

**PROGRAMMATIC AGREEMENT  
AMONG  
THE LAS VEGAS FIELD OFFICE OF THE SOUTHERN NEVADA DISTRICT OFFICE OF  
THE BUREAU OF LAND MANAGEMENT (BLM),  
THE BUREAU OF RECLAMATION (RECLAMATION),  
THE NATIONAL PARK SERVICE (NPS),  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP),  
SILVER STATE ENERGY ASSOCIATION (Proponent)  
AND  
THE NEVADA STATE HISTORIC PRESERVATION OFFICER (SHPO)  
REGARDING THE EASTERN NEVADA TRANSMISSION PROJECT**

WHEREAS, the BLM, Reclamation, and NPS have determined that the Eastern Nevada Transmission Project (ENTP) proposed by Silver State Energy Association (Proponent) in Clark County, Nevada, may have an effect upon properties eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, the ENTP and associated issuance of a right-of-way (ROW) and right-of-use (ROU) are collectively referred to in this document as the Undertaking; and

WHEREAS, the Proponent intends to construct, operate, maintain and eventually decommission the Undertaking according to general parameters contained in the approved project Plan of Development (POD) for the Undertaking which shall be appended to and made a part of the Decision Record (DR) authorizing the ROW grant; and

WHEREAS, the BLM, in consultation with the SHPO, has determined that the Undertaking is an undertaking as defined in 36 CFR §800.16(y); and

WHEREAS, if the Undertaking is approved the BLM will issue a ROW for the transmission line and access roads across BLM managed lands; and

WHEREAS, if the Undertaking is approved Reclamation will issue a ROU for the transmission line and access roads across Reclamation managed lands; and

WHEREAS, the NPS co-administers the Old Spanish National Historic Trail (OSNHT) with the BLM and is an Invited Signatory; and

WHEREAS, the Clark County Wetlands Park may be affected by the Undertaking, Clark County is an Invited Signatory; and

WHEREAS, the BLM has invited the Advisory Council on Historic Preservation (ACHP) to participate in consultation and the ACHP has accepted this invitation; and

WHEREAS, the BLM, RECLAMATION, SHPO, and ACHP are Signatories to this PA; and

WHEREAS, the Proponent is an Invited Signatory; and

WHEREAS, the BLM has invited the Moapa Band of Paiutes, the Las Vegas Band of Paiutes, the Paiute Indian Tribe of Utah, the Chemehuevi Indian Tribe, the Timbisha Shoshone Indian Tribe, the Kaibab Band of Paiutes, and the Fort Mojave Indian Tribe (collectively referred to as the Tribes), to consult in the Section 106 process as Concurring Parties to this PA and to identify properties of traditional religious or cultural significance, also known as Traditional Cultural Properties; and

WHEREAS, the Tribes, The Old Spanish Trail Association, and Citizens for Active Management are Concurring Parties; and

WHEREAS, jointly the Signatories, Invited Signatories, and Concurring Parties shall be called the Consulting Parties; and

WHEREAS, the BLM has consulted with the SHPO and other Consulting Parties to determine which organizations or individuals constitute interested parties for purpose of this PA; and

WHEREAS, the BLM has notified the public of the Undertaking and has provided members of the public with an opportunity to express their views on the development of the PA and the Section 106 process pursuant to 36 CFR § 800.6(a)(4) and 36 CFR § 800.14(b)(2)(ii) during and concurrent with the public comment process for the draft Environmental Assessment for the ENTP. A copy of the Draft PA was made available to the public at the Southern Nevada District Office, posted on the SNDO BLM website at <http://www.blm.gov/nv/st/en/fo/lvfo.html>; and

WHEREAS, the BLM may issue a ROW grant for the construction, operation and maintenance, and eventual decommissioning of the Undertaking, and the ROW grant will incorporate this PA by reference; and

WHEREAS, this PA, and the Historic Properties Treatment Plans (HPTPs) that will be developed pursuant to this PA, will be incorporated into the approved project POD;

NOW THEREFORE, the Consulting Parties agree that the Undertaking shall be administered in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

#### **DEFINITIONS**

Terms used in this PA are defined in Appendix A. All other terms not defined have the same meaning as set forth in the ACHP's regulations 36 CFR § 800.16.

