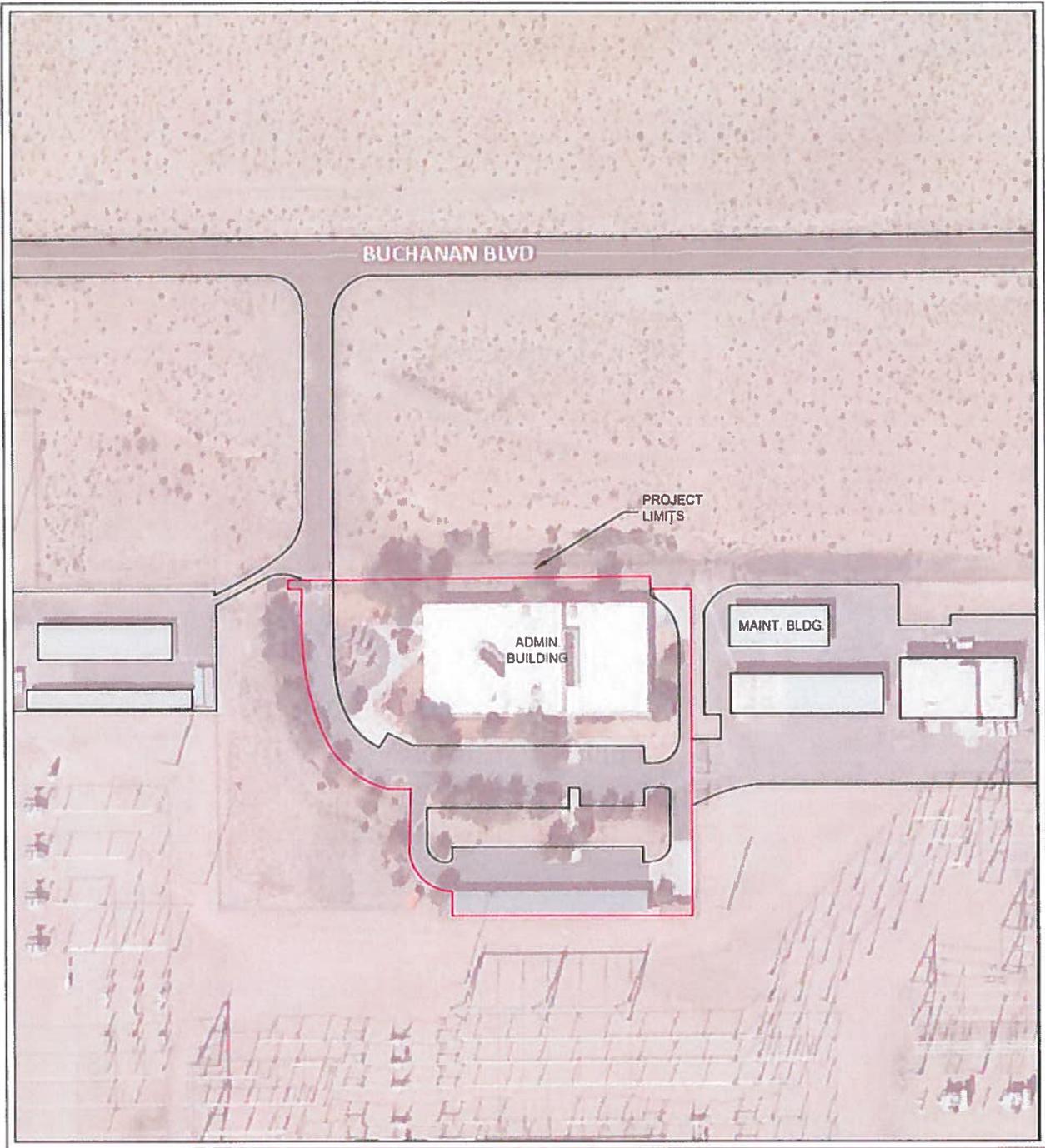
There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal.

The proposal has not been segmented to meet the definition of a categorical exclusion. This proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

Based on my review of the proposed action, as NEPA Compliance Officer (as authorized under DOE Order 451.1B), I have determined that the proposed action fits within the specified class(es) of action, the other regulatory requirements set forth above are met, and the proposed action is hereby categorically excluded from further NEPA review.

NEPA Compliance Officer: *John Marant*

Date Determined: 3.26.14



2012 AERIAL PHOTOGRAPH
 SOURCE: CLARK COUNTY ASSESSOR'S OFFICE ONLINE GIS MAPS



Project Mgr:	JRM
Drawn By:	BJD
Checked By:	JRM
Approved By:	PTZ

Project No:	F7129129
Scale:	N.T.S.
File No:	65129129.DWG
Date:	10/08/2013

Terracon
 Consulting Engineers and Scientists
 4685 South Ash Avenue, Suite H-1 Tempe, AZ 85282
 PH. (480) 897-8200 FAX. (480) 897-1133

PROJECT LIMITS

MEAD ADMINISTRATION BUILDING
 2051 SOUTH BUCHANAN BOULEVARD
 BOULDER CITY, NEVADA

EXHIBIT
2

Checklist for Categorical Exclusion Determination, revised Nov. 2011

Application of Categorical Exclusions (1021.410)	Disagree	Agree	Unknown
(b)(1) The proposal fits within a class of actions that is listed in appendix A or B to subpart D.		X	
(b)(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternate uses of available resources		X	
(b)(3) The proposal has not been segmented to meet the definition of a categorical exclusion. Segmentation can occur when a proposal is broken down into small parts in order to avoid the appearance of significance of the total action. The scope of a proposal must include the consideration of connected and cumulative actions, that is, the proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or § 1021.211 of this part concerning limitations on actions during EIS preparation.		X	
B. Conditions that are Integral Elements of the Classes of Actions in Appendix B. :	NO	YES	UNKNOWN
(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety and health, or similar requirements of DOE or Executive Orders.	X		
(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;	X		
(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;	X		
(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive	X		

	resources include, but are not limited to:			
(i)	Property (such as sites, buildings, structures, and objects) of historic, archaeological, or architectural significance designated by a Federal, state, or local government, or property determined to be eligible for listing on the National Register of Historic Places;	X		
(ii)	Federally-listed threatened or endangered species or their habitat (including critical habitat) or Federally- proposed or candidate species or their habitat (Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as under the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);	X		
(iii)	Floodplains and wetlands (as defined in 10 CFR 1022.4, —Compliance with Floodplain and Wetland Environmental Review Requirements: “Definitions,” or its successor);	X		
(iv)	Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;	X		
(v)	Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), —Farmland Protection Policy Act: Definitions, or its successor;	X		
(vi)	Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and	X		
(vii)	Tundra, coral reefs, or rain forests.; or	X		
(5)	Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.	X		

LEO M. DROZDOFF, P.E.
Director
Department of Conservation and
National Resources

REBECCA L PALMER
State Historic Preservation Officer

BRIAN SANDOVAL
Governor

STATE OF NEVADA



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www.nvshpo.org

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE

March 18, 2014

Ms. Jill Jensen
Regional Preservation Officer
Western Area Power Administration
Desert Southwest Region
P.O. Box 6457
Phoenix, AZ 85005-6457

Re: Demolition of the Mead Substation, Boulder City, NV (Clark Co.)
SHPO Undertaking 2014-3028 (report #19036)

Dear Ms. Jensen:

Per the Western Area Power Administration's request for consultation, the State Historic Preservation Office (SHPO) has completed its review of the above referenced undertaking. This review was previously stopped due to the need for additional information. The SHPO appreciates receipt of the needed photo documentation and additional historical details regarding the use of the Mead Substation.

