



Department of Administrative Services

Purchasing and Contracts

500 S Grand Central Pky 4th Fl • Box 551217 • Las Vegas NV 89155-1217
(702) 455-2897 • Fax (702) 386-4914

Sabra Smith Newby, Chief Administrative Officer
Adleen B. Stidhum, Purchasing Administrator

CLARK COUNTY, NEVADA BID NO. 603219-14 ORCHARD DETENTION BASIN

June 13, 2014

ADDENDUM NO. 5

CLARIFICATION

The BLM has confirmed that they should be able to supply Bid Items 212.02 through 212.07. The contractor would have to remove these materials from the BLM stockpile location at Ann Road and the Clark County 215 Bruce Woodbury Beltway or another salvage yard as identified by the BLM. The contractor would need to coordinate salvage with the BLM botanist; BLM would provide necessary transportation permits. Bidders are directed to Subsection 212.02.03 Nursery Plant Materials, for additional details.

INVITATION TO BID

1. The Bid Opening date of June 19, 2014 at 2:15:00 p.m. **remains unchanged.**

PLANS

2. Sheet DT-9. EXPANSION JOINT AND WEEPHOLE @ CHUTE BLOCK detail. The referenced Mira Drain 6900 shall be changed to Mira Drain 6000. A revised Sheet DT-9 is attached.
3. Sheet L-1. Limits of Treatment C have changed as shown. Note No. 3 has changed. A revised Sheet L-1 is attached.
4. Sheet L-2. Limits of Treatment C have changed as shown. Note No. 3 has changed. A revised sheet L-2 is attached.

BID FORM

5. **Replace** the existing Bid Form Pages 4-1 through 4-4 with the attached Revised Bid Form, Pages 4-2 through 4-5. Changes are indicated in **bold** in the Bid Form. Changes are summarized as follows:

Revise quantity of Bid Item 302.01 TYPE II AGGREGATE BASE to 1,020 CY
Revise quantity of Bid Item 616.03 CHAIN SEPARATED CONCRETE BARRIER to 4,427 LF

SPECIAL PROVISIONS

TABLE OF CONTENTS

6. **Delete** Section 310 SOIL CEMENT SLOPE TREATMENT of the Table of Contents.

SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

7. **Add** the following sheets after the February 17, 2012 Division of Water Resources letter:
File NV10809PERMIT.pdf, attached.
8. **Delete** Exhibit A, the BLM standard stipulations N-78039, N-81864, N85597, pages 2 of 14 through 14 of 14, and replace with the following:

File Orchard.Basin.Grant.N-85597.pdf, attached
File Los.Feliz.Harney to Charleston.Grant.N-81864.pdf, attached
File Los.Feliz.Sahara to Harney.Grant.N-84252-A.pdf.

Contractor must comply with all stipulations set forth within these grants.

Except as modified herein, all other bid specifications, terms, conditions, and special provisions shall remain the same.

ISSUED BY:



THOMAS E. BOLDT, C.P.M.
Senior Purchasing Analyst

Attachment(s): Sheet DT-9
Sheet L-1
Sheet L-2
Revised Bid Form pages 4-1 through 4-4
NV10809Permit
Orchard.Basin.Grant.N-85597.pdf
Los.Feliz.Harney to Charleston.Grant.N-81864.pdf
Los.Feliz.Sahara to Harney.Grant.N-84252-A.pdf

Cc: Mona Stammetti, P.E., Public Works
Joe Yatson, P.E., Public Works
Mike Mamer, Public Works
Cindy Beauchamp, Public Works

CLARK COUNTY, NEVADA

BID FORM

BID NO. 603219-14
ORCHARD DETENTION BASIN
PWP NUMBER: CL-2014-147
Revised per Addendum No. 5

(NAME)

(ADDRESS)

I, THE UNDERSIGNED BIDDER:

1. Agree, if awarded this Contract, I will complete all work for which a Contract may be awarded and to furnish any and all labor, equipment, materials, transportation, and other facilities required for the services as set forth in the Bidding and Contract Documents.
2. Have examined the Contract Documents and the site(s) for the proposed work and satisfied themselves as to the character, quality of work to be performed, materials to be furnished and as to the requirements of the specifications.
3. Have completed all information in the blanks provided and have submitted the following within this Bid:
 - a) Have listed the name of each Subcontractor which will be paid an amount exceeding five percent (5%) of the Total Base Bid amount.
 - b) Attached a bid security (in the form of, at my option, a Cashiers Check, Certified Check, Money Order, or Bid Bond in favor of the Owner in the amount of five percent (5%) of the Total Base Bid amount.
 - c) If claiming the preference eligibility, I have submitted a valid Certificate of Eligibility with this Bid.
4. I acknowledge that if I am one of the three apparent low bidders at the bid opening, and if I have listed Subcontractor(s) pursuant to NRS 338.141, I must submit Bid Attachment 2 within two-hours after completion of the bid opening pursuant to the Instructions to Bidders, forms must be submitted via hand delivery or email to COUNTYPURCHASING@CLARKCOUNTYNV.GOV and I understand that hand delivery is recommended, and Owner shall not be responsible for lists received after the two-hour time limit, regardless of the reason. I understand that submission after the two-hour time limit is not allowed and will be returned to me and the bid will be deemed non-responsive. I acknowledge that for:
 - a) Projects UNDER \$5,000,000
I need to list **only those Subcontractors** that will provide labor/improvements exceeding \$50,000.00.
5. I acknowledge that if I am one of the three apparent low bidders at bid opening, and if I have submitted a valid Certificate of Eligibility as described in 3 c above, I must submit Bid Attachment 3, Affidavit pertaining to preference eligibility, within two-hours after completion of the bid opening pursuant to the General Conditions. The forms must be submitted via hand delivery or email to COUNTYPURCHASING@CLARKCOUNTYNV.GOV and I understand hand delivery is recommended. Owner shall not be responsible for lists received after the two-hour time limit, regardless of the reason. I understand that submission after the two-hour time limit is not allowed and will be returned to me and the bid will be deemed non-responsive.
6. I acknowledge that if notified that I am the low bidder, I must submit the Disclosure of Ownership/Principals form within 24-hours of request.
7. I acknowledge that my bid is based on the current State of Nevada prevailing wages.
8. I acknowledge that I have not breached a public work contract for which the cost exceeds \$25,000,000, within the preceding year, for failing to comply with NRS 338.147 and the requirements of a contract in which I have submitted within 2 hours of the bid opening an Affidavit pertaining to preference eligibility.

9. Upon faxed or mailed receipt of a Notice of Intent to Award the Contract, I will provide the following submittals within seven business days from receipt of the Notice:
- a) Performance Bond, Labor and Material Payment Bond and a Guaranty Bond, for 100% of the Contract amount as required.
 - b) Certificates of insurance for Commercial General Liability in the amount of \$1,000,000, Automobile Liability in the amount of \$1,000,000, and Workers' Compensation insurance issued by an insurer qualified to underwrite Workers' Compensation insurance in the State of Nevada, as required by law.
10. I acknowledge that if I do not provide the above submittals on or before the seventh business day after receipt of the Notice of Intent to Award; or do not keep the bonds or insurance policies in effect, or allow them to lapse during the performance of the Contract; I will pay over to the Owner the amount of **\$2,000** per day as liquidated damages.
11. I confirm this bid is genuine and is not a sham or collusive, or made in the interest of, or on behalf of any person not herein named, nor that the Bidder in any manner sought to secure for themselves an advantage over any bidders.
12. I further propose and agree that if my bid is accepted, I will commence to perform the work called for by the contract documents on the date specified in the Notice to Proceed and I will complete all work within the calendar days **specified in the General Conditions**.
13. I further propose and agree that I will accept as full compensation for the work to be performed the price written in the Bid Schedule below.
14. I have carefully checked the figures below and the Owner will not be responsible for any error or omissions in the preparation or submission of this Bid.
15. I agree no verbal agreement or conversation with an officer, agent or employee of the owner, either before or after the execution of the contract, shall affect or modify any of the terms or obligations of this Bid.
16. I am responsible to ascertain the number of addenda issued, and I hereby acknowledge receipt of the following addenda:
- Addendum No. _____ dated, _____ Addendum No. _____ dated, _____
- Addendum No. _____ dated, _____ Addendum No. _____ dated, _____
- Addendum No. _____ dated, _____ Addendum No. _____ dated, _____
- Addendum No. _____ dated, _____ Addendum No. _____ dated, _____
- Addendum No. _____ dated, _____ Addendum No. _____ dated, _____
17. I agree to perform all work described in the drawings, specifications, and other documents for the amounts quoted below:

BID SCHEDULE				
ITEM NUMBER	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT	TOTAL
107.01	TRAFFIC CONTROL	225	DAY	\$
109.01	HISTORICAL OWNER CAUSED DELAY ALLOWANCE	20	DAY	\$ 500.00
109.02	ADDITIONAL AMOUNT OVER \$500/DAY	20	DAY	\$
109.03	CONSTRUCTION CONFLICTS AND ADDITIONAL WORK	1	LS	\$ 100,000.00
200.01	MOBILIZATION	1	LS	\$
201.01	CLEARING AND GRUBBING	26	ACRE	\$

BID SCHEDULE				
ITEM NUMBER	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT	TOTAL
202.01	REMOVE CHAIN-LINK FENCE	220	LF	\$
203.01	BASIN EXCAVATION	120,100	CY	\$
203.02	EMBANKMENT	119,360	CY	\$
203.03	OVER-EXCAVATION	10,000	CY	\$
203.04	SUBGRADE PREPARATION	125,840	CY	\$
212.01	SEED	19	ACRE	\$
212.02	PLANTS (HEDGEHOG CACTUS)	30	EA	\$
212.03	PLANTS (CLUSTERED BARREL CACTUS)	30	EA	\$
212.04	PLANTS (BEAVERTAIL CACTUS)	30	EA	\$
212.05	PLANTS (PENCIL CACTUS)	30	EA	\$
212.06	PLANTS (SILVER CHOLLA)	30	EA	\$
212.07	PLANTS (MOJAVE YUCCA)	30	EA	\$
212.08	PLANTS (WHITE BURSAGE)	165	EA	\$
212.09	PLANTS (CREOSOTE BUSH)	165	EA	\$
212.10	PLANT ESTABLISHMENT WORK	1	LS	\$
212.11	DESERT VARNISH	1	LS	\$
212.12	BOULDER CLUSTERS (3)	17	EA	\$
212.13	BOULDER CLUSTERS (5)	17	EA	\$
212.14	BOULDER CLUSTERS (7)	17	EA	\$
212.15	MAINTENANCE AND WARRANTY	1	LS	\$
302.01	TYPE II AGGREGATE BASE (F)	1,020	CY	\$
502.01	OGEE CREST SPILLWAY	1	LS	\$
502.02	NORTH LEVEE INLET STRUCTURE	1	LS	\$
502.03	LOW-LEVEL OUTLET	1	LS	\$
502.04	OUTLET TRANSITION STRUCTURE	1	LS	\$
502.05	MONITORING STATION	1	LS	\$
603.01	36-INCH RCP STORM DRAIN (CLASS III)	30	LF	\$
603.02	60-INCH RCP STORM DRAIN (CLASS V)	500	LF	\$
603.03	36-INCH PRECAST END SECTION	2	EA	\$
609.01	NDOT TYPE 1 MANHOLE	1	EA	\$
609.02	NDOT TYPE 4 MANHOLE – SPECIAL	2	EA	\$
609.03	TYPE 3 INLET	2	EA	\$

BID SCHEDULE				
ITEM NUMBER	ITEM DESCRIPTION	APPROX. QUANTITY	UNIT	TOTAL
610.01	CLASS (III) RIPRAP	15	CY	\$
611.01	CONCRETE SLOPE PAVING	17,100	SY	\$
616.01	PIPE RAILING	1,000	LF	\$
616.03	CHAIN SEPARATED CONCRETE BARRIER	4,427	LF	\$
616.04	PIPE RAIL GATE	2	EA	\$
627.01	PERMANENT SIGN (GROUND MOUNTED)	1	LS	\$
627.02	PERMANENT SIGN (STRUCTURE MOUNTED)	4	EA	\$
627.03	SEDIMENT GAGE	4	EA	\$
627.04	CONCRETE EMBANKMENT DEPTH GAGE	1	EA	\$
637.01	DUST CONTROL	225	DAY	\$
637.02	STORMWATER POLLUTION CONTROL	225	DAY	\$
TOTAL BASE BID				\$

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

Filed **OCT 24 2011**

J- 673
NV _____

APPLICANT MUST NOT FILL IN ABOVE BLANKS

APPLICATION FOR APPROVAL OF THE PLANS AND SPECIFICATIONS FOR
THE CONSTRUCTION, RECONSTRUCTION OR ALTERATION OF A DAM

This Application Involves in No Way the Right to Appropriate Water
To secure the right to appropriate water, application should be made to the State Engineer
on forms which will be furnished upon request.