#### **STIPULATIONS**

BLM shall ensure that the following measures are carried out:

##### **I. ROLES AND RESPONSIBILITIES**

The federal agencies agree that BLM will be the Lead Federal Agency for implementing this PA. The BLM is responsible for administering this PA. This includes but is not limited to: ensuring that all Signatories and Invited Signatories carry out their responsibilities; overseeing all cultural resource work;

assembling all submissions to the SHPO, Reclamation, and Clark County, including reports, determinations of eligibility and effect, and treatment or data recovery plans; and for seeking SHPO concurrence with all agency compliance decisions.

**BLM Managed Land:** the BLM, in consultation with SHPO and the Consulting Parties, will be responsible for reviewing reports and participating in making determinations of eligibility, developing treatment options, and determining effects for the Undertaking.

**Land Managed by Reclamation and Clark County:** In coordination with Reclamation and Clark County, the BLM will be responsible for reviewing reports and participating in making determinations of eligibility, developing treatment options, and determining effects for the Undertaking for those sites located on lands administered by Reclamation.

**Private Land:** The BLM in consultation with SHPO and the Consulting Parties will be responsible for reviewing reports and in making determinations of eligibility, developing treatment options, and determining effects for the Undertaking on private land.

Any aspects of this PA involving only BLM and SHPO, and not otherwise described in the PA will follow *The State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Officer for Implementing the National Historic Preservation Act* (Protocol), dated December, 2014. This Protocol is incorporated by reference.

## II. AREA OF POTENTIAL EFFECT (APE)

The Undertaking consists of the construction, operation, and maintenance of two separate 230-kV transmission lines (see maps 1 & 2: Appendix B); each line will exist within the boundaries of Clark County, Nevada. The proposed Gemmill to Tortoise transmission line has one proposed ROW/ROU corridor while the proposed Silverhawk to Newport transmission line includes the proposed corridor and one alternative corridor.

The proposed Gemmill to Tortoise ROW corridor is approximately 21 miles long with 8 miles of transmission line within the existing Lincoln County Conservation, Recreation, and Development Act (LCCRDA) utility corridor, approximately 2.5 miles adjacent to an existing power line to minimize ground disturbance and avoid conflicts with the highway ROW, and approximately 9.5 miles parallel to but between 700-2600 feet north of the LCCRDA corridor to avoid conflict with private and tribal lands. The proposed Silverhawk to Newport ROW corridor, which is approximately 33 miles long, is within a designated utility corridor and will generally parallel three other existing transmission lines.

A BLM ROW grant and a Reclamation ROU authorization for a width of 130 feet has been requested by the Proponent to safely construct, operate, and maintain the transmission lines. The specific location of transmission line structures and associated access roads will be determined when final design is complete.

The Area of Potential Effect (APE) shall be defined to include the area within which there are potential direct and indirect effects to historic properties from activities associated with the Undertaking. The APE may be amended on agreement of the Signatories.

A. Direct Effects

The direct effects area of the APE is the area within which historic properties may sustain physical alteration or destruction as a result of the Undertaking. The APE for direct physical effects is influenced by the area of potential ground disturbance by activities related to the Undertaking, and will be determined as follows:

1. For above ground transmission lines the APE is 130 feet or the width of the ROW/ROU.
2. The APE for new or improved access roads outside of the transmission line corridor will be a minimum of 100 feet wide with at least 50 feet on either side of the centerline.
3. The minimum APE for any staging areas or other temporary-use area will be the footprint of the area plus 100 feet outward in all directions from the perimeter of each area.
4. The APE for pulling/tensioning areas that fall outside of the ROW is the footprint of the area plus a buffer of 100 feet around the footprint of the proposed activity.
5. The APE for geotechnical drill sites is the boring location footprint plus a buffer of 50 feet around the footprint of the boring location.