It is now evident that the original Mead Substation, built in 1969, lacks integrity due to the substantial additions constructed in the 1980s. Per a phone conversation with Mara Jones of our office, it also lacks a significant connection to the Hoover Dam historic periods of development.

In accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended, the SHPO concurs with the WAPA determination that this undertaking will have no effect to historic properties. If buried or previously unidentified resources are located during project activities, all work in the vicinity should cease and this office should be contacted for additional consultation, per NRS 383.150-383-190 and 36 CFR 800.13.b.3.

Should you have any questions regarding this correspondence, please do not hesitate to contact me at 775.684.3437 or via e-mail at jernstein@shpo.nv.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie H. Earnstein".

Julie H. Earnstein, Ph.D., RPA
Deputy State Historic Preservation Officer



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Nevada Fish and Wildlife Office
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
Ph: (702) 515-5230 ~ Fax: (702) 515-5231



March 5, 2013
File No. 84320-2014-F-0117

Linda Marianito, Environmental Manager
Western Area Power Administration
U.S. Department of Energy
Post Office Box 6457
Phoenix, Arizona 85005-6457

Subject: Biological Opinion for Demolition of the Mead Substation Administrative Building in Boulder City, Clark County, Nevada

Dear Ms. Dockens:

This letter transmits the Fish and Wildlife Service's (Service) biological opinion based on our review of the subject project and possible adverse effects on the Mojave desert tortoise (*Gopherus agassizii*), a species listed as threatened under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). No critical habitat will be affected by the proposed action.

The enclosed biological opinion was prepared in response to your February 6, 2014, request for formal consultation and in accordance with the Act and 50 CFR § 402 of our interagency regulations governing section 7 of the Act. This biological opinion is based on information provided in your letter and attachments received on February 10, 2014; emails and discussions between Western Area Power Administration and the Service; and our files. A complete project file is available in the Service's Nevada Fish and Wildlife Office in Las Vegas.

If we can be of further assistance regarding this consultation, please contact Michael Burroughs in the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230.

Sincerely,

Edward D. Koch
State Supervisor

(For)

Enclosure

cc:

Supervisory Biologist - Habitat, Nevada Department of Wildlife, Las Vegas, Nevada

ENCLOSURE

BIOLOGICAL OPINION

A. CONSULTATION HISTORY

On February 10, 2014, the Fish and Wildlife Service (Service) received a request from the Western Area Power (Western) for formal consultation on their proposal to demolish an administrative building concerning the anticipated effects on the Mojave desert tortoise (*Gopherus agassizii*).

On February 10, 2014, we initiated formal consultation for the proposed project.

B. DESCRIPTION OF THE PROPOSED ACTION

The proposed project is located within Western Area Power Administration's (Western) existing Mead Substation at 2051 South Buchanan Boulevard, Boulder City, Nevada. Western proposes to demolish the abandoned administration building located at Mead Substation. The building is no longer suitable for agency use and cannot be sold to the public. The building was constructed in 1969 as a maintenance building, and was expanded in 1981 to 28,523 feet to be utilized as office space.

The scope of work includes the following:

1. Demolition of the Mead administration building, including all sub-grade constructions and the proper, legal disposal of all removed materials;
2. Termination of utilities serving the Mead administration building;
3. Termination of electrical service to the Mead administration building;
4. Maintain the functional integrity of the below-grade electrical grounding system;
5. Removal of the septic system serving the Mead administration building;
6. Removal of all landscape plantings located within the Project Limits;
7. Backfill all excavations.
8. Provide a uniform finish grade within the Project Limits to match the elevations of the perimeter landscape elements;
9. Apply gravel cover to all soil-surface areas within the Project Limits;
10. Replace all damaged materials and equipment that are not part of the demolition work;
11. Leave existing asphalt paving, sidewalks, curbs, and gutters in place.

The project activities will begin no sooner than April 1, 2014, and will be completed within about 3 months.

Proposed Measures to Minimize the Potential Effects of the Action

Western proposes to minimize the potential effects of the proposed action by implementing the following conservation and protective measures.

1. Prior to initiation of any project activities, Western will provide a desert tortoise awareness program to all personnel who will be working onsite, including but not limited to contractors, contractors' employees, supervisors, inspectors, and subcontractors. This program will contain information concerning the biology and distribution of the desert tortoise and other sensitive species, their legal status and occurrence in the project area; the definition of "take" and associated penalties; speed limits; the terms and conditions of this biological opinion including speed limits; the means by which employees can help facilitate this process; responsibilities of workers, monitors, biologists, etc.; and reporting procedures to be implemented in case of desert tortoise encounters or non-compliance with these measures.

2. An authorized desert tortoise biologist, as approved by the USFWS, will be onsite during project activities during the active desert tortoise season (1 March-31 October) and during any project activities involving ground disturbance or subsurface excavation. A biological monitor may be onsite during other activities.

Once ground-disturbing and subsurface excavation activities have been completed, Western, in coordination with the authorized desert tortoise biologist and the Service, may determine that project activities can continue without an onsite monitor; however, a biological monitor will be on-call for the duration of the project in the event that tortoises are observed in the area.

3. Tortoises discovered to be in imminent danger during project activities may only be moved out of harm's way by an authorized desert tortoise biologist (see #3 above) and following the terms of the biological opinion issued for the project. Desert tortoises shall be handled only by qualified individuals following recognized protocol (Service 2009). Authorized desert tortoise biologists will complete the Qualifications Form and submit it to the Service for review and approval as appropriate.
4. Desert tortoises shall be treated in a manner to ensure that they do not overheat, exhibit signs of overheating (*e.g.*, gaping, foaming at the mouth, *etc.*), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises will be kept shaded at all times until it is safe to release them. No desert tortoise will be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F. Ambient air temperature will be measured in the shade, protected from wind, at a height of 2 inches above the ground surface. No desert tortoise will be captured if the ambient air temperature is anticipated to exceed 95°F before handling and relocation can be completed. If the ambient air temperature exceeds 95°F during handling or processing, desert tortoises will

be kept shaded in an environment that does not exceed 95°F and the animals will not be released until ambient air temperature declines to below 95°F.

5. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof (sealed or locked) trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and the proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when trash is removed from the site. The litter-control program will apply to all actions. A litter-control program will be implemented by the responsible Federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.
6. Prior to starting operations each day in project areas which are not totally enclosed by tortoise-proof fencing and cattle guards, the contractor shall be responsible for conducting a desert tortoise inspection in coordination with the authorized desert tortoise biologist or monitor using techniques approved by the Service. The inspection will determine if any desert tortoises are present in the following locations:
 - a. Around and under all equipment;
 - b. In and around all disturbed areas to include stockpiles and reject materials areas;
 - c. In and around all routes of ingress and egress; and
 - d. In and around all other areas where the operation might expand to during that day. If a tortoise is discovered during this inspection or later in the day, the operator will immediately cease all operations in the immediate vicinity of the tortoise and will immediately notify the biologist.
7. A speed limit of 25 miles per hour will be required for all vehicles on the project site and unposted dirt access roads.
8. Overnight parking and storage of equipment and materials, including stockpiling, will occur in previously-disturbed areas or areas to be disturbed that have been cleared by a qualified desert tortoise biologist. If not possible, areas for overnight parking and storage of equipment will be designated by Western based on recommendations of a qualified desert tortoise biologist.
9. Western will submit a report to the Service within 30 days of completion of the project, showing the number of acres disturbed and the number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities.