I, Colin Haggerty of 3930 Howard Hughes Parkway, Suite 300
Name of applicant Address
Las Vegas, NV 89169, hereby make application for the approval of

Plans and Specifications for the Construction of the Orchard Detention Basin dam.
Construction, reconstruction, alteration Name of dam

The owner of the proposed dam is Clark County Department of Public Works
Name of owner
of 500 S. Grand Central Parkway, Las Vegas, NV 89155 State of Nevada
Address

If the owner is a corporation, give name and address of president and secretary:

The applicant is acting for the owner in the legal capacity of Engineer
Agent, Lessee, Trustee, etc.

Location of Dam

1. The source of water to be stored is an Alluvial Fan which is a tributary of the Las Vegas Wash,
and the proposed dam to be located within the NW 1/4, 1/4, Sec. 2
T. 21S, R. 62 E., M.D.B.&M. in Clark County, Nevada further described as
being at Latitude 36.1539 N. Longitude 115.01866 W. (at a point pursuant to NAC 535.210(6b).

Description and Dimensions of Dam

(If for an alteration, the data given below is for the altered dam)

2. Type of dam Earth Embankment 3. Length of crest 1447 ft.
Concrete arch or gravity, earth, rockfill, etc.
4. Height stream bed to spillway crest 23.6 ft. 5. Height foundation to spillway crest 26 ft.
6. Freeboard 6 ft. 7. Thickness at top 20 ft. 8. Thickness at bottom ~190 ft.
Spillway crest to top
9. Slope upstream* 4:1 10. Slope downstream* 4:1 11. Upstream facing Soil Cement
*This information to be supplied for earth or rockfill dams. Concrete or rock paving, etc.
12. Amount of material in dam 63,000 cu. yds. 13. Estimated Cost \$7,500,000.00
14. Spillway data Concrete Ogee Crest Spillway, 300 ft Long, 6 ft High, 12,153 cfs PMF Outflow
Type, capacity, etc.
15. Outlet data 60-inch RCP with 3.35 ft Orifice Plate, 175 cfs 100 yr Outflow
Type, capacity, etc.

16. Elevation of crest of dam 1852 above NAD 1983 datum
Approximate elevation to be given if true elevation not available

17. Area of reservoir at spillway level 26.7 acres. 18. Capacity of reservoir 266 ac. ft.

General Information

19. State the **purpose** of the dam Flood Control
Diversion only; storage only; storage and diversion; debris storage, flood control, etc.

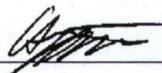
20. State the **use** that is to be made of water None, Timed Release
municipal, domestic, irrigation, power, mining and milling, recreation, stockwatering or none

21. Engineers
Colin Haggerty, PE and Eric "Shou-Ching" Hsu, PE
3930 Howard Hughes Parkway
Las Vegas, NV 89169

Name and address of Engineers preparing plans

22. If the proposed dam is to be built under Federal supervision, state what department has jurisdiction.
N/A

23. The maps, plans and specifications accompanying this application are a part thereof.

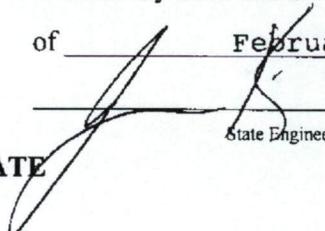
[Signed] 
this 21 day of October, 20 11

**APPROVAL OF APPLICATION NO. J-673, INCLUDING
PLANS AND SPECIFICATIONS**

This Is to Certify That Application No. J-673, including plans and specifications for the
Orchard Dentention Basin dam has
been examined and the same is hereby approved, subject to the following conditions:

Please see exhibit "A".

STATE ENGINEER
2011 OCT 24 11:11:15

Witness my hand and seal this 17 day
of February, 20 12
 P.E.
State Engineer

FILE IN TRIPLICATE

Orchard Detention Basin

EXHIBIT "A"

1. This permit is issued for the construction of an earthen dam having a concrete ogee crest spillway and levees extending from both sides of the dam embankment to divert and temporarily impound stormwater flows from the Frenchmen Mountains area.
2. A Registered Engineer shall make periodic inspections during construction and installation to insure that the construction of the subject facility is built in conformance with the approved plans and specifications.
3. Upon Completion of construction of the subject facility, the Engineer shall submit to the State Engineer a signed completion report certifying that the project was constructed as per approved plans and specifications. The certification shall be accompanied by a set of record drawings (as built) plans, final specifications and a summary of the work performed.
4. A summary of the results of all concrete, soil cement, foundation and embankment compaction tests shall be included in the report of completion. Actions taken regarding those tests failing to meet the minimum requirements stated in the plans and specifications shall be described in the report of completion.
5. When the State Engineer has received the certification, he will notify the Permittee and/or Engineer in writing if water can be impounded.
6. Proof of Completion of Work for the dam and levee structures shall be filed in the office of the State Engineer on or before February 22, 2013.
7. The embankment, spillway, outlet and levees shall be inspected periodically to monitor for any deleterious conditions and debris accumulations.
8. This approval does not waive the requirement that the permit holder obtain other required permits from any and all other Federal, State and local agencies.
9. This review is for only the plans and specifications submitted and the construction of this subject facility does not imply or guarantee that property will be free from flooding or flood damage.
10. Any existing downstream water conveyances structures and their ability to carry any of the flows that may be released from the subject facility are not part of this review.
11. This office, its officials, or employees assume no liability for the information, data or conclusions presented in this submittal. We therefore make no warranties, either expressed or implied, in conducting this review.

17

APN'S: 161-02-201-001 and 161-02-301-001
(renumbered to 161-01-501-001,
161-02-701-001, & 161-02-301-004)

Inst #: 201108040003268
Fees: \$0.00
N/C Fee: \$0.00
08/04/2011 03:08:38 PM
Receipt #: 869161
Requestor:
PUBLIC WORKS CLARK COUNTY
Recorded By: SCA Pgs: 17
DEBBIE CONWAY
CLARK COUNTY RECORDER

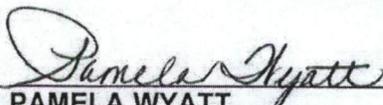
When recorded, return to:
Clark County Dept. of Public Works
Attention: Pamela Wyatt, Right-of-Way
500 S. Grand Central Parkway, #2001
Las Vegas, NV 89106

NOTICE OF RIGHT-OF-WAY GRANT

**ORCHARD DETENTION BASIN PROJECT
BLM GRANT N-85597**

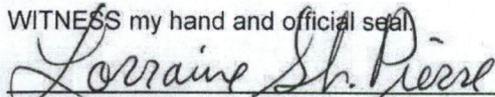
The COUNTY OF CLARK, a political subdivision of the State of Nevada, has received a Right-of-Way Grant from the United States Department of the Interior, Bureau of Land Management, as set forth in the attached **RIGHT-OF-WAY GRANT N-85597, dated August 2, 2011**. The purpose of this grant is to define right-of-way on public lands for the construction, operation, and maintenance of a flood control detention basin, channel, levee system, and related improvements, to provide needed flood protection in the general area. The subject right-of-way is located in Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada.

Assessor's Parcel No.'s: 161-02-201-001 and 161-02-301-001
(renumbered to 161-01-501-001,
161-02-701-001, and 161-02-301-004)


PAMELA WYATT
RIGHT-OF-WAY AGENT II

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On this 4 day of AUG., 2011, personally appeared before me the undersigned, a notary public in and for said County and State PAMELA WYATT who acknowledged to me that he/she/they executed the above instrument for the purposes stated therein.

WITNESS my hand and official seal

NOTARY PUBLIC in and for said County and State

 LORRAINE ST. PIERRE
NOTARY PUBLIC
STATE OF NEVADA
Date Appt. Exp. 03/06/2015
Certificate No. 07-2420-1

03/06/2015
07-2420-1

UNITED STATE
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

| Issuing Office
| Las Vegas District
| Serial Number
| N-85597

1. A (right-of-way) (~~permit~~) is hereby granted pursuant to:
- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
 - b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
 - c. Other (describe) _____.

2. Nature of Interest:

- a. By this instrument, the holder Clark County, a political subdivision of the State of Nevada, receives a right to construct, operate, maintain, and terminate the Orchard Levees and Detention Basin and related facilities located on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Mount Diablo Meridian, Nevada

T. 21 S., R. 62 E.,
Section 2,
Lots 6, 9, 12, and 13.

A map showing the location of the right-of-way is on file with the Bureau of Land Management, Las Vegas Field Office (N-85597).

- b. The right-of-way or permit area granted herein is n/a feet wide, and is n/a feet long and contains _____ acres, more or less. If a site type facility, the facility contains 66.50 acres.
- c. This instrument shall be terminate on December 31, 2040, ~~granted in perpetuity~~ 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

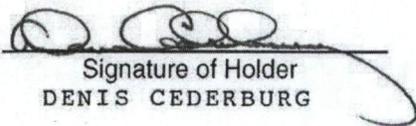
3. Rental:

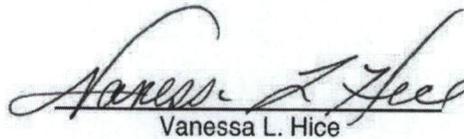
For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, B and C, dated AUG 02 2011, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.


Signature of Holder
DENIS CEDERBURG


Vanessa L. Hice

DIRECTOR OF PUBLIC WORKS

Assistant Field Manager
Division of Lands

Title

Title

July 21, 2011
Date

8/2/2011
Date

Exhibit A
Stipulations N-85597

1.0 Special Stipulations

- 1.1 The holder shall, prior to construction activities, provide the Authorized Officer of the Bureau of Land Management, Las Vegas Field Office, with proof of payment of required desert tortoise mitigation fees and an approved Restoration and Visual Enhancement Plan. Following a decision of any additional environmental analysis and stipulations that may be needed, as a result of the plan, a Notice to Proceed may be issued.

- 1.2 A Restoration and Visual Enhancement Plan must be approved by the Bureau of Land Management (BLM) prior to the issuance of a Notice to Proceed (NTP). In order to protect natural and visual resources, the following mitigation is required:
 1. Shape all berms or cuts and fills to appear as natural forms.
 2. Select and design materials and surface treatments to repeat or blend with the landscape elements.
 3. Construct minimalistic fencing such as the proposed post and cable fence system to control public access.
 4. Retain existing vegetation and re-vegetate with the native vegetation such as cacti and yucca species to establish a composition consistent with the form, line, color and texture of surrounding undisturbed landscape.

- 1.3 This right-of-way (ROW) opens a portion of the public lands, specifically the Rainbow Gardens Area of Critical Environmental Concern (ACEC) to residential and commercial dumping as well as OHV activity. In order to protect the public lands and help alleviate the problem, the following mitigation is required:
 1. Subsequent to the construction of the levees and detention basin, Clark County will install post and cable, jersey guards or some similar type of construction, along the west side of the Project Area. The post and cable, jersey guards or similar type of construction will be approved by the BLM before being installed.
 2. Clark County will install and maintain "No Dumping" signs and "No OHV Use" signs at locations approved by BLM.