B. Indirect Effects

The APE area for indirect effects is defined as the area where there exists indirect physical, visual, atmospheric and audible effects on historic properties that could diminish the integrity of historic properties for which setting, feeling and/or association are aspects of such integrity.

1. The indirect APE for the Undertaking extends to the visual horizon not to exceed 2 miles on either side of the transmission line centerline. A Geographic Information Systems (GIS) viewshed analysis will be used to identify areas within the indirect APE from which the Undertaking may be visible.
2. Where the indirect APE includes properties of traditional religious or cultural significance, National Historic Trails, or other classes of historic properties for which setting, feeling, and/or association contribute to eligibility, additional analysis may be required and the indirect APE may be modified accordingly. These areas will require analysis on a case-by-case basis.

C. Cumulative Effects

Cumulative effects are the reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

D. Modifying the APE

1. The APE, as currently defined, encompasses an area sufficient to accommodate all of the Undertaking components under consideration as of the date of the execution of this PA. The APE may be modified when tribal consultation, additional field research or literature review, consultation with Consulting Parties, or other factors indicate that the qualities and values of historic properties that lie outside the boundaries of the currently defined APE may be affected directly, indirectly, or cumulatively.

- a. If the BLM determines that the Undertaking or changes to the Undertaking may cause direct, indirect, or cumulative effects on historic properties that were not foreseeable at the time the PA was executed, then the BLM shall use the process set forth in Stipulation II.D.1(b) to determine whether to modify the APE.
  - b. Any Consulting Party to this PA may propose that the APE be modified by providing written justification and illustration of the proposed APE modification. The BLM shall send the modification proposal to all Signatories and consult with them for no more than 30 days in an effort to reach consensus on the proposal. If the Signatories and Invited Signatories agree to modify the APE, the BLM will notify the Consulting Parties of the decision. If all Signatories and Invited Signatories cannot agree to a proposal for the modification of the APE, then the BLM will consider their concerns and will render a final decision.
2. The BLM may modify the APE as needed or as requested by the SHPO or other Consulting Party without amending the PA proper. If this occurs, all Consulting Parties will receive formal notification of the modified APE. Within thirty (30) calendar days of their receipt of the proposed modification, any Consulting Party may request the PA to be amended in accordance with the process outlined in Stipulation XIV.

### **III. Protection of Confidential Information**

To the extent allowable under NHPA Section 304 (54 U.S.C. § 300310), and the Archaeological Resources Protection Act (ARPA) Section 9(a), cultural resource data from this Undertaking will be treated as confidential by all Consulting Parties and is not to be released to any person, organization or agency not a party to this PA. Confidentiality concerns for properties that have traditional religious or cultural significance to the Indian tribes will be respected and will remain confidential to the fullest extent permitted by law. The BLM may require data sharing agreements with any Consulting Party to this PA who is interested in obtaining specific confidential information. Alternatively, BLM may require an authorization from the State Director.

### **IV. Identification**

- A. The BLM shall ensure that all work undertaken to satisfy the terms of this PA meets the Secretary of the Interior's Standards for Archeology and Historic Preservation (48 FR 44716) (*Federal Register*, September 29, 1983), hereinafter referred to as Secretary's Standards, and is consistent with the Advisory Council on Historic Preservation's (ACHP) guidance on archaeology and all applicable NPS guidance for evaluating National Register properties (e.g., *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, *Guidelines for Evaluating and Documenting Rural Historic Landscapes*). The BLM will follow its defined conventions or standards for inventory corridors and survey intensity to adequately identify historic properties that may be affected by this Undertaking.
- B. The Proponent shall fund all appropriate historic properties identification activities, including inventory; records research; informant interviews; archaeological, historic, or ethnographic report preparation; and curation based on the APE for all activity areas, or portions thereof.

The Proponent shall complete all required identification activities regardless of the ownership (public or private) of the lands involved, and the Proponent shall be responsible for gaining access to privately held lands.