C. ANALYTICAL FRAMEWORK FOR THE SERVICE'S DETERMINATIONS

Section 7(a)(2) of the Act requires that Federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species.

“Jeopardize the continued existence of” means to engage in an action that reasonably would be

expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR § 402.02).

The jeopardy analysis in this biological opinion considers the effects of the proposed Federal action, and any cumulative effects, on the rangewide survival and recovery of the desert tortoise. It relies on four components: (1) the Status of the Species, which describes the rangewide condition of the desert tortoise, the factors responsible for that condition, and its survival and recovery needs; (2) the Environmental Baseline, which analyzes the condition of the desert tortoise in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the desert tortoise; (3) the Effects of the Action, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the desert tortoise; and (4) the Cumulative Effects, which evaluates the effects of future, non-Federal activities in the action area on the desert tortoise.

D. STATUS OF THE SPECIES RANGE-WIDE

The rangewide status of the desert tortoise consists of information on its listing history, species account, recovery plan, recovery units, distribution, reproduction, and numbers. Because of the length of the document, the current rangewide status of the species and its critical habitat is provided on the Service's website at:

http://www.fws.gov/nevada/desert_tortoise/documents/misc/status-desert-tortoise.pdf.

If unavailable on this web site, contact the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230, and provide File No. 84320-2014-F-0117 along with the date of February 10, 2014.

E. ENVIRONMENTAL BASELINE

The action area is defined as all areas to be affected directly or indirectly by the Federal action including interrelated and interdependent actions, and not merely the immediate area involved in the action (50 CFR § 402.02). Subsequent analyses of the environmental baseline, effects of the action, cumulative effects, and levels of incidental take are based upon the action area as determined by the Service.

The action area for this project is defined as the project limits delineated in Figure 1 and 1,640 feet (500 meters) surrounding the project limits where displaced tortoises may be released or where tortoises may travel from and occur in work areas.

The project is located in the Mojave Desertscrub biotic community characterized predominantly by creosotebush (*Larrea tridentata*). A small drainage running east-west along the north fence line of Mead substation contains some tamarisk (*Tamarix* sp.). The project limits are located

within a developed fenced and graveled substation. Portions of the project limits consist of paved and asphalted surfaces for parking and pedestrian use. Landscaped areas within the project limits contain planted shrubs. Large, grassy areas exist on the west, south, and east sides of the administration building. No native vegetation occurs in the project limits.

Western has conducted numerous surveys for desert tortoises in the vicinity of Mead substation in recent years. Tortoises and burrows have been identified within 3 miles of the project limits. In addition, an adult tortoise was observed within the Mead substation fencing numerous times in 2013 by Western staff, and an active burrow was identified within a small drainage outside the action area approximately 70 feet north of the administration building in October 2013.

On 24 January 2014, Johnida Dockens (Western) conducted a pre-construction survey for tortoises within the action area. No tortoises were observed. However, tortoise scat was located within the grassy areas immediately adjacent to the east and south sides of the administration building. In addition, scat was located adjacent to a culvert associated with a parking berm south of the administration building within the project limits. Signs of burrowing were observed under a shed located in the southeast corner of the project limits; however, this area was inaccessible and could not be investigated due to obstructions.

Although the project limits are considered a developed area, signs of tortoise use were observed throughout the project limits. Large areas of grass associated with the administration building provide forage for Mojave tortoises. In addition, several potential shelter sites exist within the project limits. Lands surrounding the Mead Substation contain habitat suitable for Mohave Desert tortoise. No critical habitat occurs in the action area.

F. EFFECTS OF THE PROPOSED ACTIONS ON THE LISTED SPECIES

The documentation of tortoise sign in the action area indicates that tortoises inhabit the action area and tortoises in adjacent habitat could enter into work areas at any time. Individual tortoises may be captured and displaced from the project area which may require they establish new feeding and sheltering areas. The greatest potential threats to desert tortoises resulting from the proposed action are associated with vehicle travel on access roads and in work areas. Tortoises could be killed or injured or their nests with eggs could be destroyed if not located before activities commence, or not avoided by vehicles and equipment. Project vehicles or equipment that stray from designated areas may crush desert tortoises aboveground or in their burrows or damage habitat outside the project area. Tortoises could wander into work areas or take refuge underneath project vehicles and equipment, and be killed or injured when the vehicle/equipment is moved. Project vehicles may strike and kill or injure desert tortoises on access roads. Measures proposed by Western as part of the proposed action should minimize these effects, which include: 1) providing a desert tortoise biologist and tortoise awareness program, 2) avoiding shrubs, 3) imposing and enforcing a 25 mph speed limit, 4) use previously disturbed areas where possible, and 5) conducting a tortoise clearance survey to remove all tortoise in harm's way.

Desert tortoises that are physically moved out of project areas to prevent mortality or injury could be inadvertently harmed if not handled properly. Urine and large amounts of urates may be voided during handling and may represent a severe water loss, particularly to juveniles (Luckenbach 1982). Overheating can occur if tortoises are not placed in the shade when ambient temperatures equal or exceed temperature maximums for the species (Service 2009). Measures proposed by Western as part of the proposed action to provide authorized desert tortoise biologists to handle tortoises and conduct clearance surveys should minimize these effects.

Project activities may result in trash and litter accumulating on the site, which attracts predators such as the common raven, kit fox, and coyote (BLM 1990, Boarman and Berry 1995). Some forms of trash may be ingested by tortoises or they may become entangled resulting in their injury or death. Measures proposed by Western to provide desert tortoise awareness training and control litter, should minimize the potential effects of subsidized tortoise predators.

Net loss of suitable tortoise habitat will be extremely low compared with the amount of suitable habitat available beyond the project limits. Indirect effects to desert tortoises are unlikely as a result of the proposed project. No cumulative effects resulting from the proposed project have been identified.

G. CUMULATIVE EFFECTS

Cumulative effects are those effects of future non-Federal (State, tribal, local government, or private) activities that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they would likely require separate consultation pursuant to section 7 of the Act. Because the action area and surrounding land is Federal land, no future, non-Federal activities are reasonably certain to occur in the action area.

H. CONCLUSION

After reviewing the current status of the desert tortoise and its critical habitat, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, it is the Service's biological opinion that the project, as proposed and analyzed, is not likely to jeopardize the continued existence of the threatened Mojave desert tortoise.

The Service's conclusion of no jeopardy is based on the following:

1. No desert tortoise habitat would be disturbed as a result of the proposed project.
2. Measures have been proposed by Western to further minimize any effects of the proposed action to the desert tortoise.

3. The proposed project would not result in tortoise mortality, or other take of desert tortoise that would significantly affect the rangewide number, distribution, or reproduction of the species.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act, as amended, prohibits take (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without a special exemption. "Harm" is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering (50 CFR § 17.3). "Harass" is defined as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering (50 CFR § 17.3). Incidental take is any take of listed animal species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant. Under the terms of sections 7(b)(4) and 7(o)(2) of the Act, taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such taking is in compliance with the Terms and Conditions of this Incidental Take Statement.

The measures described below are nondiscretionary and must be implemented by Western, or other jurisdictional Federal agencies as appropriate, so that they become binding conditions of any project, contract, grant, or permit issued by Western, or other jurisdictional Federal agencies as appropriate, in order for the exemption in section 7(o)(2) to apply. Western requested that the Service include all protective measures in the incidental take statement (terms and conditions), including those measures proposed by Western to ensure that all measures will be incorporated into their approval documents. The Service's evaluation of the effects of the proposed actions includes consideration of the measures developed by Western, to minimize the adverse effects of the proposed action on the desert tortoise. Any subsequent changes in the minimization measures proposed by Western, or other jurisdictional Federal agencies as appropriate, may constitute a modification of the proposed action and may warrant reinitiation of formal consultation, as specified at 50 CFR § 402.16. The Reasonable and Prudent Measures (RPMs) below are intended to clarify or supplement the protective measures that were proposed by Western as part of the proposed action.