- 1.4 An inventory of cactus and cat claw acacia shall be preformed prior to construction. Cacti and yucca will be salvaged and used as part of the Restoration Plan.

'AUG 02 2011

2.0 General Stipulations

- 2.1. The right-of-way is issued subject to all valid existing rights.
- 2.2. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- 2.3. The right-of-way shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. Holder shall mark the exterior boundaries of the right-of-way with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.5. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this right-of-way within its authorized limits.
- 2.6. Holder shall maintain the right-of-way in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.
- 2.7. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

'AUG 02 2011

Exhibit A
N-85597
Page 2 of 12 .

- 2.8. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the right-of-way:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.
CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the right-of-way and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

Prior to relinquishment, abandonment, or termination of this right-of-way, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

- 3.2. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

AUG 02 2011

4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the right-of-way area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the right-of-way potentially affecting the right-of-way of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of way.
- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

AUG 02 2011

Exhibit A
N-85597
Page 4 of 12

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this right-of-way.

- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the right-of-way), the United States against any liability arising from the Holder's use or occupancy of the right-of way, regardless of whether the Holder has actually developed or caused development to occur on the right-of-way, from the time of the issuance of this right-of-way to the Holder, and during the term of this right-of-way.

This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the right-of-way.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of way regardless of whether the Holder has actually developed or caused development to occur on the right-of-way from the time of the issuance of this right-of-way to the Holder and during the term of this right-of-way.

- 5.6. Mineral material generated, and not needed for the development of the proposed action within the right-of-way site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of in place excess mineral material. All mineral material needs to be used on site within the right-of-way or stockpiled on site for sale by the BLM.

6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the

AUG 02 2011

Exhibit A
N-85597
Page 5 of 12

Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

7.0 **Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian**

- 7.1. There are no conflicts with any T/E plant species. This project occurs within the designated "low" density zone for cactus and yucca and has been previously disturbed. All cactus and yucca that might be impacted by this action must be disposed of in an off-site trash receptacle.
- 7.2. The Holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the right-of-way stipulations.

This action will occur within a previously developed/urban setting in the Las Vegas Valley. The potential for noxious weeds to transfer from the proposed project area to BLM managed multiple use lands elsewhere is negligible; therefore, noxious weeds are not considered to be an issue for the proposed project.

- 7.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 7.4. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling.

8.0 **Migratory Birds**

- 8.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs from March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

AUG 03 2011

Exhibit A
N-85597
Page 6 of 12

9.0 Threatened and Endangered Wildlife and Plant Species Stipulations

Tortoise surveys performed for the Disposal Boundary EIS revealed no tortoise sign within the boundaries of the Project Area.

The following summarizes specific mitigation measures that will be implemented to reduce impacts to the desert tortoise as stipulated in the Biological Opinion for the Clark County Regional Flood Control District Master Plan File No. 1-5-93-F-67R:

- 9.1 In order to be exempt from the prohibitions of section 9 of the Endangered Species Act, BLM must comply with the following terms and conditions, which implement the reasonable and prudent measures. These terms and conditions are non-discretionary.
1. To implement reasonable and prudent measure number 1, the following terms and conditions shall be implemented:

Exterior and Urban Zones

- a. Tortoise surveys and removals shall be conducted within 30 days of construction activities in accordance with the BLM's proposed protocol. The entire project area shall be surveyed using techniques which provide a 100 percent coverage, a maximum of three times, unless no tortoises are located after two complete searches.

Exterior, Urban and Exclusionary Zones

- b. Desert tortoises and eggs found within construction areas shall be removed by qualified desert tortoise biologist. Desert tortoises removed from project areas within the Exterior zone shall be released into undisturbed habitat within 1,000 feet from the collection site.

Desert tortoise(s) removed from the construction area shall be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernacula in which it was found, or in a natural burrow. Desert tortoise(s) shall not be placed on lands outside the administration of the Federal government without the written permission of the landowner. Desert tortoise(s) shall be purposefully moved only by qualified desert tortoise biologist solely for the purpose of moving them out of harm's way.

If a suitable location is not found within the Exterior Zone, or if desert tortoise(s) are found within the Urban or Exclusionary Zones, desert tortoise(s) shall be provided to a U.S. Fish and Wildlife Service approved transfer facility. Each desert tortoise shall be delivered in an individual cardboard box which is marked with the date and location of collection, Biological Opinion

AUG 02 2011

Exhibit A
N-85597
Page 7 of 12

number, and "Bureau of Land Management" to distinguish these desert tortoises from those collected on private lands.

- c. If any tortoises are found within the construction areas after the initial removal of tortoises, all construction activities shall cease until the tortoise has been removed by a qualified biologist. The definition of "take" includes capture. Therefore, any unauthorized person who moves a tortoise from the site could be found guilty of take.

Exterior and Urban Zones

- d. Alternatively to Term and Condition 1.a. above, a temporary or permanent tortoise barrier may be installed around the perimeter of the project area prior to onset of any construction activities. Following installation of the tortoise barrier, a qualified desert tortoise biologist shall thoroughly search all areas inside of the barriers for tortoises using techniques providing 100% coverage of all areas. Areas shall be surveyed three times unless no tortoises are found on the second survey. Tortoises shall be removed in accordance with the Term and Condition 1.b.
2. To implement reasonable and prudent measure number 2, the following terms and conditions shall be implemented

Exterior, Urban and Exclusionary Zones

- a. A litter control program shall be implemented in accordance with the BLM's proposed mitigation.
3. To implement reasonable and prudent measure number 3, the following terms and conditions shall be implemented:

Exterior and Urban Zones

- a. Prior to initiation of any construction activities, the applicant shall transfer the appropriate funds into the Desert Tortoise Habitat Conservation Fund, administered by the Bureau of Land Management, as mitigation for the incidental take of the desert tortoise habitat within the construction boundaries. The mitigation rate is based on \$786 per acre of disturbed habitat, but will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index on January 31st of each year.

AUG 02 2011

The new surface disturbance for the entire project is 34.165 acres. The total mitigation fee due for the entire project is \$26,853.69 (\$786.00 x 34.165 acres).

The mitigation fee due for the levee and detention basin (N-85597) for 33.24 acres is \$26,126.64.

The mitigation fee due for Los Feliz Road (N-81864) for 0.925 acres is \$727.05. Mitigation fees for 6.01 acres of disturbance were on January 11, 1999. An amendment to the project added 0.925 acres. Mitigation fees are now due on the 0.925 acres.

This fee will be paid directly to the Bureau of Land Management, Information Access Center. These funds are independent of any other fees collected by the Bureau of Land Management for desert tortoise conservation planning.

The payment shall be accompanied by the **Section 7 Land Disturbance Fee Payment Form**, (Attachment A) and completed by the payee. Payment shall be by certified check or money order payable to Bureau of Land Management. Checks may be delivered in person at the BLM Information Access Center (IAC). For private parcel services, such as Fed-Ex or UPS, use the physical address. For US Postal Service, use the PO Box. Note that the zip codes are different for physical vs. PO Box.

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

PO Box: Bureau of Land Management
Attn: Information Access Ctr
PO Box 12000
Reno, NV 89520-0006

The mitigation account shall be reviewed on a periodic basis. Accounting records for assessing the mitigation fees will be maintained by the Clark County Regional Flood Control (CCRFC) CCRFC will submit biannual reports to the BLM, U.S. Fish and Wildlife Service and Clark County Administrator's Office on the status of the mitigation account. The report shall include (1) the status of each project, (2) the number of acres disturbed, (3) dates of surface disturbance, and (4) the fees assessed on each project.

4. To implement reasonable and prudent measure number 4, the following terms and conditions shall be implemented:

Exterior, Urban and Exclusionary Zones

AUG 02 2011

Exhibit A
N-85597
Page 9 of 12

- a. A representative shall be designated who shall be responsible for overseeing compliance with the protective stipulations for the desert tortoise and providing coordination among the contractor, the BLM and the U.S. Fish and wildlife Service.

Exterior and Urban Zones

- b. A worker education program shall be established in accordance with the BLM's proposed mitigation.

All necessary information sheets and forms shall be completed by the proponent. Attachment A must be completed prior to BLM authorizing the action.

AUG 02 2011

Exhibit A
N-85597
Page 10 of 12

Attachment 1
SECTION 7 LAND DISTURBANCE FEE PAYMENT FORM

Biological Opinion File Number: 1-5-93-F-67R
 Biological Opinion Issued By: Nevada Fish and Wildlife Office, Reno, Nevada
 Species: Desert Tortoise (*Gopherus agassizii*) (Mojave population)
 Project Name: Orchard Detention Basin and Levee
 Case File/Serial #: N-85597
 Project Proponent: Clark County
 Phone Number: _____

Payment Calculations:	Clark County		County _____		County _____	
	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat
# acres anticipated to be disturbed on federal land		33.24				
Fee rate (per acre)		786				
Total cost/habitat type (per county)	\$ -	\$26,126.64	\$ -	\$ -	\$ -	\$ -
Total cost per county	\$ 26,126.64		\$ -		\$ -	

Total payment required (all counties): \$ 26,126.64

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

PO Box
 Bureau of Land Management
 Attn: Information Access Ctr
 PO Box 12000
 Reno, NV 89520-0006

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: LVTFXX000800
 7122 FLPMA
 All other Res. Dev. Project and Management
 Remarks: LLNV934000 L71220000.JP0000 LVTFXX000800 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)*

AUG 02 2011

DESERT TORTOISE SECTION 7 COMPLIANCE FORM

Entire form is to be completed by the project proponent and delivered to the Bureau of Land Management within 30 days of project completion

Biological Opinion File Number: 1-5-93-F-67R

Species: desert tortoise (*Gopherus agassizii*)

Project Name: Orchard Levee and Detention Basin and Los Feliz Road Case File N-85597

Acreage of Disturbance Authorized: 33.24

Acreage Actually Disturbed: 33.24

Fees Assessed: _____ Rate: \$786/acre

In accordance with this biological opinion, applicants or project proponents may voluntarily choose to search for and remove tortoises from lands to be disturbed within the project area.

Desert tortoise survey conducted Date(s): _____

Voluntary desert tortoise survey conducted

No desert tortoise survey conducted

Migratory bird survey conducted Date(s): _____

Number of desert tortoises injured: _____

Number of desert tortoises killed: _____

Number of desert tortoises removed from the project site: _____

Number relocated to adjacent habitat within 2 miles: _____

Number transferred to the Clark County Tortoise Pick-up Service: _____

(Provide a report detailing all tortoise encounters and what happened to the animals. This report will include age class, gender, and health of each animal, maps showing where each tortoise was captured and later relocated, and the air temperature during the relocation.)

Company and persons who conducted the survey and removal¹:

Company: _____

Name: _____

Address: _____

Phone: _____

State Permit #: _____

Deliver this completed form to: Bureau of Land Management
Division of Renewable Resources
4701 N. Torrey Pines Drive
Las Vegas, NV 89130
(702) 515-5000

If you have questions, call the BLM's Wildlife staff at (702) 515-5000.

Revised 07/13/2005

¹ BLM approval of biological monitors/surveyors required. Submit resumes for review/approval at least 15 days prior to construction.

AUG 02 2011

BLM GRANT N-85597

NOTE: DUE TO SIZE RESTRICTIONS AND/OR QUESTIONABLE CLARITY FOR RECORDING PURPOSES, CERTAIN MAPS INCLUDED IN THE GRANT AS EXHIBIT "B" (PAGES 1 AND 2) AND EXHIBIT "C", ARE NOT BEING RECORDED WITH THIS DOCUMENT, BUT REMAIN A PART OF GRANT N-85597.