- C. In recognition of the requests by the Moapa Band of Paiutes and the Las Vegas Band of Paiutes and the Chemehuevi Indian Tribe to participate in the identification, mitigation, and monitoring of cultural sensitive resources, the Moapa Band of Paiutes, the Las Vegas Band of Paiutes, and the Chemehuevi Indian Tribe will be provided the opportunity to participate in the Class III inventory and any subsequent construction monitoring. The Proponent shall ensure that its contractors invite members of the Moapa Band of Paiutes and the Las Vegas Band of Paiutes and the Chemehuevi Indian Tribe to participate in the Class III inventory and any subsequent construction monitoring. The Tribes will also be invited to participate in determinations of eligibility and development and review of Treatment or Data Recovery Plans as outlined in this PA.
- D. The BLM shall ensure that a literature search of a four-mile wide corridor for the indirect APE along all alternatives of the proposed Undertaking which includes Reclamation records, will be undertaken for the Environmental Assessment.
- E. The BLM shall ensure that a Class III inventory will be conducted for the Undertaking. The implementation of studies may be phased for the Undertaking. The Class III inventory will be undertaken for the APE of the selected route and will be completed prior to any surface disturbing activities and will follow the stipulations as outlined in this PA.
- F. In cooperation with Reclamation, the BLM shall make a good faith effort to consult with the Tribes to identify properties of traditional religious or cultural significance (Traditional Cultural Properties) to make determinations of their eligibility, and to ensure appropriate treatment when it is not possible to avoid adverse effects to historic properties.
- G. Determinations of Eligibility and Assessment of Effect:
  - 1. The BLM, in consultation with the SHPO and Reclamation, shall evaluate all cultural resources located within the APE for eligibility to the NRHP prior to the initiation of activities that may affect historic properties.
  - 2. The BLM, in consultation with SHPO, shall consult with the Tribes to evaluate the eligibility of properties of traditional religious or cultural significance (Traditional Cultural Properties).
  - 3. The BLM shall base eligibility determinations on inventory information and consultation with the Tribes. As needed for further clarification of eligibility, the BLM in consultation with the other Signatories shall develop testing plans and consolidate all testing plans into one submission to the SHPO for review. The BLM shall provide Consulting Parties with the same review opportunity as afforded the SHPO. A minimum amount of testing will be conducted to preserve as much of a site as possible, and will require obtaining an ARPA permit from the Nevada BLM and consultation with the Tribes. Testing and/or excavation on Reclamation land will require an ARPA permit from Reclamation.
  - 4. Within the indirect APE, any of the following cultural resources from which the

Undertaking can be seen based on a GIS viewshed analysis will be evaluated for National Register eligibility: any previously identified historic properties eligible under criterion A, B, or C; unevaluated resources; cultural resources identified as areas of concern by Consulting Parties; and portions of National Historic Trails.

5. If any of the Consulting Parties disagree regarding eligibility, the BLM shall notify all Signatories of the dispute and consult with the SHPO. If the dispute cannot be resolved, the BLM shall seek a formal determination of eligibility from the Keeper of the National Register. The Keeper's determination will be considered final.

## V. Treatment

To the extent practicable, the BLM shall ensure that the Proponent avoids adverse effects to historic properties through project design, or redesign, relocation of facilities, or by other means in a manner consistent with this PA and the Protocol.