Western, or other jurisdictional Federal agencies as appropriate, has a continuing duty to regulate the activity that is covered by this Incidental Take Statement. If Western, or other jurisdictional Federal agencies as appropriate, fails to adhere to the Terms and Conditions of the incidental take statement through enforceable terms that are added to permits or grant documents, and/or fails to retain oversight to ensure compliance with these Terms and Conditions, the protective coverage of section 7(o)(2) may lapse.

A. AMOUNT OR EXTENT OF TAKE ANTICIPATED

Based on the scope of the proposed action, the desert tortoise survey data, analysis of impacts provided above, measures proposed by Western, and the anticipated project duration, the Service anticipates that the following take could occur as a result of the proposed action:

1. All desert tortoises in harm's way during project activities may be taken by capture. We estimate up to 4 desert tortoises will be captured and relocated. If the number of tortoises encountered and moved exceeds our estimate, Western shall notify the Service to evaluate the risk of injury and mortality to tortoises and determine if any additional measures are appropriate. We anticipate desert tortoises moved from harm's way will remain in their home range with no long-term effects.
2. No desert tortoises are anticipated to be killed or injured as a direct or indirect result of project activities.
3. No desert tortoises will be taken in the form of indirect mortality through predation by ravens or other subsidized predators drawn to the project area. This determination is based on no net increase in potential resources for ravens above baseline levels.
4. No desert tortoise nests are anticipated to be disturbed as a result of project activities.

B. EFFECT OF TAKE

In the accompanying biological opinion, the Service has determined that this level of anticipated take is not likely to jeopardize the continued existence of the desert tortoise.

C. REASONABLE AND PRUDENT MEASURES (RMPs) WITH TERMS AND CONDITIONS

The Service believes that the following RPMs and Terms and Conditions are necessary and appropriate to minimize take of desert tortoise.

RPM 1: *Western shall ensure implementation of measures to minimize injury and mortality of desert tortoises as a direct or indirect result of projects including capture and handling of desert tortoises.*

Terms and Conditions:

- 1.a. Present desert tortoise awareness training (implement proposed measure 1)
- 1.b. Provide authorized desert tortoise biologist (implement proposed measure 2).
- 1.c. Move tortoises from harm's way (implement proposed measure 3).

- 1.d. Properly handle tortoises and protect desert tortoises from heat (implement proposed measure 4). Desert tortoises shall be handled according to Service -approved protocol (Service 2009). If a tortoise is injured as a direct or indirect result of project activities, it shall be immediately transported to a veterinarian.
- 1.e. Perform desert tortoise clearances, check underneath vehicles and equipment, and cease project activities if a tortoise is discovered in work areas (implement proposed measure 6).
- 1.f. Establish and enforce 25 mph speed limit (implement proposed measure 7).
- 1.g. Park vehicles and store equipment in designated areas (implement proposed measure 8).
- 1.h. If a desert tortoise occurs on the project site, the authorized desert tortoise biologist shall inform workers in the area to be particularly watchful for the tortoise as it may return to the work area. Workers shall exercise caution when commuting to work areas.

RPM 2: *Western shall ensure implementation of measures to minimize predation on tortoises by ravens or other desert tortoise predators attracted to the project area.*

Term and Condition:

- 2. A litter control program shall be implemented as proposed in measure 5.

RPM 3: *Western shall ensure implementation of measures to ensure compliance with the RPMs, Terms and Conditions, reporting requirements, and reinitiation requirements contained in this biological opinion.*

Terms and Conditions:

- 3.a. An authorized desert tortoise biologist shall record each observation of handled desert tortoises. The authorized desert tortoise biologist also shall include the names of all monitors approved for the project, and the activities and level of involvement during the project.
- 3.b. Western shall ensure that a report documenting desert tortoise encounters, incidental take (including capture and relocation, and effectiveness and compliance with the desert tortoise protection measures is prepared and submitted to the Service's Nevada Fish and Wildlife Office in Las Vegas within 30 days of completion of construction of the project.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to use their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

We do not offer any conservation recommendations at this time.

REINITIATION REQUIREMENT

This concludes formal consultation on the actions outlined in your request received February 6, 2014. As required by 50 CFR § 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over an action has been retained (or is authorized by law) and if: (1) The amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

LITERATURE CITED

- Boarman, W. I. and K. H. Berry. 1995. Common ravens in the southwestern United States, 1968-92. Pages 73-75 in E. T. LaRoe, G. F. Farris, C. E. Puckett, P. D. Doran, and M. J. Mac, editors. Our living resources: A report to the nation on the distribution, abundance, and health of U.S. plants, animals, and ecosystems. National Biological Service. Washington, D.C.
- Luckenbach, R. A. 1982. Ecology and management of the desert tortoise (*Gopherus agassizii*) in California. In: R. B. Bury, editor. North American tortoise: Conservation and ecology. U.S. Fish and Wildlife Service, Wildlife Research Report 12, Washington, DC.
- Service (Fish and Wildlife Service). 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California. Available on the internet at: http://www.fws.gov/ventura/speciesinfo/protocols_guidelines/
- Service (Fish and Wildlife Service). 2011. Revised recovery plan for the Mojave population of the desert tortoise. Sacramento, California. 227 pp.

13.0 STANDARD 13 – ENVIRONMENTAL QUALITY PROTECTION

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SECTION 13.1--CONTRACTOR FURNISHED DATA

RECYCLED MATERIALS QUANTITY REPORT: Submit quantities of recycled materials listed in Section 13.6, "Recycled Materials Quantities", to the COR prior to submittal of final invoice. Final payment will be withheld until this submittal is received.

RECOVERED AND BIOBASED MATERIAL PRODUCTS REPORT: Provide the COR the following information for purchases of items listed in Section 13.7, "Use of Recovered and Biobased Material Products".

Quantity and cost of listed items with recovered or biobased material content and quantity and cost of listed items without recovered or biobased material content prior to submittal of final invoice.

Written justification of listed items if recovered material or biobased material products are not available: 1) competitively within a reasonable time frame; 2) meeting reasonable performance standards as defined in the Standards or Project Specifications; or 3) at a reasonable price.

Final payment will be withheld until this submittal is received.

RECLAIMED REFRIGERANT RECEIPT: A receipt from the reclaimer stating that the refrigerant was reclaimed, the amount and type of refrigerant, and the date shall be submitted to the COR prior to submittal of final invoice in accordance with Section 13.8.5, "Refrigerants and Receipts".

WASTE MATERIAL QUANTITY REPORT: Submit quantities of total project waste material disposal as listed below to the COR prior to submittal of final invoice in accordance with Section 13.8.8, "Waste Material Quantity Report".

Unregulated Wastes (i.e., trash): Volume in cubic yards or weight in pounds.

Hazardous or Universal Wastes: Weight in pounds.

PCB Wastes: Weight in pounds.

Other regulated wastes (e.g., lead-based paint or asbestos): Weight in pounds (specify type of waste in report).