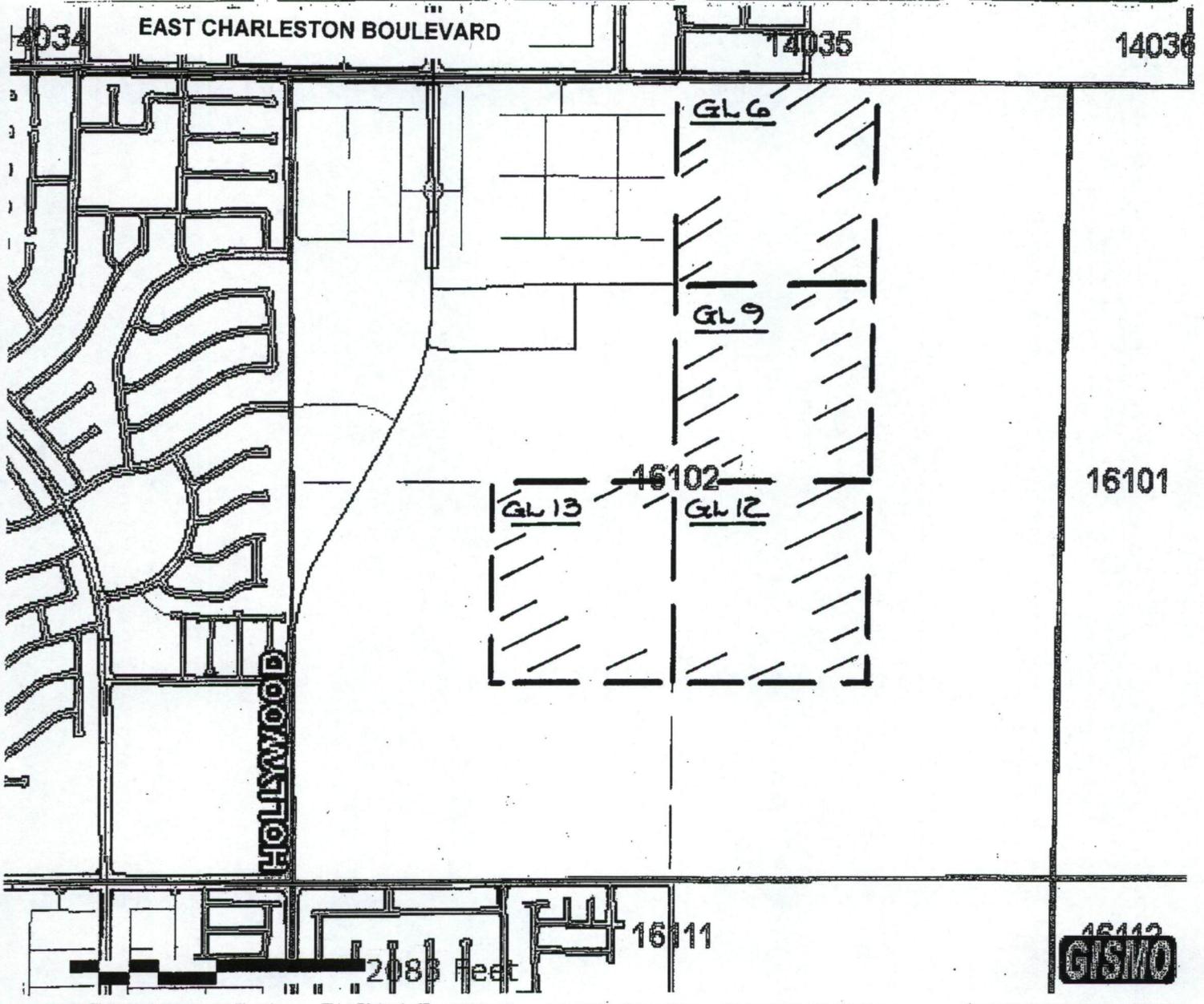
**ORIGINAL DOCUMENTS AND MAPS ARE ON FILE AT:
BUREAU OF LAND MANAGEMENT
LAS VEGAS FIELD OFFICE
4701 NORTH TORREY PINES DRIVE
LAS VEGAS, NEVADA 89130-2301**

**CLARK COUNTY DEPARTMENT OF PUBLIC WORKS
DESIGN ENGINEERING DIVISION
500 S. GRAND CENTRAL PARKWAY, STE. 2001
LAS VEGAS, NV 89106**

GRANT N-85597
GENERAL LOCATOR MAP

ORCHARD DETENTION BASIN
PROJECT IMPROVEMENTS

 = LIMITS OF IMPROVEMENTS



APN: 161-02-201-001
(renumbered to 161-01-501-001)

18

Inst #: 201108040003269
Fees: \$0.00
N/C Fee: \$0.00
08/04/2011 03:08:38 PM
Receipt #: 869161
Requestor:
PUBLIC WORKS CLARK COUNTY
Recorded By: SCA Pgs: 18
DEBBIE CONWAY
CLARK COUNTY RECORDER

When recorded, return to:
Clark County Dept. of Public Works
Attention: Pamela Wyatt, Right-of-Way
500 S. Grand Central Parkway, #2001
Las Vegas, NV 89106

NOTICE OF RIGHT-OF-WAY GRANT

**LOS FELIZ STREET IMPROVEMENTS
BLM GRANT N-81864**

The COUNTY OF CLARK, a political subdivision of the State of Nevada, has received a Right-of-Way Grant from the United States Department of the Interior, Bureau of Land Management, as set forth in the attached **RIGHT-OF-WAY GRANT N-81864**, dated **August 2, 2011**. The purpose of this grant is to define right-of-way on public lands for roadway, drainage, and related improvements. The subject right-of-way is located in Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada.

Assessor's Parcel No.: 161-02-201-001
(renumbered to 161-01-501-001)

Pamela Wyatt
PAMELA WYATT
RIGHT-OF-WAY AGENT II

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

On this 4 day of Aug, 2011, personally appeared before me the undersigned, a notary public in and for said County and State PAMELA WYATT who acknowledged to me that he/she/they executed the above instrument for the purposes stated therein.

WITNESS my hand and official seal.
Lorraine St. Pierre
NOTARY PUBLIC in and for said County and State



DATE APPT. EXPIRE 3-6-15
CERT. NO. 07-2420-1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

| Issuing Office
| Las Vegas District
| Serial Number
| N-81864

1. A (right-of-way) (~~permit~~) is hereby granted pursuant to:
- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
 - b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
 - c. Other (describe) _____.
2. Nature of Interest:
- a. By this instrument, the holder Clark County, a political subdivision of the State of Nevada, receives a right to construct, operate, maintain, and terminate a public road and related facilities which may include curb, gutter, sidewalks, street lights and drainage, on public lands (or Federal land for MLA Rights-of-Way) described as follows:

Mount Diablo Meridian, Nevada
T. 21 S., R. 62 E.,
Section 2,
Lots 6 and 9.
- A map showing the location of the right-of-way is on file with the Bureau of Land Management, Las Vegas District (N-81864).
- b. The right-of-way or permit area granted herein varies in width (30 feet to 80 feet), and is 3,565.67 feet long and contains 6.925 acres, more or less. If a site type facility, the facility contains n/a acres.
 - c. This instrument shall ~~terminate on~~ _____, be granted in perpetuity _____ ~~from its effective date~~ unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

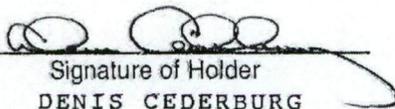
3. Rental:

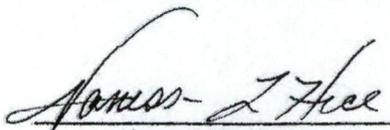
For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, B and C, dated AUG 02 2011, attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.


Signature of Holder
DENIS CEDERBURG


Vanessa L. Hice

DIRECTOR OF PUBLIC WORKS

Title

Assistant Field Manager
Division of Lands

Title

July 21, 2011

Date

8/2/2011

Date

Exhibit A
Stipulations N-81864

1.0 Special Stipulations

- 1.1 The holder shall, prior to construction activities, provide the Authorized Officer of the Bureau of Land Management, Las Vegas Field Office, with proof of payment of required desert tortoise mitigation fees and an approved Restoration and Visual Enhancement Plan. Following a decision of any additional environmental analysis and stipulations that may be needed, as a result of the plan, a Notice to Proceed may be issued.
- 1.2 A Restoration and Visual Enhancement Plan must be approved by the Bureau of Land Management (BLM) prior to the issuance of a Notice to Proceed (NTP). In order to protect natural and visual resources, the following mitigation is required:
 1. Shape all berms or cuts and fills to appear as natural forms.
 2. Select and design materials and surface treatments to repeat or blend with the landscape elements.
 3. Construct minimalistic fencing such as the proposed post and cable fence system to control public access.
 4. Retain existing vegetation and re-vegetate with the native vegetation such as cacti and yucca species to establish a composition consistent with the form, line, color and texture of surrounding undisturbed landscape.
- 1.3 This right-of-way (ROW) opens a portion of the public lands, specifically the Rainbow Gardens Area of Critical Environmental Concern (ACEC) to residential and commercial dumping as well as OHV activity. In order to protect the public lands and help alleviate the problem, the following mitigation is required:
 1. Subsequent to the construction of the levees and detention basin, Clark County will install post and cable, jersey guards or some similar type of construction, along the west side of the Project Area. The post and cable, jersey guards or similar type of construction will be approved by the BLM before being installed.
 2. Clark County will install and maintain "No Dumping" signs and "No OHV Use" signs at locations approved by BLM.
- 1.4 An inventory of cactus and cat claw acacia shall be performed prior to construction. Cacti and yucca will be salvaged and used as part of the Restoration Plan.

AUG 02 2011

Exhibit A
N-81864
Page 1 of 12

2.0 General Stipulations

- 2.1. The right-of-way is issued subject to all valid existing rights.
- 2.2. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- 2.3. The right-of-way shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. Holder shall mark the exterior boundaries of the right-of-way with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.5. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this right-of-way within its authorized limits.
- 2.6. Holder shall maintain the right-of-way in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.
- 2.7. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

AUG 02 2011

Exhibit A
N-81864
Page 2 of 12

- 2.8. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the right-of-way:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.
CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the right-of-way and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

Prior to relinquishment, abandonment, or termination of this right-of-way, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.

- 3.2. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

'AUG 02 2011

Exhibit A
N-81864
Page 3 of 12

4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the right-of-way area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the right-of-way potentially affecting the right-of-way of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of way.
- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

'AUG '0 2 2011

Exhibit A
N-81864
Page 4 of 12

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this right-of-way.

- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the right-of-way), the United States against any liability arising from the Holder's use or occupancy of the right-of-way, regardless of whether the Holder has actually developed or caused development to occur on the right-of-way, from the time of the issuance of this right-of-way to the Holder, and during the term of this right-of-way.

This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the right-of-way.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of-way regardless of whether the Holder has actually developed or caused development to occur on the right-of-way from the time of the issuance of this right-of-way to the Holder and during the term of this right-of-way.

- 5.6. Mineral material generated, and not needed for the development of the proposed action within the right-of-way site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of in place excess mineral material. All mineral material needs to be used on site within the right-of-way or stockpiled on site for sale by the BLM.

6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the

'AUG 02 2011

Exhibit A
N-81864
Page 5 of 12

Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

7.0 **Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian**

- 7.1. There are no conflicts with any T/E plant species. This project occurs within the designated "low" density zone for cactus and yucca and has been previously disturbed. All cactus and yucca that might be impacted by this action must be disposed of in an off-site trash receptacle.
- 7.2. The Holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods within limits imposed in the right-of-way stipulations.

This action will occur within a previously developed/urban setting in the Las Vegas Valley. The potential for noxious weeds to transfer from the proposed project area to BLM managed multiple use lands elsewhere is negligible; therefore, noxious weeds are not considered to be an issue for the proposed project.

- 7.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 7.4. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling.

8.0 **Migratory Birds**

- 8.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs from March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

9.0 Threatened and Endangered Wildlife and Plant Species Stipulations

Tortoise surveys performed for the Disposal Boundary EIS revealed no tortoise sign within the boundaries of the Project Area.