- A. The BLM in consultation with the Consulting Parties shall determine the nature of effects to historic properties identified in the APE. When avoidance is not feasible the BLM, in consultation with the Consulting Parties, as appropriate, shall ensure that the Proponent develops a HPTP designed to lessen or mitigate Undertaking-related effects to historic properties. The BLM will consult with the Consulting Parties on the HPTP and ensure that revisions are made as needed. The SHPO will review the final plan within 30 days of receipt.
- B. For properties eligible under Criteria A through C, mitigation other than data recovery may be considered in the HPTP (e.g., Historic American Buildings Survey/Historic American Engineering Record/Historic American Landscapes Survey (HABS/HAER/HALS) recordation, oral history, historic markers, exhibits, interpretive brochures or publications). Where appropriate, the HPTP shall include provisions (e.g., content and number of copies) for a publication for the general public.
- C. When data recovery is proposed, the BLM, in consultation with the SHPO, affected land management agencies and with Tribes, shall ensure that the Proponent develops a HPTP that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37) and the ACHP's guidance available online at <http://www.achp.gov/archguide/> in addition to agency standards.
- D. The Proponent shall ensure through its contractors that it implements and completes the fieldwork portions of any final HPTP prior to initiating any activities that may affect historic properties located within the area covered by the HPTP.
- E. The BLM shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR 79 in a BLM-approved facility in Nevada. Any discoveries on Reclamation managed lands will be either turned over to Reclamation or stored at a facility agreed to by Reclamation. Materials covered by the Native American Graves Protection and Repatriation Act (NAGPRA), applicable to federal and tribal lands only, will be handled in accordance with 43 CFR 10. Reclamation retains responsibility for NAGPRA items found on lands managed by Reclamation. All materials collected will be maintained in accordance with 36 CFR 79 or 43 CFR 10 until the final treatment report is complete and collections are curated or

returned to their owners. BLM will encourage private owners to donate collections from their land to an appropriate curation facility.

- F. The BLM shall ensure that all final inventory reports resulting from actions pursuant to this PA will be provided to the Signatories, tribes, or other Consulting Parties with a demonstrated interest in the resource and a data sharing agreement with BLM. Redacted reports or summary reports will be available to Consulting Parties without data sharing agreements. All such reports shall be consistent with contemporary professional standards and the Department of Interior's Formal Standards for Final Reports of Data Recovery Programs (48 FR 44716-44740).

## VI. Discovery Situations

- A. Prior to initiating any activities within the APE, the Proponent will provide the Signatories with a list of, and schedule for the Proponent's employees, contractors, and subcontractors empowered to halt all activities in a discovery situation and who will be responsible for notifying BLM of any discoveries within twenty-four (24) hours. At least one (1) of these employees will be present during all Proponent activities.
- B. As soon as there is a discovery or unanticipated impact situation, all activities associated with the Undertaking will halt in the immediate vicinity of the discovery or impact and thereafter be directed away from an area at least 300 feet in all directions from the point of discovery/impact. The Proponent, through its contractors, will immediately notify BLM of the situation.
- C. The BLM shall notify the SHPO and other Consulting Parties as appropriate, within 1 working day of being notified of the discovery or unanticipated impact, and consider their initial comments on the situation. Within two (2) working days after its initial notification, the BLM shall notify all Signatories or other parties, of the decision to either allow the Undertaking to proceed or to require further evaluation or mitigation.
- D. If, in consultation with the Signatories, the BLM determines that mitigation for discoveries or unanticipated impacts is required, the BLM shall solicit comments from the Signatories and other Consulting Parties, as appropriate, to develop mitigation measures. The Signatories, the Tribes, and Consulting Parties, as appropriate, will be allowed two (2) working days to provide the BLM with comments to be considered when the BLM decides on the nature and extent of mitigation efforts. Within seven (7) working days of initial SHPO notification, the BLM will inform all Signatories and other Consulting Parties as appropriate of the nature of the mitigation required, and ensure that such mitigation actions are implemented before allowing Undertaking activities to resume.
- E. The BLM shall ensure that reports of mitigation efforts for discovery situations are completed in a timely manner and conform to the Department of Interior's Formal Standards for Final Reports of Data Recovery Program (42 FR 5377-79). Drafts of such reports shall be submitted to the SHPO for review and comment as set forth in Stipulation H.3 of this PA. Final reports shall be submitted to the SHPO and Consulting Parties with a demonstrated interest and data sharing agreements with BLM, for informational purposes.
- F. Any disputes or objections arising during a discovery situation that cannot be resolved by the BLM and the SHPO shall be referred to the BLM State Director for resolution. The BLM State

Office decision will be considered final.

- G. Undertaking related activities in a 300 foot buffer of the discovery will remain suspended until the Proponent is notified by the BLM-authorized officer in writing that mitigation is complete and activities can resume.