SPILL PREVENTION NOTIFICATION AND CLEANUP PLAN (Plan): Submit the Plan as described in Section 13.10.2, "Spill Prevention Notification and Cleanup Plan", to the COR for review and comment 14 days prior to start of work. Review of the plan is for the purpose of determining compliance with the specifications only and shall not relieve the Contractor of the responsibility for compliance with all Federal, State, and Local regulations.

PREVENTION OF AIR POLLUTION: Submit a copy of permits, if required, as described in 13.13, "Prevention of Air Pollution" to the COR 14 days prior to the start of work.

ASBESTOS LICENSES OR CERTIFICATIONS: Submit a copy of licenses, certifications, Demolition and Renovation Notifications and Permits for asbestos work as described in 13.14, "Handling and

Management of Asbestos Containing Material" to the COR 14 days prior to work. Submit copies of certificates of disposal and/or receipts for waste to the COR prior to submittal of final invoice.

LEAD PAINT NOTICES: Submit a copy of lead paint notices with contractor and recipient signatures as described in 13.15, "Material with Lead-based Paint" to the COR prior to submittal of final invoice. Submit copies of certificates of disposal and/or receipts for waste to the COR prior to submittal of final invoice.

PCB TEST REPORT: Submit a PCB test report as described in 13.17, "Testing, Draining, Removal, and Disposal of Oil-filled Electrical Equipment", prior to draining, removal, or disposal of oil or oil-filled equipment that is designated for disposal.

OIL AND OIL-FILLED ELECTRICAL EQUIPMENT RECEIPT: Obtain and submit a receipt for oil and oil-filled equipment transported and disposed, recycled, or reprocessed as described in 13.17, "Testing, Draining, Removal, and Disposal of Oil-filled Electrical Equipment", to the COR prior to submittal of final invoice.

OSHA PCB TRAINING RECORDS: Submit employee training documentation records to the COR 14 days prior to the start of work as described in 13.18.1.

CLEANUP WORK MANAGEMENT PLAN: Submit a Cleanup Work Management Plan as described in 13.18, "Removal of Oil-contaminated Material" to the COR for review and comment 14 days prior to the start of work. Review of the plan is for the purpose of determining compliance with the specifications only and shall not relieve the Contractor of the responsibility for compliance with all Federal, State, and Local regulations.

POST CLEANUP REPORT: Submit a Post-Cleanup Report as described in 13.18, "Removal of Oil-contaminated Material" to the COR prior to submittal of final invoice.

SECTION 13.2--ENVIRONMENTAL REQUIREMENTS

Comply with Federal, State, and local environmental laws and regulations. The sections in this Standard further specify the requirements.

SECTION 13.3--LANDSCAPE PRESERVATION

GENERAL: Preserve landscape features in accordance with the contract clause titled "Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements."

CONSTRUCTION ROADS: Location, alignment, and grade of construction roads shall be subject to the COR's approval. When no longer required, surfaces of construction roads shall be scarified to facilitate natural revegetation, provide for proper drainage, and prevent erosion. If re-vegetation is required, use seed mixtures as recommended by Natural Resources Conservation Service or other land managing agency as appropriate.

CONSTRUCTION FACILITIES: Shop, office, and yard areas shall be located and arranged in a manner to preserve trees and vegetation to the maximum practicable extent and prevent impact on sensitive riparian areas and flood plains. Storage and construction buildings, including concrete footings and slabs, shall be removed from the site prior to contract completion. The area shall be re-graded as required so that all surfaces drain naturally, blend with the natural terrain, and are left in a condition that will facilitate natural revegetation, provide for proper drainage, and prevent erosion or transport of sediment and pollutants. If re-vegetation is required, use seed mixtures as recommended by Natural Resources Conservation Service or other land managing agency as appropriate.

SECTION 13.4--PRESERVATION OF CULTURAL AND PALEONTOLOGICAL RESOURCES

GENERAL: Do not remove or alter cultural artifacts or paleontological resources (fossils). Cultural artifacts may be of scientific or cultural importance and includes, but is not limited to bones, pottery, glass, projectile points (arrowheads), other stone or metal tools, historic buildings, and features. Paleontological resources can be of scientific importance and include mineralized animals and plants or trace fossils such as footprints. Both cultural and paleontological resources are protected by Federal Regulations during Federal construction projects. Contractor shall restrict all ground disturbing activities to areas that have been surveyed by Western for cultural or paleontological resources and as specified in accordance with Standard 1 – General Requirements, Sections 1.3.1 Rights-of-way and 1.3.2 Access to the Work and Haul Routes.

KNOWN CULTURAL OR PALEONTOLOGICAL SITES: Following issuance of notice to proceed, Western will provide drawings or maps showing sensitive areas located on or immediately adjacent to the transmission line right-of-way and/or facility. These areas shall be considered avoidance areas. Prior to any construction activity, the avoidance areas shall be marked on the ground in a manner approved by the COR. Instruct employees, subcontractors, and others that vehicular or equipment access to these areas is prohibited. If access is absolutely necessary, first obtain approval from the COR. Western will remove the markings during or following final cleanup. For some project work, Western will require an archaeological, paleontological or tribal monitor at or near cultural or paleontological site locations. The contractor, contractor's employees, and subcontractors shall work with the monitor to insure that sensitive areas are avoided. Where monitors are required, the monitor shall meet with the crew each morning to go over the day's work. The monitor will also conduct awareness training for all contractors prior to any work in the field. Untrained personnel shall not be allowed in the construction area. For sensitive areas requiring a monitor, the contractor may not access those areas without a monitor being present.

UNKNOWN CULTURAL OR PALEONTOLOGICAL SITES: On rare occasions cultural or paleontological sites may be discovered during excavation or other earth-moving activities.

Reporting: If evidence of a cultural or paleontological site is discovered, cease work in the area immediately and notify the COR of the location and nature of the findings. If a monitor is present, the monitor should also be notified. Stop all activities within a 200-foot radius of the discovery and do not proceed with work within that radius until directed to do so by the COR.

Care of Evidence: Protect the area. Do not remove, handle, alter, or damage artifacts or fossils uncovered during construction.

SECTION 13.6--RECYCLED MATERIALS QUANTITIES

GENERAL: All materials generated from the project that can be recycled, shall be. Record quantities of material by category that is salvaged, recycled, reused, or reprocessed, including:

Transformers, Breakers: Weight without oil.

Aluminum Conductor – Steel Reinforced (ACSR): Weight in pounds or tons.

Steel: Weight in pounds or tons.

Aluminum: Weight in pounds or tons.

Copper: Weight in pounds or tons.

Other Metals: Weight in pounds or tons.

Oil: Gallons (separate by type - less than 2 ppm PCB, 2 to 50 ppm PCB, and 50 or greater ppm PCB).

Gravel, Asphalt, Or Concrete: Weight in pounds or tons.

Batteries: Weight in pounds.

Treated Wood Utility Poles and Crossarms: Weight in pounds.

Wood construction material: Weight in pounds.

Cardboard: Weight in pounds.

Porcelain Insulators: Weight in pounds.

RECYCLED MATERIAL QUANTITY REPORT: Submit quantities (pounds or metric tons) of all recycled material by category to the COR within 30 days of recycling and prior to submittal of final invoice.

SECTION 13.7--USE OF RECOVERED MATERIAL AND BIOBASED MATERIAL PRODUCTS

RECOVERED MATERIAL PRODUCTS: If the products listed below or other products listed at <http://www.epa.gov/epawaste/conserve/tools/cpg/products/index.htm> are obtained as part of this project, purchase the items with the highest recovered material content possible unless recovered material products are not available: 1) competitively within a reasonable time frame; 2) meeting reasonable performance standards as defined in the Standards or Project Specifications; or 3) at a reasonable price.