The following summarizes specific mitigation measures that will be implemented to reduce impacts to the desert tortoise as stipulated in the Biological Opinion for the Clark County Regional Flood Control District Master Plan File No. 1-5-93-F-67R:

- 9.1 In order to be exempt from the prohibitions of section 9 of the Endangered Species Act, BLM must comply with the following terms and conditions, which implement the reasonable and prudent measures. These terms and conditions are non-discretionary.
1. To implement reasonable and prudent measure number 1, the following terms and conditions shall be implemented:

Exterior and Urban Zones

- a. Tortoise surveys and removals shall be conducted within 30 days of construction activities in accordance with the BLM's proposed protocol. The entire project area shall be surveyed using techniques which provide a 100 percent coverage, a maximum of three times, unless no tortoises are located after two complete searches.

Exterior, Urban and Exclusionary Zones

- b. Desert tortoises and eggs found within construction areas shall be removed by qualified desert tortoise biologist. Desert tortoises removed from project areas within the Exterior zone shall be released into undisturbed habitat within 1,000 feet from the collection site.

Desert tortoise(s) removed from the construction area shall be placed in the shade of a shrub, in a natural unoccupied burrow similar to the hibernacula in which it was found, or in a natural burrow. Desert tortoise(s) shall not be placed on lands outside the administration of the Federal government without the written permission of the landowner. Desert tortoise(s) shall be purposefully moved only by qualified desert tortoise biologist solely for the purpose of moving them out of harm's way.

If a suitable location is not found within the Exterior Zone, or if desert tortoise(s) are found within the Urban or Exclusionary Zones, desert tortoise(s) shall be provided to a U.S. Fish and Wildlife Service approved transfer

'AUG '0 2 2011

Exhibit A
N-81864
Page 7 of 12

facility. Each desert tortoise shall be delivered in an individual cardboard box which is marked with the date and location of collection, Biological Opinion number, and "Bureau of Land Management" to distinguish these desert tortoises from those collected on private lands.

- c. If any tortoises are found within the construction areas after the initial removal of tortoises, all construction activities shall cease until the tortoise has been removed by a qualified biologist. The definition of "take" includes capture. Therefore, any unauthorized person who moves a tortoise from the site could be found guilty of take.

Exterior and Urban Zones

- d. Alternatively to Term and Condition 1.a. above, a temporary or permanent tortoise barrier may be installed around the perimeter of the project area prior to onset of any construction activities. Following installation of the tortoise barrier, a qualified desert tortoise biologist shall thoroughly search all areas inside of the barriers for tortoises using techniques providing 100% coverage of all areas. Areas shall be surveyed three times unless no tortoises are found on the second survey. Tortoises shall be removed in accordance with the Term and Condition 1.b.

2. To implement reasonable and prudent measure number 2, the following terms and conditions shall be implemented

Exterior, Urban and Exclusionary Zones

- a. A litter control program shall be implemented in accordance with the BLM's proposed mitigation.
3. To implement reasonable and prudent measure number 3, the following terms and conditions shall be implemented:

Exterior and Urban Zones

- a. Prior to initiation of any construction activities, the applicant shall transfer the appropriate funds into the Desert Tortoise Habitat Conservation Fund, administered by the Bureau of Land Management, as mitigation for the incidental take of the desert tortoise habitat within the construction boundaries. The mitigation rate is based on \$786 per acre of disturbed habitat, but will be indexed for inflation based on the Bureau of Labor Statistics Consumer Price Index on January 31st of each year.

AUG 02 2011

Exhibit A
N-81864
Page 8 of 12

The new surface disturbance for the entire project is 34.165 acres. The total mitigation fee due for the entire project is \$26,853.69 (\$786.00 x 34.165 acres).

The mitigation fee due for the levee and detention basin (N-85597) for 33.24 acres is \$26,126.64.

The mitigation fee due for Los Feliz Road (N-81864) for 0.925 acres is \$727.05. Mitigation fees for 6.01 acres of disturbance were on January 11, 1999. An amendment to the project added 0.925 acres. Mitigation fees are now due on the 0.925 acres.

This fee will be paid directly to the Bureau of Land Management, Information Access Center. These funds are independent of any other fees collected by the Bureau of Land Management for desert tortoise conservation planning.

The payment shall be accompanied by the **Section 7 Land Disturbance Fee Payment Form**, (Attachment A) and completed by the payee. Payment shall be by certified check or money order payable to Bureau of Land Management. Checks may be delivered in person at the BLM Information Access Center (IAC). For private parcel services, such as Fed-Ex or UPS, use the physical address. For US Postal Service, use the PO Box. Note that the zip codes are different for physical vs. PO Box.

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

PO Box: Bureau of Land Management
Attn: Information Access Ctr
PO Box 12000
Reno, NV 89520-0006

The mitigation account shall be reviewed on a periodic basis. Accounting records for assessing the mitigation fees will be maintained by the Clark County Regional Flood Control (CCRFC) CCRFC will submit biannual reports to the BLM, U.S. Fish and Wildlife Service and Clark County Administrator's Office on the status of the mitigation account. The report shall include (1) the status of each project, (2) the number of acres disturbed, (3) dates of surface disturbance, and (4) the fees assessed on each project.

4. To implement reasonable and prudent measure number 4, the following terms and conditions shall be implemented:

Exterior, Urban and Exclusionary Zones

AUG 02 2011

Exhibit A
N-81864
Page 9 of 12

-
- a. A representative shall be designated who shall be responsible for overseeing compliance with the protective stipulations for the desert tortoise and providing coordination among the contractor, the BLM and the U.S. Fish and wildlife Service.

Exterior and Urban Zones

- b. A worker education program shall be established in accordance with the BLM's proposed mitigation.

All necessary information sheets and forms shall be completed by the proponent. Attachment A must be completed prior to BLM authorizing the action.

'AUG '0 2 2011

Exhibit A
N-81864
Page 10 of 12

Attachment 1
SECTION 7 LAND DISTURBANCE FEE PAYMENT FORM

Biological Opinion File Number: 1-5-93-F-67R
 Biological Opinion Issued By: Nevada Fish and Wildlife Office, Reno, Nevada
 Species: Desert Tortoise (*Gopherus agassizii*) (Mojave population)
 Project Name: Orchard Detention Basin ROW for Los Feliz Road
 Case File/Serial #: N-81864
 Project Proponent: Clark County
 Phone Number: _____

Payment Calculations:

	Clark County		County		County	
	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat	Critical habitat	Non-critical habitat
# acres anticipated to be disturbed on federal land		0.925				
Fee rate (per acre)		786				
Total cost/habitat type (per county)	\$ -	\$727.05	\$ -	\$ -	\$ -	\$ -
Total cost per county	\$ 727.05		\$ -		\$ -	

Total payment required (all counties): \$ 727.05

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	PO Box
Bureau of Land Management	Bureau of Land Management
Attn: Information Access Ctr	Attn: Information Access Ctr
1340 Financial Blvd.	PO Box 12000
Reno, NV 89502	Reno, NV 89520-0006

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: LVTFXX000800
 7122 FLPMA
 All other Res. Dev. Project and Management
 Remarks: LLNV934000 L71220000.JP0000 LVTFXX000800 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)**

AUG 02 2011

DESERT TORTOISE SECTION 7 COMPLIANCE FORM
Entire form is to be completed by the project proponent and delivered to the Bureau of Land Management within 30 days of project completion

Biological Opinion File Number: 1-5-93-F-67R

Species: desert tortoise (*Gopherus agassizii*)

Project Name: Orchard Levee and Detention Basin and Los Feliz Road Case File No: N-81864
Acreage of Disturbance Authorized: 0.925
Acreage Actually Disturbed: 0.925
Fees Assessed: _____ Rate: \$786/acre

In accordance with this biological opinion, applicants or project proponents may voluntarily choose to search for and remove tortoises from lands to be disturbed within the project area.

Desert tortoise survey conducted Date(s): _____

Voluntary desert tortoise survey conducted

No desert tortoise survey conducted

Migratory bird survey conducted Date(s): _____

Number of desert tortoises injured: _____

Number of desert tortoises killed: _____

Number of desert tortoises removed from the project site: _____

Number relocated to adjacent habitat within 2 miles: _____

Number transferred to the Clark County Tortoise Pick-up Service: _____

(Provide a report detailing all tortoise encounters and what happened to the animals. This report will include age class, gender, and health of each animal, maps showing where each tortoise was captured and later relocated, and the air temperature during the relocation.)

Company and persons who conducted the survey and removal¹:

Company: _____

Name: _____

Address: _____

Phone: _____

State Permit #: _____

Deliver this completed form to: Bureau of Land Management
Division of Renewable Resources
4701 N. Torrey Pines Drive
Las Vegas, NV 89130
(702) 515-5000

If you have questions, call the BLM's Wildlife staff at (702) 515-5000.

Revised 07/13/2005

¹ BLM approval of biological monitors/surveyors required. Submit resumes for review/approval at least 15 days prior to construction.

AUG 02 2011

Exhibit A
N-81864
Page 12 of 12

BLM GRANT N-81864

NOTE: DUE TO SIZE RESTRICTIONS AND/OR QUESTIONABLE CLARITY FOR RECORDING PURPOSES, CERTAIN MAPS INCLUDED IN THE GRANT AS EXHIBIT "B" (PAGES 1 AND 2) AND EXHIBIT "C" ARE NOT BEING RECORDED WITH THIS DOCUMENT, BUT REMAIN A PART OF GRANT N-81864.

**ORIGINAL DOCUMENTS AND MAPS ARE ON FILE AT:
BUREAU OF LAND MANAGEMENT
LAS VEGAS FIELD OFFICE
4701 NORTH TORREY PINES DRIVE
LAS VEGAS, NEVADA 89130-2301**

**CLARK COUNTY DEPARTMENT OF PUBLIC WORKS
DESIGN ENGINEERING DIVISION
500 S. GRAND CENTRAL PARKWAY, STE. 2001
LAS VEGAS, NV 89106**

EXHIBIT "D"

EXPLANATION

THIS LEGAL DESCRIBES A PORTION OF GOVERNMENT LOTS 6 AND 9, OF SECTION 2, TOWNSHIP 21 SOUTH, RANGE 62 EAST, M.D.M., CLARK COUNTY, NEVADA, FOR PUBLIC ROADWAY, DRAINAGE, AND UTILITY PURPOSES, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 9:

THENCE NORTH 00°07'44" WEST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 9 A DISTANCE OF 1394.05 FEET TO THE NORTHWEST CORNER THEREOF;

THENCE SOUTH 89°22'26" EAST ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 9 AND THE SOUTH LINE OF SAID GOVERNMENT LOT 6 A DISTANCE OF 218.69 FEET TO A NON-TANGENT CURVE WHOSE RADIUS POINT BEARS SOUTH 46°26'53" EAST;

THENCE NORTHEASTERLY ALONG THE ARC OF A 790.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, A DISTANCE OF 11.04 FEET THROUGH A CENTRAL ANGLE OF 00°48'02";

THENCE NORTH 44°21'09" EAST 641.62 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF A 710.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, A DISTANCE OF 541.27 FEET THROUGH A CENTRAL ANGLE OF 43°40'45";

THENCE NORTH 00°40'24" EAST 260.00 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY, A DISTANCE OF 39.27 FEET THROUGH A CENTRAL ANGLE OF 90°00'00";

THENCE NORTH 89°19'36" WEST 858.35 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 6;

THENCE NORTH 00°07'42" WEST ALONG SAID WEST LINE A DISTANCE OF 30.00 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 6, SAID POINT ALSO BEING THE NORTH QUARTER CORNER (N1/4 COR) OF SAID SECTION 2;

THENCE SOUTH 89°19'36" EAST ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 6 A DISTANCE OF 923.90 FEET, TO THE SOUTH QUARTER CORNER (S1/4 COR) OF SECTION 35, TOWNSHIP 20 SOUTH, RANGE 62 EAST, M.D.M.;

THENCE CONTINUING SOUTH 89°20'08" EAST ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 6 A DISTANCE OF 64.87 FEET;

THENCE SOUTH 00°40'24" WEST 30.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE RADIUS POINT BEARS SOUTH 00°40'24" WEST;

THENCE SOUTHWESTERLY ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, A DISTANCE OF 39.27 FEET THROUGH A CENTRAL ANGLE OF 90°00'00";

THENCE SOUTH 00°40'24" WEST 260.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF A 790.00 FOOT RADIUS CURVE, CONCAVE NORTHWESTERLY, A DISTANCE OF 602.25 FEET THROUGH A CENTRAL ANGLE OF 43°40'45";

THENCE SOUTH 44°21'09" WEST 641.62 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF A 710.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, A DISTANCE OF 551.21 FEET THROUGH A CENTRAL ANGLE OF 44°28'53";

THENCE SOUTH 00°07'44" EAST, PARALLEL WITH AND 80.00 FEET EAST OF THE WEST LINE OF SAID GOVERNMENT LOT 9, A DISTANCE OF 846.16 FEET TO THE SOUTH LINE OF SAID GOVERNMENT LOT 9;

THENCE NORTH 89°42'18" WEST ALONG SAID SOUTH LINE 80.00 FEET TO THE POINT OF BEGINNING.