Construction Products:

- Building Insulation Products
- Carpet
- Carpet cushion
- Cement and concrete containing coal fly ash, ground granulated blast furnace slag, cenospheres, or silica fume
- Consolidated and reprocessed latex paint
- Floor Tiles
- Flowable fill
- Laminated Paperboard
- Modular threshold ramps
- Nonpressure pipe
- Patio Blocks
- Railroad grade crossing surfaces
- Roofing materials
- Shower and restroom dividers/partitions
- Signage
- Structural Fiberboard

BIOBASED MATERIAL PRODUCTS: If the products listed at <http://www.biobased.oce.usda.gov> are obtained as part of this project, purchase the items with the highest biobased content possible and

no less than the percent indicated for each product unless biobased material products are not available: 1) competitively within a reasonable time frame, 2) meeting reasonable performance standards as defined in the Standards or Project Specifications, or 3) at a reasonable price.

NOTE: Western exempts purchase of bio-based transformers rated above 1 MVA until May 13, 2011 for performance reasons.

RECOVERED MATERIAL AND BIOBASED MATERIAL PRODUCTS REPORT: Provide the COR the following information for purchases of those items listed above:

Quantity and cost of listed items with recovered or biobased material content and quantity and cost of listed items without recovered or biobased material content prior to submittal of final invoice.

Written justification of listed items if recovered material or biobased material products are not available: 1) competitively within a reasonable time frame; 2) meeting reasonable performance standards as defined in the Standards or Project Specifications; or 3) at a reasonable price.

SECTION 13.8--DISPOSAL OF WASTE MATERIAL

GENERAL: Dispose or recycle waste material in accordance with applicable Federal, State and local regulations and ordinances. In addition to the requirements of the Contract Clause "Cleaning Up", remove all waste material from the construction site. No waste shall be left on Western property, right-of-way, or easement. Burning or burying of waste material is not permitted.

HAZARDOUS, UNIVERSAL, AND NON-HAZARDOUS WASTES: Manage hazardous, universal, and non-hazardous wastes in accordance with State and Federal regulations.

RECYCLABLE MATERIAL: Reduce wastes, including excess Western material, by recycling, reusing, or reprocessing. Examples of recycling, reusing, or reprocessing includes, but is not limited to, reprocessing of solvents; recycling cardboard; and salvaging scrap metals.

REFRIGERANTS AND RECEIPTS: Refrigerants from air conditioners, water coolers, refrigerators, ice machines and vehicles shall be reclaimed with certified equipment operated by certified technicians if the item is to be disposed. Refrigerants shall be reclaimed and not vented to the atmosphere. A receipt from the reclaimer stating that the refrigerant was reclaimed, the amount and type of refrigerant, and the date shall be submitted to the COR prior to submittal of final invoice.

HALONS: Equipment containing halons that must be tested, maintained, serviced, repaired, or disposed must be handled according to EPA requirements and by technicians trained according to those requirements.

WASTE MATERIAL QUANTITY REPORT: Submit quantities of total project waste material disposal as listed below to the COR prior to submittal of final invoice.

Unregulated Wastes (i.e., trash): Volume in cubic yards or weight in pounds.

Hazardous or Universal Wastes: Weight in pounds.

PCB Wastes: Weight in pounds.

Other regulated wastes (e.g., lead-based paint or asbestos): Weight in pounds (specify type of waste in report).

SECTION 13.9--CONTRACTOR'S LIABILITY FOR REGULATED MATERIAL INCIDENTS

GENERAL: The Contractor is solely liable for all expenses related to spills, mishandling, or incidents of regulated material attributable to his actions or the actions of his subcontractors. This includes all response, investigation, cleanup, disposal, permitting, reporting, and requirements from applicable environmental regulation agencies.

SUPERVISION: The actions of the Contractor employees, agents, and subcontractors shall be properly managed at all times on Western property or while transporting Western's (or previously owned by Western) regulated material and equipment.

SECTION 13.10--POLLUTANT SPILL PREVENTION, NOTIFICATION, AND CLEANUP

GENERAL: Provide measures to prevent spills of pollutants and respond appropriately if a spill occurs. A pollutant includes any hazardous or non-hazardous substance that when spilled, will contaminate soil, surface water, or ground water. This includes any solvent, fuel, oil, paint, pesticide, engine coolants, and similar substances.

SPILL PREVENTION NOTIFICATION AND CLEANUP PLAN (Plan): Provide the Plan to the COR for review and comment 14 days prior to start of work. Review of the plan is for the purpose of determining compliance with the specifications only and shall not relieve the Contractor of the responsibility for compliance with all Federal, State, and Local regulations. Include the following in the Plan:

Spill Prevention measures. Describe the work practices or precautions that will be used at the job site to prevent spills. These may include engineered or manufactured techniques such as installation of berms around fuel and oil tanks; Storage of fuels, paints, and other substances in spill proof containers; and management techniques such as requiring workers to handle material in certain ways.

Notification. Most States and the Environmental Protection Agency require by regulation, that anyone who spills certain types of pollutants in certain quantities notify them of the spill within a specific time period. Some of these agencies require written follow up reports and cleanup reports. Include in the Plan, the types of spills for which notification would be made, the agencies notified, the information the agency requires during the notification, and the telephone numbers for notification.

Employee Awareness Training. Describe employee awareness training procedures that will be implemented to ensure personnel are knowledgeable about the contents of the Plan and the need for notification.

Commitment of Manpower, Equipment and Material. Identify the arrangements made to respond to spills, including the commitment of manpower, equipment and material.

If applicable, address all requirements of **40CFR112** pertaining to Spill Prevention, Control and Countermeasures Plans.

TANKER OIL SPILL PREVENTION AND RESPONSE PLAN: Provide a Tanker Oil Spill Prevention and Response Plan as required by the Department of Transportation if oil tankers with volume of 3,500 gallons or more are used as part of the project. Submit the Tanker Oil Spill Prevention and Response Plan to the COR for review and comment 14 days prior to start of work. Review of the plan is for the purpose of determining compliance with the specifications only and shall not relieve the Contractor of the responsibility for compliance with all Federal, State, and Local regulations.

SECTION 13.13--PREVENTION OF AIR POLLUTION

GENERAL: Ensure that construction activities and the operation of equipment are undertaken to reduce the emission of air pollutants. Contractor shall complete and submit a Dust Control Permit Application Form plus pay any permit fees to Clark County Department of Air Quality before construction activities begin within Clark County. Submit the appropriate fee (depending on total surface area disturbed) with your Dust Control Permit Application Form. A copy of Permit and Plan application Forms will need to be submitted to the COR 14 days prior to the start of work. Check http://www.clarkcountynv.gov/depts/AirQuality/Pages/Compliance_DustPermitting.aspx for additional information. The Contractor shall comply with all regulations as required by Clark County Department of Air Quality.

CONSTRUCTION ACTIVITIES CONSIST OF: Land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling/storing/loading excavated materials, or any other activity associated with land development which results in a disturbed surface area or dust generating operations, equal to or greater than 0.1 acres.

MACHINERY AIR EMISSIONS: The Contractor and subcontractor machinery shall have, and shall use the air emissions control devices required by Federal, State or Local Regulation or ordinance.

DUST ABATEMENT: Dust shall be controlled. Oil shall not be used as a dust suppressant. Dust suppressants shall be approved by the COR prior to use.