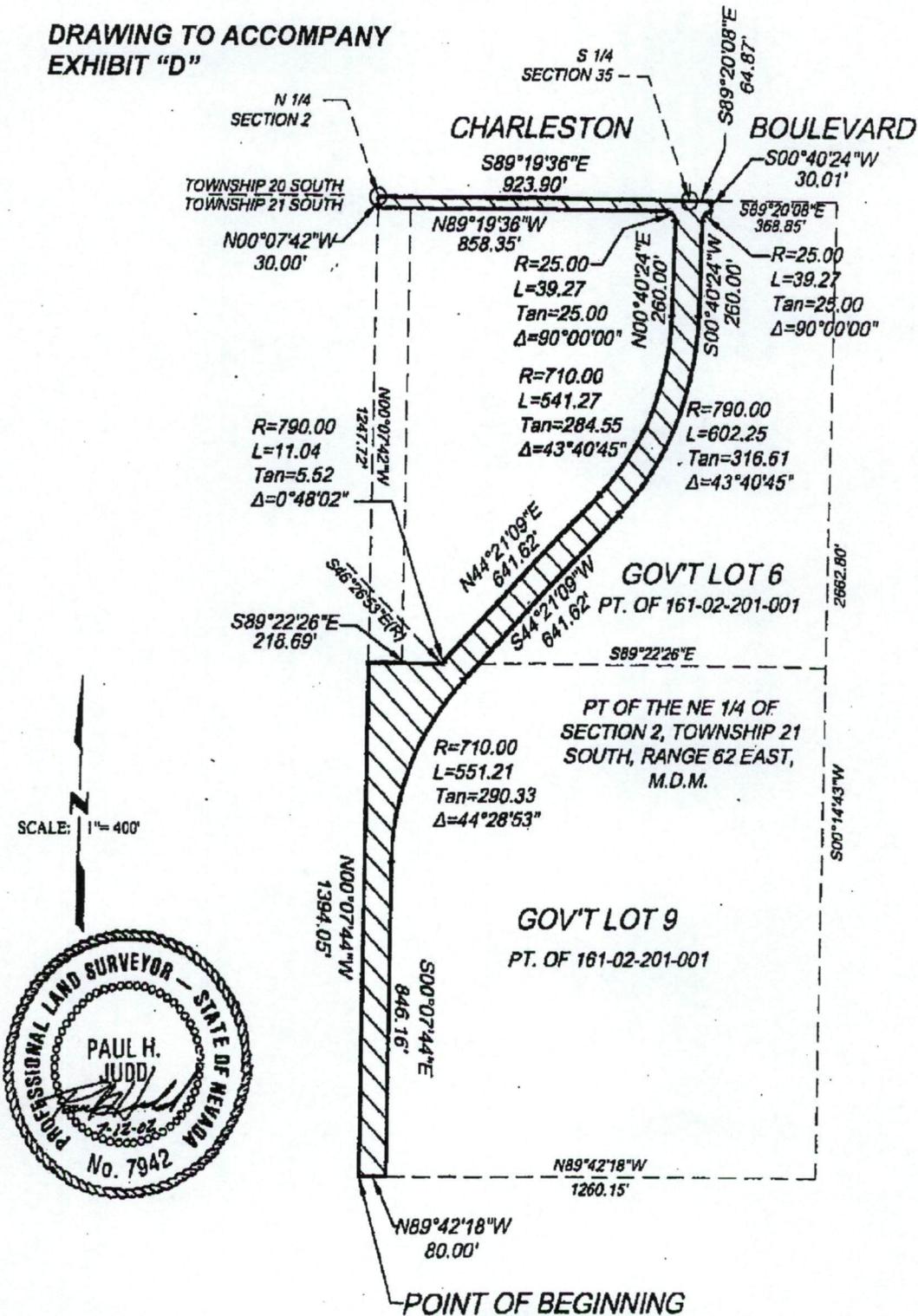
CONTAINS 6.925 ACRES, MORE OR LESS.

BASIS OF BEARINGS: NORTH AMERICAN DATUM - 1983 (NAD'83), NEVADA COORDINATE SYSTEM, 1983 (NCS'83), EAST ZONE (2701), BASED UPON THE NATIONAL GEODETIC SURVEY - HIGH ACCURACY REFERENCE NETWORK (HARN), CCGIS 814 AND 828.



CLARK COUNTY PUBLIC WORKS DESIGN ENGINEERING DIVISION

DRAWING TO ACCOMPANY
EXHIBIT "D"



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

Issuing Office
Las Vegas Field Office
Serial Number
N-84252/A/
AMENDMENT

1. A (right-of-way) is hereby granted pursuant to:
- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776 43 U.S.C. 1761);
 - b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
 - c. Other (describe) _____.

2. Nature of Interest:

a. By this instrument, the holder, **Clark County**, a political subdivision of the State of Nevada, receives a right to construct, operate, maintain, and terminate a right-of-way for road and drainage and related facilities on public lands described as follows:

Mount Diablo Meridian, Nevada
T. 21 S., R.62 E.,
Section 2, Lots 12,13,16,17.

A map showing the location of the right-of-way is on file with the Bureau of Land Management, Las Vegas Field Office (N-84252/A/).

- b. The right-of-way or permit area granted herein is 80' to 120' feet wide, approximately 2640' feet in length, and contains 5.46 acres, more or less. If a site type facility, the facility contains N/A acres.
- c. This instrument shall be granted in perpetuity, unless prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may may not be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest. NOT APPLICABLE
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.

b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 120 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

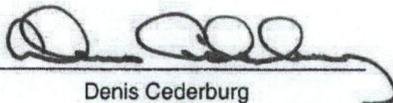
c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in Exhibits A, B & C, dated JUL 30 2009 are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.

e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.

f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.



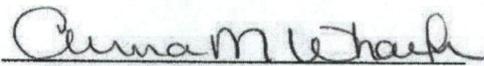
Denis Cederburg

Director of Public Works, Clark County, NV

(Title)

June 24, 2003

(Date)



For Kimber Liebhauser
Assistant Field Manager
Division of Lands

(Title)

July 30, 2009

(Effective Date of Grant)

Exhibit A
Stipulations for N-84252/A/

1.0 Special Stipulations

- 1.1. This right-of-way (ROW) opens a portion of the public lands, specifically the Rainbow Gardens ACEC to residential and commercial dumping as well as OHV activity. In order to protect the public lands, and help alleviate the problem, the following mitigation is required:
1. Subsequent to construction of the roadway, Clark County will install jersey guards, or some similar type of construction, along the east side of the roadway. The jersey guards or similar type of construction will be approved by the Bureau of Land Management (BLM) before being installed. If the jersey guards are painted, they should be painted using the BLM standard environmental color chart so as not to draw attention to the area in terms of form, line, color, and texture.
 2. Clark County will install and maintain "no dumping" signs and "no OHV" signs along the east side of the roadway.

2.0 General Stipulations

- 2.1. The right-of-way is issued subject to all valid existing rights.
- 2.2. No signs of advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- 2.3. The right-of-way shall be maintained in a sanitary condition at all times. Waste materials at those sites shall be disposed of promptly at an approved waste disposal site. "Waste", as used in this paragraph, shall mean all discarded matter of any kind.
- 2.4. Holder shall mark the exterior boundaries of the right-of-way with stake and/or lath at 100 to 200 foot intervals. The intervals may be varied at the time of staking at the discretion of the Authorized Officer. The tops of the stakes and/or laths will be painted and the laths flagged in a distinctive color as determined by the Holder. Holder shall maintain all boundary stakes and/or laths in place until final cleanup and restoration is completed.
- 2.5. Holder shall conduct all activities associated with construction, operation, maintenance and termination of this right-of-way within its authorized limits.
- 2.6. Holder shall maintain the right-of-way in a safe, useable condition, as directed by the Authorized Officer. A regular maintenance program shall include, but is not limited to, soil stabilization.
- 2.7. Holder shall maintain copy of the authorization along with stipulations on construction site at all times. In the event that the public land underlying this right-of-way, encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the United States in the

JUL 30 2009

patent/deed and/or the ROW is not within a ROW corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW Holder.

- 2.8. Within 90 days of construction completion, the Holder shall provide the Authorized Officer with data in a format compatible with the Bureau's Arc-Info Geographic Information System to accurately locate and identify the right-of-way:

Acceptable data formats are:

Corrected Global Positioning System files with sub-meter accuracy or better, in UTM NAD 83; Zone 11;
ARCGIS export files on a CD ROM, shapefile, geodatabase.

Data may be submitted in any of the following formats:

ARCGIS interchange, shapefile or geodatabase format.
CD ROM in compressed or uncompressed format.

All data shall include metadata for each coverage, and conform to the Content Standards for Digital Geospatial Metadata Federal Geographic Data Committee standards. Contact the GIS Department at (702) 515-5000.

3.0 Air Quality

- 3.1. The Holder shall not violate applicable air standards or related facility siting standards established by or pursuant to applicable federal, state, or local laws or regulations. The Holder shall be responsible for dust abatement within the limits of the right-of-way and is responsible for obtaining all necessary permits from appropriate authorities for acceptable dust abatement and control methods (e.g., water, chemicals). The Holder shall be solely responsible for all violations of any air quality permit, law or regulation, as a result of its action, inaction, use or occupancy of the right-of-way.

Notwithstanding whether a violation of any air quality permit, law or regulation results, the Holder will cooperate with the Authorized Officer in implementing and maintaining reasonable and appropriate dust control methods in conformance with law and appropriate to the circumstances at the sole cost of the Holder.

- 3.2. All construction projects equal to or larger than .25 acres requires a dust control permit obtained through the Clark County Department of Air Quality and Environmental Management (DAQEM). All dust control permit conditions and stipulations must be in compliance for the duration of the project(s).
- 3.3. Prior to relinquishment, abandonment, or termination of this right-of-way, the Holder shall apply reasonable and appropriate dust abatement and control measures to all disturbed areas. The abatement and measures shall be designed to be effective over the long-term (e.g., rock mulch or other means) and acceptable to the Authorized Officer.
- 3.4. During excavation, backfilling, and contouring, the disturbed soil should be wetted sufficiently in order to effectively reduce airborne dust and reduce soil erosion.

4.0 Cultural

- 4.1. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the Holder, or any person working on his behalf on public or Federal lands shall be immediately reported to the Authorized Officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation. Any decision regarding suitable mitigation measures will be made by the Authorized Officer after consulting with the Holder. Holder shall be responsible for the resultant mitigation costs.

5.0 Hazardous Material/Pesticides/Liability

- 5.1. No hazardous material, substance, or hazardous waste, (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, *et seq.*, or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*) shall be used, produced, transported, released, disposed of, or stored within the right-of-way area at any time by the Holder. The Holder shall immediately report any release of hazardous substances (leaks, spills, etc.) caused by the Holder or third parties in excess of the reportable quantity as required by federal, state, or local laws and regulations. A copy of any report required or requested by any federal, state or local government agency as a result of a reportable release or spill of any hazardous substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved federal, state or local government agency.
- 5.2. The Holder shall immediately notify the Authorized Officer of any release of hazardous substances, toxic substances, or hazardous waste on or near the right-of-way potentially affecting the right-of-way of which the Holder is aware.
- 5.3. As required by law, Holder shall have responsibility for and shall take all action(s) necessary to fully remediate and address the hazardous substance(s) on or emanating from the right-of way.