SECTION 13.14--HANDLING AND MANAGEMENT OF ASBESTOS CONTAINING MATERIAL

- GENERAL:** Contractor shall have and provide the COR the appropriate Federal, State, Tribal or local licenses or certifications prior to disturbing any regulated asbestos-containing material. Before Asbestos Abatement, submit to Clark County Department of Air Quality, a written NESHAP Notification of Asbestos Abatement 10 working days prior to beginning activities.. Before the building is demolished, submit Demolition Notification Form from Clark County Department of Air Quality), 10 working days prior before the demolition project is scheduled to start. Submit a copy of licenses, certifications, Demolition and Renovation Notifications and Permits for asbestos work to the COR 14 days prior to work. Ensure: 1) worker and public safety requirements are fully implemented and 2) proper handling, transportation, and disposal of asbestos containing material. **The Contractor is responsible for any and all fees associated with submittal of both NESHAP and Demolition forms. For the application form or need additional information check online at http://www.clarkcountynv.gov/depts/AirQuality/Pages/Compliance_AsbestosForms.aspx.**

TRANSPORTATION OF ASBESTOS WASTE: Comply with Department of Transportation, Environmental Protection Agency, and State and Local requirements when transporting asbestos wastes.

CERTIFICATES OF DISPOSAL AND RECEIPTS: Obtain certificates of disposal for waste if the waste is a hazardous waste or receipts if the waste is a non-hazardous waste. Submit copies to the COR prior to submittal of final invoice. Final invoice shall include quantity and cost per square foot for asbestos surveying and quantity and cost per square foot for asbestos removal, or containment and or disposal.

SECTION 13.15--MATERIAL WITH LEAD-BASED PAINT

GENERAL: Comply with all applicable Federal, State and local regulations concerning work with lead-based paint, disposal of material painted with lead-based paint, and management of these materials. OSHA and General Industry Standards apply to worker safety and right-to-know issues. Federal EPA and State agencies regulate waste disposal and air quality issues.

It has been determined that select building surfaces are coated with lead-based paint, specifically a yellow exterior roof ladder near the southwest corner of the original building, and a reddish-orange steel beam in the mezzanine.

TRANSFER OF PROPERTY: If lead-based paint containing equipment or material is to be given away or sold for reuse, scrap, or reclaiming, the contractor shall provide a written notice to the recipient of the material stating that the material contains lead-based paint and the Hazardous Waste regulations may apply to the waste or the paint in some circumstances. The new owner must also be notified that they may be responsible for compliance with OSHA requirements if the material is to be cut, sanded, abraded, or stripped of paint. Submit a copy of lead paint notices with contractor and recipient signatures to the COR prior to submittal of final invoice.

CERTIFICATES OF DISPOSAL AND RECEIPTS: Obtain certificates of disposal for waste if the waste is a hazardous waste or receipts if the waste is a non-hazardous waste. Submit copies to the COR prior to submittal of final invoice.

SECTION 13.16--PREVENTION OF WATER POLLUTION

GENERAL: Ensure that surface and ground water is protected from pollution caused by construction activities and comply with applicable regulations and requirements. Ensure that streams, waterways and other courses are not obstructed or impaired unless the appropriate Federal, State or local permits have been obtained.

PERMITS: Ensure that:

A National Pollutant Discharge Elimination System (NPDES) permit is obtained from the US Environmental Protection Agency or State as appropriate if the disturbed construction area equals 1 acre or more. Disturbed areas include staging, parking, fueling, stockpiling, and any other construction related activities. Refer to www.epa.gov/npdes/stormwater for directions and forms.

A dewatering permit is obtained from the appropriate agency if required for construction dewatering activities.

Copies of permits and plans, approved by the appropriate regulating agencies, are submitted to the COR 14 days prior to start of work.

EXCAVATED MATERIAL AND OTHER CONTAMINANT SOURCES: Control runoff from excavated areas and piles of excavated material, construction material or wastes (to include truck washing and concrete wastes), and chemical products such as oil, grease, solvents, fuels, pesticides, and pole treatment compounds. Excavated material or other construction material shall not be stockpiled or deposited near or on streambanks, lake shorelines, ditches, irrigation canals, or other areas where run-off could impact the environment.

MANAGEMENT OF WASTE CONCRETE OR WASHING OF CONCRETE TRUCKS: Do not permit the washing of concrete trucks or disposal of excess concrete in any ditch, canal, stream, or other surface water. Concrete wastes shall be disposed in accordance with all Federal, State, and local regulations. Concrete wastes shall not be disposed of on any Western property, right-of-way, or easement; or on any streets, roads, or property without the owner's consent.

STREAM CROSSINGS: Crossing of any stream or other waterway shall be done in compliance with Federal, State, and local regulations. Crossing of some waterways may be prohibited by landowners, Federal or State agencies or require permits.

SECTION 13.17--TESTING, DRAINING, REMOVAL, AND DISPOSAL OF OIL-FILLED ELECTRICAL EQUIPMENT

SAMPLING AND TESTING OF INSULATING OIL FOR PCB CONTENT: Sample and analyze the oil of electrical equipment (which includes storage tanks) for PCB's. Use analytical methods approved by EPA and applicable State regulations. Decontaminate sampling equipment according to documented good laboratory practices (these can be contractor developed or EPA standards). Use only laboratories approved by Western. The COR will furnish a list of approved laboratories.

PCB TEST REPORT: Provide PCB test reports that contain the information below for disposing of oil-filled electrical equipment. Submit the PCB test report prior to draining, removal, or disposal of oil or oil-filled equipment that is designated for disposal.

- Name and address of the laboratory
- Description of the electrical equipment (e.g. transformer, breaker)
- Serial number for the electrical equipment.
- Date sampled
- Date tested
- PCB contents in parts per million (ppm)
- Unique identification number of container into which the oil was drained (i.e., number of drum, tank, tanker, etc.)

OIL CONTAINING PCB: Comply with the Federal regulations pertaining to PCBs found at Title 40, Part 761 of the U.S. Code of Federal Regulations (40 CFR 761).

REMOVAL AND DISPOSAL OF INSULATING OIL AND OIL-FILLED ELECTRICAL EQUIPMENT: Once the PCB content of the oil has been identified from laboratory results, the oil shall be transported and disposed, recycled, or reprocessed according to 40 CFR 761 (if applicable), Resource Conservation and Recovery Act (RCRA) "used oil", and other applicable regulations. Used oil may be transported only by EPA-registered used oil transporters. The oil must be stored in containers that are labeled "Used Oil." Use only transporters and disposal sites approved by Western.

OIL AND OIL-FILLED ELECTRICAL EQUIPMENT RECEIPT: Obtain and submit a receipt for oil and oil-filled equipment transported and disposed, recycled, or reprocessed to the COR prior to submittal of final invoice.

SECTION 13.18--REMOVAL OF OIL-CONTAMINATED MATERIAL

GENERAL: Removing oil-contaminated material includes excavating, stockpiling, testing, transporting, cleaning, and disposing of these material. Personnel working with PCBs shall be trained in accordance with OSHA requirements. Submit employee training documentation records to the COR 14 days prior to the start of work.

CLEANUP WORK MANAGEMENT PLAN: Provide a Cleanup Work Management Plan that has been approved by applicable Federal, State, or Local environmental regulation agencies. Submit the plan to the COR for review and comment 14 days prior to the start of work. Review of the plan is for the purpose of determining compliance with the specifications only and shall not relieve the Contractor of the responsibility for compliance with all Federal, State, and Local regulations. The plan shall address on-site excavation of contaminated soil and debris and include the following:

- Identification of contaminants and areas to be excavated
- Method of excavation
- Level of personnel/subcontractor training

- Safety and health provisions
- Sampling requirements including quality control, laboratory to be used
- Management of excavated soils and debris
- Disposal methods, including transportation to disposal

EXCAVATION AND CLEANUP: Comply with the requirements of Title 40, Part 761 of the U.S. Code of Federal Regulations (40 CFR 761).

TEMPORARY STOCKPILING: Excavated material, stockpiled on site during construction, shall be stored on heavy plastic and covered to prevent wind and rain erosion at a location designated by the COR.

SAMPLING AND TESTING: Sample contaminated debris and areas of excavation to ensure that contamination is removed. Use personnel with experience in sampling and, in particular, with experience in PCB cleanup if PCBs are involved. Use analytical methods approved by EPA and applicable State regulations.

TRANSPORTATION AND DISPOSAL OF CONTAMINATED MATERIAL: The Contractor shall be responsible and liable for the proper loading, transportation, and disposal of contaminated material according to Federal, State, and local requirements. Use only transporters and disposal sites approved by Western.

POST CLEANUP REPORT: Provide a Post-Cleanup Report that describes the cleanup of contaminated soils and debris. Submit the report to the COR prior to submittal of final invoice. The report shall contain the following information:

- Site map showing the areas cleaned
- Description of the operations involved in excavating, storing, sampling, and testing, and disposal
- Sampling and analysis results including 1) Name and address of the laboratory, 2) sample locations, 3) sample dates, 4) analysis dates, 5) contents of contaminant (e.g. PCB or total petroleum hydrocarbons) in parts per million (ppm)
- Certification by the Contractor that the cleanup requirements were met
- Copies of any manifests, bills of lading, and disposal certificates
- Copies of correspondence with regulatory agencies that support completion of the cleanup

SECTION 13.19—CONSERVATION OF NATURAL RESOURCES

GENERAL: Federal law prohibits the "take" of endangered, threatened, proposed or candidate wildlife and plants, and destruction or adverse modification of designated Critical Habitat. Federal law also prohibits the "take" of birds protected by the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act. "Take" means to pursue, hunt, shoot, wound, kill, trap, capture or collect a protected animal or any part thereof, or attempt to do any of those things without a permit from U.S. Fish and Wildlife Service. The Contractor will take precautions to avoid harming other wildlife species. Contractor shall restrict all ground disturbing activities to areas that have been surveyed by Western for natural resources and as specified in accordance with Standard 1 – General Requirements, Sections 1.3.1 Rights-of-way and 1.3.2 Access to the Work and Haul Routes.

KNOWN OCCURRENCE OF PROTECTED SPECIES OR HABITAT: Because federally listed species are known to occur in the project area, the following conditions shall be carried out for the duration of the project:

Migratory Birds

1. Project activities will be conducted outside the breeding bird season, as feasible. If project activities will occur during the breeding bird season (generally 1 April to 1 August), a qualified

biologist will conduct pre-construction surveys for nesting birds. Project activities may not disturb an active bird nest.

2. If an active bird nest is located on or adjacent to the project limits, a qualified biologist will designate and flag an appropriate buffer area around the nest where activities will not be permitted. The buffer area will be based on the bird species and nature of the project activity.
3. If an active bird nest is located such that it cannot be avoided, the qualified biologist will immediately notify the COR and the biologist. An active bird nest may not be disturbed or removed without a permit from the USFWS; Western will review the need for and obtain any necessary permits relative to migratory birds.

Mojave Desert Tortoise

4. Prior to initiation of any project activities, Western will provide a desert tortoise awareness program to all personnel who will be working onsite, including but not limited to contractors, contractors' employees, supervisors, inspectors, and subcontractors. This program will contain information concerning the biology and distribution of the desert tortoise and other sensitive species, their legal status and occurrence in the project area; the definition of "take" and associated penalties; speed limits; the terms and conditions of this biological opinion including speed limits; the means by which employees can help facilitate this process; responsibilities of workers, monitors, biologists, etc.; and reporting procedures to be implemented in case of desert tortoise encounters or non-compliance with these measures.
5. An authorized desert tortoise biologist, as approved by the USFWS, will be onsite during project activities during the active desert tortoise season (1 March-31 October) and during any project activities involving ground disturbance or subsurface excavation. A biological monitor may be onsite during other activities.
6. Once ground-disturbing and subsurface excavation activities have been completed, Western, in coordination with the authorized desert tortoise biologist and the USFWS, may determine that project activities can continue without an onsite monitor; however, a biological monitor will be on-call for the duration of the project in the event that tortoises are observed in the area.
7. Tortoises discovered to be in imminent danger during project activities may only be moved out of harm's way by an authorized desert tortoise biologist and following the terms of the biological opinion issued for the project. Desert tortoises shall be handled only by qualified individuals following recognized protocol (USFWS 2009). Authorized desert tortoise biologists will complete the Qualifications Form and submit it to the USFWS for review and approval as appropriate.
8. Desert tortoises shall be treated in a manner to ensure that they do not overheat, exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises will be kept shaded at all times until it is safe to release them. No desert tortoise will be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F. Ambient air temperature will be measured in the shade, protected from wind, at a height of 2 inches above the ground surface. No desert tortoise will be captured if the ambient air temperature is anticipated to exceed 95°F before handling and relocation can be completed. If the ambient air temperature exceeds 95°F during handling or processing, desert tortoises will be kept shaded in an environment that does not exceed 95°F and the animals will not be released until ambient air temperature declines to below 95°F.
9. A litter-control program shall be implemented to minimize predation on tortoises by ravens drawn to the project site. This program will include the use of covered, raven-proof (sealed or locked) trash receptacles, removal of trash from project areas to the trash receptacles following the close of each work day, and the proper disposal of trash in a designated solid waste disposal facility. Appropriate precautions must be taken to prevent litter from blowing out along the road when

- trash is removed from the site. The litter-control program will apply to all actions. A litter-control program will be implemented by the responsible Federal agency or their contractor, to minimize predation on tortoises by ravens and other predators drawn to the project site.
10. Prior to starting operations each day in project areas which are not totally enclosed by tortoise-proof fencing and cattle guards, **the contractor** shall be responsible for conducting a desert tortoise inspection in coordination with the authorized desert tortoise biologist or monitor using techniques approved by the USFWS. The inspection will determine if any desert tortoises are present in the following locations:
 - a. Around and under all equipment;
 - b. In and around all disturbed areas to include stockpiles and reject materials areas;
 - c. In and around all routes of ingress and egress; and
 - d. In and around all other areas where the operation might expand to during that day.If a tortoise is discovered during this inspection or later in the day, the operator will immediately cease all operations in the immediate vicinity of the tortoise and will immediately notify the biologist.
 11. A speed limit of 25 miles per hour will be required for all vehicles on the project site and unposted dirt access roads.
 12. Overnight parking and storage of equipment and materials, including stockpiling, will occur in previously-disturbed areas or areas to be disturbed that have been cleared by a qualified desert tortoise biologist. If not possible, areas for overnight parking and storage of equipment will be designated by Western based on recommendations of a qualified desert tortoise biologist.
 13. Western will submit a report to the USFWS within 30 days of completion of the project, showing the number of acres disturbed and the number of tortoises taken, which includes capture and displacement, killed, injured, and harassed by other means, during project activities.

UNKNOWN OCCURRENCE OF PROTECTED SPECIES OR HABITAT: If evidence of a protected species is found in the project area, the contractor shall immediately notify the COR and provide the location and nature of the findings. The contractor shall stop all activity within 200 feet of the protected species or habitat and not proceed until directed to do so by the COR.