- 5.4. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the Holder shall obtain from the Authorized Officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers and any other information deemed necessary by the Authorized Officer.

The plan shall be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Pesticides shall not be permanently stored on public lands authorized for use under this right-of-way.

- 5.5. The Holder shall comply with all applicable local, state, and federal air, water, hazardous substance, solid waste, or other environmental laws and regulations, existing or hereafter enacted or promulgated. To the full extent permissible by law, the Holder agrees to indemnify and hold harmless, within the limits, if any, established by state law (as state law exists on the effective date of the right-of-way), the United States against any liability arising from the Holder's use or occupancy of the right-of way, regardless of whether the Holder has actually developed or caused development to occur on the right-of-way, from the time of the issuance of this right-of-way to the Holder, and during the term of this right-of-way. This agreement to indemnify and hold harmless the United States against any liability shall apply without regard to whether the liability is caused by the Holder, its agents, contractors, or third parties. If the liability is caused by third parties, the Holder will pursue legal remedies against such third parties as if the Holder were the fee owner of the right-of-way.

Notwithstanding any limits to the Holder's ability to indemnify and hold harmless the United States which may exist under state law, the Holder agrees to bear all responsibility (financial or other) for any and all liability or responsibility of any kind or nature assessed against the United States arising from the Holder's use or occupancy of the right-of way regardless of whether the Holder has actually developed or caused development to occur on the right-of-way from the time of the issuance of this right-of-way to the Holder and during the term of this right-of-way.

- 5.6. Mineral material generated, and not needed for the development of the proposed action within the right-of-way site, requires a specific BLM use authorization in accordance with regulations at 43 CFR 3600 prior to the removal of the excess mineral material.

6.0 Survey Monuments

- 6.1. Holder shall protect all survey monuments found within the authorization area. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coast and Geodetic Survey benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. If any of the above are to be disturbed during operations, the holder shall secure the services of a Professional Land Surveyor or Bureau cadastral surveyor to perpetuate the disturbed monuments and references using surveying procedures found in the Manual of Instructions for the Survey of the Public Lands of the United States and Nevada Revised Statutes, Chapter 329, Perpetuation of

Corners. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monuments, the holder shall be responsible for the survey cost.

7.0 **Vegetation/Noxious Weeds/Land surface Treatment/Soil/Water/Riparian**

7.1. This project occurs within the designated "low" density zone for cactus and yucca. All cactus and yucca that might be impacted by this action must be disposed of in an off-site trash receptacle.

7.2. Noxious Weed Abatement

Southern Nevada rangelands are being impacted by the presence of invasive, non-native vegetation (weeds). The Las Vegas Field Office (LVFO) of the Bureau of Land Management (BLM) has prepared the LVFO Weed plan that provides guidance for an active integrated weed management program using best management practices (BMP). The BMP's originated from a cooperative effort between BLM and other Federal agencies which produced the document, Partners Against Weeds. The Las Vegas Field Office Noxious Weed Plan will narrow that focus as it dovetails into the Partners Against Weeds action plan. Weeds are seen as a major threat to ecosystem health in southern Nevada. The presence of weeds in any landscape increases the inter-specific competition for resources. In most situations weeds out-compete native plants and displace them.

The management of weeds is further guided by the Las Vegas Resource Management Plan which identifies two objectives for resource management involving weeds. 1) RP-1-f., which states; "Use integrated weed management techniques to control and eradicate tamarisk, such as burning, chemical, biological or mechanical treatments, where potential for treatment is good. Rehabilitate the area with native species to help reduce the potential for tamarisk re-establishment and improve ecosystem health." 2) VG1, which states; "Maintain or improve the condition of the vegetation on public lands to a Desired Plant Community or to a Potential Natural Community." The LVFO Noxious Weed Plan was approved on December 18, 2006.

The following are project specific stipulations that will attempt to control NV listed noxious weeds on this project.

1. At the onset of project planning in the NEPA analysis phase the project proponent shall complete the Risk Assessment Form for noxious weeds. (Completed and approved by BLM on October 28, 2008.)

2. The project proponent shall coordinate project activities with the BLM Weed Coordinator (702-515-5000) regarding any proposed herbicide treatment. The project proponent shall prepare, submit, obtain and maintain a pesticide use proposal (PUP) for the proposed action.

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

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

5. The project proponent shall locate equipment storage, machine and vehicle parking or any other area needed for the temporary placement of people, machinery and supplies in areas that are relatively weed-free. The project proponent shall avoid or minimize all types of travel through weed-infested areas or restrict major activities to periods of time when the spread of seed or plant parts are least likely.

6. BLM or the project proponent shall determine equipment-cleaning sites (if equipment is infested with weed seeds, plant parts or mud and dirt). Project related equipment and machinery (this especially includes the nooks and crannies of undercarriages) will be cleaned using compressed air or water to remove mud, dirt and plant parts before moving into and from relatively weed-free areas. Seeds and plant parts will be collected, bagged and deposited in dumpsters destined for local landfills, when practical.

7. Project workers shall inspect, remove, and dispose of weed seed and plant parts found on their clothing and personal equipment, bag the product and dispose of in a dumpster for deposit in local landfills. Disposal methods may vary depending on the project. If you have questions consult with the LVFO Noxious Weed Coordinator.

8. The project proponent shall evaluate options, including area closures, to regulate the flow of traffic on sites where native vegetation needs to be established.

- 7.3. Land surface treatment for areas previously disturbed: Following excavation, trenches will be backfilled with the excavated soil. The soil will be distributed and contoured evenly over the surface of the disturbed area. The soil surface will be left rough to help reduce potential wind erosion.
- 7.4. Land surface treatment for areas previously undisturbed: Strip the top three to six inches of soil material with associated plant material over all surfaces to be disturbed by construction. Stockpile this material along the course of construction will be salvaged and transplanted out of harm's way but still within the right of way. At the conclusion, including trench backfilling and compaction, replace the stockpiled soil with plant debris uniformly back on the surface of the disturbed area.
- 7.5. Soil/Water/Riparian: If work is to occur in Ephemeral channels, need to consult with Army Corp of Engineers (ACOE) and Nevada Department of Environmental Protection (NDEP). If drilling boreholes, holder needs to follow Nevada Administrative Code (NAC) protocols for drilling. Consult with ACOE to make sure you do not need a 404 permit.

8.0 Migratory Birds

- 8.1. To prevent undue harm, habitat-altering projects or portions of projects should be scheduled outside bird breeding season. In upland desert habitats and ephemeral washes containing upland species, the season generally occurs between March 15th - July 30th.

If a project that may alter any breeding habitat has to occur during the breeding season, then a qualified biologist must survey the area for nests prior to commencement of construction activities. This shall include burrowing and ground nesting species in addition to those

nesting in vegetation. If any active nests (containing eggs or young) are found, an appropriately-sized buffer area must be avoided until the young birds fledge.

9.0 Threatened and Endangered Wildlife and Plant Species Stipulations

- 9.1. The Holder will comply with the Terms and Conditions of the Biological Opinion File No. 1-5-96-F-023R.3 for the Las Vegas Valley, on file at the Bureau of Land Management, Las Vegas Field Office and as shown below:

Terms and Conditions of Biological Opinion 1-5-96-F-23R.3

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

1. To implement Reasonable and Prudent Measure Number 1, BLM shall fully implement the following measures to minimize take of desert tortoises due to activities associated with construction or development activities:
 - a. Applicants or project proponents will search for and remove tortoises from project areas within the programmatic area if (1) survey data indicate that tortoises are present based on observation of live tortoises, recent sign, or active burrows, (2) tortoises may be relocated to secure habitat within 2 miles from the point of capture and barriers will exist to prevent tortoises from re-entering project areas and appear in harm's way, and (3) the tortoises appear to be healthy, unless the Service determines that survey and removal will not contribute toward recovery.

N-84252/A/ does not meet the required conditions as stated in Term and Condition 1.a. as there is no barrier to prevent relocated tortoises from reentering the project site. Therefore, a clearance survey is voluntary. If a clearance is conducted, any tortoises found must be relocated to the Desert Tortoise Conservation Center following Term and Condition 1.b.

Applicants or project proponents shall contract an authorized desert tortoise biologist to conduct the clearance and removal. Only individuals trained to handle desert tortoises in accordance with Service-approved guidelines shall be authorized to handle desert tortoises, unless they are in imminent danger. Currently, the Service-approved handling guidelines are described in Guidelines for Handling Desert Tortoises during Construction Projects (Desert Tortoise Council 1994, revised 1999). Tortoises shall not be placed on private lands or lands under management by an agency other than BLM, without written permission of the landowner or agency. If unforeseen circumstances occur that would question the survival of tortoises potentially relocated from project areas, BLM shall coordinate with the Service on the disposition of such tortoises.

- b. If a tortoise is in imminent danger with immediate death or injury likely (such as from an approaching vehicle or equipment), and the tortoise has been given the opportunity to move but has withdrawn in its shell and is not moving, onsite personnel may capture the tortoise and place it in a clean unused cardboard box or similar container. If tortoises are found that cannot be relocated as described in Term and Condition 1.a., Clark County's

tortoise pick-up service will be notified immediately. The contained tortoise will be held in the shade or a temperature-controlled environment until removed by the pick-up service.

2. To implement Reasonable and Prudent Measure Number 2, BLM shall fully implement the following measures minimize destruction of desert tortoise habitat, such as soil compaction, erosion, or crushed vegetation:
 - a. BLM shall ensure that a fee is paid at the current rate of \$754 per acre of disturbance, as indexed for inflation, prior to surface disturbance with the following exceptions:
 - (1) R&PP leases would be issued prior to payment of remuneration fees. Payment of fees on R&PP leases shall be deferred until immediately prior to surface disturbance. If the R&PP project consists of phased development of the lease area, fees shall be paid for each phase immediately prior to surface disturbance. Likewise, road ROW issued to local governments (e.g., Clark County, cities of Las Vegas, North Las Vegas, Henderson, Mesquite, and Boulder City) may be issued before payment of fees. If payment of remuneration fees is postponed for any project, the applicant must submit a request for a Notice to Proceed before surface disturbance. The applicant shall provide BLM with proof of payment of the required remuneration fees, before BLM issues the Notice to Proceed. Both of these actions shall occur prior to surface disturbance. A Notice to Proceed shall be issued for each segment of right-of-way as payment is made.
 - (2) Because many mining plans of operation are phased in over a number of years, remuneration fees shall be paid for each phase immediately prior to surface disturbance.
 - (3) Projects impacting less than 0.25 acres will not be assessed a remuneration fee.
 - (4) Mineral material sales will be charged a fee of 25 cents per yard up to the equivalent of \$754 per acre of disturbance.

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. The next adjustment shall occur on January 31, 2010, and will become effective March 1, 2010. Fees assessed or collected for projects covered under this biological opinion after March 1st of each year will be adjusted based on the CPI-U. Information on the CPI-U can be found on the Internet at:

<http://stats.bls.gov/news.release/cpi.nws.htm>

This fee will be paid directly to the Desert Tortoise Public Lands Conservation Fund Number 730-9999-2315, administered by Clark County or any other administrator approved by the Service. The administrator serves as the banker of these funds and receives no benefit from administering these funds. These funds are independent of any other fees collected by Clark County under the MSHCP.

The surface disturbance for this project is 2.73 acres. The total fee for this project is \$2,058.42 (\$754.00 x 2.73).

day in the same area from which it was collected and using the procedures described above. Each tortoise will be handled with new disposable latex gloves. After use, the gloves will be properly discarded and a fresh set used for each subsequent tortoise handling.

- e. 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 shall be kept shaded at all times until it is safe to release them. No desert tortoise shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95°F (35°C). Ambient air temperature shall be measured in the shade, protected from wind, at a height of 2 inches (5 centimeters) above the ground surface. No desert tortoise shall be captured if the ambient air temperature is anticipated to exceed 95°F (35°C) before handling and relocation can be completed. If the ambient air temperature exceeds 95°F (35°C) during handling or processing, desert tortoises shall be kept shaded in an environment that does not exceed 95°F (35°C), and the animals shall not be released until ambient air temperature declines to below 95°F (35°C).
 - f. Project activities that may endanger a tortoise will cease if a tortoise is found on a project site. Project activities will resume after an authorized desert tortoise biologist removes the tortoise from danger or after the tortoise has moved to a safe area on its own volition.
 - g. A desert tortoise education program may be required on an action-specific basis if BLM biologist or Service believe that project personnel will encounter desert tortoises. The program would be presented to all personnel onsite during construction activities. This program would contain information concerning the biology and distribution of the desert tortoise, desert tortoise activity patterns, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties, measures designed to minimize the effects of construction activities, the means by which employees can facilitate this process, and reporting requirements to be implemented when tortoises are encountered.
4. To implement Reasonable and Prudent Measure Number 4, BLM shall fully implement the following measures to ensure compliance with the reasonable and prudent measures, terms and conditions, reporting requirements, and reinitiation requirements contained in this biological opinion:

All necessary information sheets and forms shall be completed by the proponent. Attachment A must be completed prior to BLM authorizing the action. The proponent must complete Attachment B and return it to the BLM within 30 days of completion of construction. These forms will be modified as necessary with the Service's concurrence.

Attachment A

SECTION 7 FEE PAYMENT FORM

****PAYMENT CAN NOT BE ACCEPTED WITHOUT FORM****

Entire form is to be completed by project proponent

Biological Opinion File Number: 1-5-96-F-023R.3

Case File #: N-84252/A/

U.S. Fish and Wildlife Service Office that Issued the Opinion:
Nevada Fish and Wildlife Office, Reno, Nevada

Species: Desert tortoise (*Gopherus agassizii*)

Project: Clark Cnty-Road-Los Feliz by Sahara

Amount of Payment Received: \$ 2,058.42

Total Payment Required: \$ \$2,058.42

Date of Receipt: July 15, 2009

Check or Money Order Number: 576144

Number of Acres to be Disturbed: 2.73

Project Proponent: Clark County

Telephone Number: (702) 455-6050

Authorizing Agencies: BUREAU OF LAND MANAGEMENT

Make checks payable to: Clark County Treasurer

Deliver check to: Clark County Desert Conservation Program
c/o Dept. of Air Quality and Environmental Management
Clark County Government Center
500 So. Grand Central Parkway, first floor (front counter)
Las Vegas, Nevada 89106
(702) 455-5821
Acct No. 730-9999-2315

If you have questions, you may call the Southern Nevada Field Office of the U.S. Fish and Wildlife Service at (702) 515-5230.

Revised 07/13/2005

Attachment A

DESERT TORTOISE SECTION 7 COMPLIANCE FORM

Entire form is to be completed by the project proponent and delivered to the Bureau of Land Management within 30 days of project completion

Biological Opinion File Number: 1-5-96-F-023.R3

Species: desert tortoise (*Gopherus agassizii*)

Project Name: Clark Cnty-Road-Los Feliz by Sahara Case File No: N-84252/A/
Acreage of Disturbance Authorized: 2.73
Acreage Actually Disturbed: _____
Fees Assessed: \$2,058.42 Rate: \$754/acre

In accordance with this biological opinion, applicants or project proponents may voluntarily choose to search for and remove tortoises from lands to be disturbed within the project area.

Desert tortoise survey conducted Date(s): _____

Voluntary desert tortoise survey conducted

No desert tortoise survey conducted

Migratory bird survey conducted Date(s): _____

Number of desert tortoises injured: _____

Number of desert tortoises killed: _____

Number of desert tortoises removed from the project site: _____

Number relocated to adjacent habitat within 2 miles: _____

Number transferred to the Clark County Tortoise Pick-up Service: _____

(Provide a report detailing all tortoise encounters and what happened to the animals. This report will include age class, gender, and health of each animal, maps showing where each tortoise was captured and later relocated, and the air temperature during the relocation.)

Company and persons who conducted the survey and removal¹:

Company: _____

Name: _____

Address: _____

Phone: _____

State Permit #: _____

Deliver this completed form to: Bureau of Land Management
Division of Recreation and Renewable Resources
4701 N. Torrey Pines Drive
Las Vegas, NV 89130
(702) 515-5000

If you have questions, call the BLM's Wildlife staff at (702) 515-5000.

Revised 07/13/2005

¹ BLM approval of biological monitors/surveyors required. Submit resumes for review/approval at least 15 days prior to construction.

EXHIBIT "B"
Legal Description
Right-of-Way Grant
For a portion of
Los Feliz Street
(APN 161-02-301-001)

The West eighty (80') feet of Government Lot 12, Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada;

The East forty (40') feet of the South half of Government Lot 13, Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada;

The West forty (40') feet of Government Lot 17, Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada;

The East forty (40') feet of Government Lot 16, Section 2, Township 21 South, Range 62 East, M.D.M., Clark County, Nevada;

TOGETHER WITH that certain spandrel area bounded on the South by the North line of that certain right-of-way previously granted by BLM Grant No. N-84252 per Book 20080128, Instrument 04432; And bounded on the East by the West line of the East forty (40') feet and bounded on the Northwest by the arc of a curve concave to the Northwest, having a radius of fifty-four (54') feet and being tangent to the North line of the South forty (40') feet and to the West line of the East forty (40') feet.

EXCEPTING THEREFROM that portion previously granted by BLM per Book 20080128, Instrument 04432.

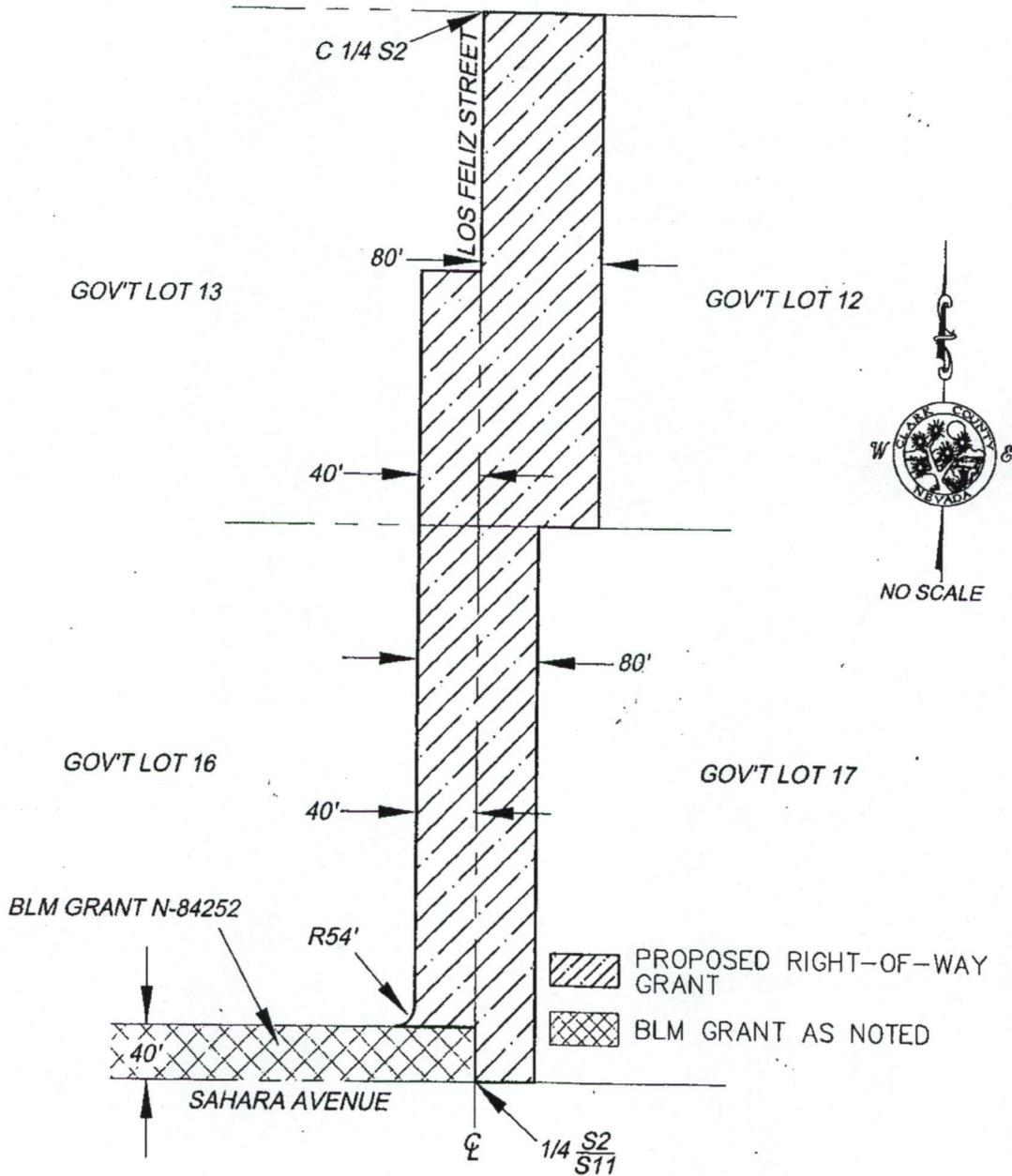
This description was prepared by the Clark County Surveyor's Office from documents of record and does not constitute the results of a field survey made for that purpose. See Exhibit "B" attached hereto and by this reference made a part hereof.



James L. Marlett Jr., P.L.S.
Nevada Certificate No. 13386
Clark County Deputy Surveyor

EXHIBIT "B"

CLARK COUNTY PUBLIC WORKS
SURVEY DIVISION



NOTE:

AREA SHOWN IS AN APPROXIMATE VALUE USED FOR ASSESSMENT
PURPOSE ONLY, DERIVED FROM DOCUMENTS OF RECORD AND
DOES NOT CONSTITUTE THE RESULTS OF A FIELD SURVEY.

PARCEL No.
AREA OF ROW GRANT
REFERENCES

161-02-301-001
5.46 ACRES, MORE OR LESS AS DETERMINED BY COMPUTER METHODS.
RECORD OF SURVEY FILE 115 PAGE 21; BUREAU OF LAND
MANAGEMENT GRANT N-84252 RECORDED AS DOCUMENT
20080128 IN

T. 21 S., R. 62 E., sec. 2

SHT 1 OF 1

N-84252/A/

EXHIBIT B

2 of 2

JUL 30 2009

BLM GRANT NO. N-584252/A/
August 6, 2009

NOTE: DUE TO SIZE RESTRICTIONS AND/OR QUESTIONABLE CLARITY FOR RECORDING PURPOSES, CERTAIN MAPS IDENTIFIED AS "EXHIBITS B, 1 OF 2" AND "C" OF THE RIGHT-OF-WAY, ARE NOT BEING RECORDED WITH THIS DOCUMENT, BUT REMAIN A PART OF THE ORIGINAL RIGHT-OF-WAY GRANT.

ORIGINALS AND MAPS ARE ON FILE AT:
BUREAU OF LAND MANAGEMENT
LAS VEGAS FIELD OFFICE
4701 NORTH TORREY PINES DRIVE
LAS VEGAS, NEVADA 89130-2301

CLARK COUNTY DEPARTMENT OF PUBLIC WORKS
DESIGN ENGINEERING DIVISION
500 GRAND CENTRAL PARKWAY, SUITE 2001
LAS VEGAS, NEVADA 89106



N-84252/A/

Right-of-Way Road Area Shown in Orange

T. 21 S., R. 62 E., sec. 2
N-84252/A/
EXHIBIT B
1 of 2

JUL 30 2009