## **VII. Other Considerations**

- A. The BLM shall ensure that ethnographic, historic, architectural, and archaeological work conducted pursuant to this PA is carried out by or under the direct supervision of persons meeting qualifications set forth in the proposed Secretary of the Interior's Historic Preservation Professional Qualification Standards dated June 20, 1997 (62 FR 33708-33723) or the most current version and who have been permitted for such work by the appropriate federal agency.
- B. The Proponent, in cooperation with the BLM and the SHPO, shall develop and implement training for field employees and a brochure for casual site workers to ensure that all its personnel and all the personnel of its contractors and subcontractors are directed not to engage in the illegal collection of historic and prehistoric materials. The Proponent shall cooperate with the BLM to promote compliance with the ARPA (16 U.S.C. 470) on federal lands and with Nevada statute NRS 383.150 to NRS 383.190 for work on private land.
- C. The Proponent shall bear the expense of identification and evaluation of cultural resources, and treatment of all historic properties directly or indirectly affected by the Undertaking. Such costs shall include, but are not limited to, pre-field planning, fieldwork, post-fieldwork analysis, research and report preparation, interim and summary report preparation, publications for the general public, and the cost of curating project documentation and artifact collections.
- D. In general, the identification and evaluation of cultural resources, and treatment of historic properties directly affected by the Undertaking shall be limited to the APE, including all temporary ROW/ROU for construction; however, identification, evaluation, and treatment efforts may extend beyond the geographic limits of the APE when the resources being considered extend beyond the APE. For those historic properties that extend beyond the APE, treatment activities should be necessary, practical, and reasonable, and the associated expenses should be consistent with comparable activities within APE boundaries.
- E. The BLM, in consultation with the appropriate Tribes, will make decisions about how properties of traditional religious or cultural significance within the direct or indirect APE will be identified, evaluated, and treated. The Proponent may contract for data gathering to assist the BLM in identifying, evaluating, and treating these properties. However, formal consultation, as needed, will be conducted by the BLM in consultation with SHPO and the other federal agencies.
- F. Information on the location and nature of all cultural resources, and all information considered proprietary by the Tribes, will be held confidential to the extent provided by federal and state law.
- G. The BLM shall ensure that any human remains, grave goods, items of cultural patrimony, and sacred objects encountered during the Undertaking are treated with the respect due such

materials. Human remains and associated grave goods found on federal land will be handled according to the provisions of the NAGPRA and its implementing regulations (43 CFR 10). Human remains and associated grave goods encountered on private land will be handled according to the provisions of Nevada statutes NRS 383.150 to NRS 383.190. In accord with Stipulation V.E, Reclamation retains responsibility for NAGPRA items found on lands managed by Reclamation.

- H. Should damage to historic properties occur during the period of construction, installation, operation or maintenance of the Undertaking due to any unauthorized, intentional, inadvertent, or negligent actions on the part of the Proponent, their employees, contractors or any other personnel, the Proponent shall be responsible for costs of required treatment or mitigation. In addition, BLM may refer or pursue any investigative or enforcement action allowed or required under federal law, including ARPA.
- I. If the BLM disapproves of an application(s) for a ROW, or if Reclamation disapproves of an application(s) for ROU, or if the Proponent withdraws any pending application for ROW/ROU prior to BLM or Reclamation decisions, then the Proponent shall incur no further expense for the evaluation or treatment for any cultural properties, except the Proponent must complete, and submit a report for any inventory, treatment or post fieldwork activities already initiated and ongoing at the time of the withdrawal, termination or disapproval, as identified by the BLM. In the case of inventory, a complete report with completed site forms will be required. For evaluation, mitigation, or treatment, a report on the completed work with full analysis and curation of materials will be required.
- J. In the event that the Proponent terminates the Undertaking after the BLM has issued one or more Notices to Proceed (NTP), the Proponent shall complete and submit reports for any inventory or treatment activity already initiated and ongoing for the given Undertaking portion at the time of termination where such completion is expressly required under the applicable NTP.
- K. The BLM shall prepare and disseminate an annual letter report of cultural resource activities pertaining to this Undertaking for all Consulting Parties. The information in this report will be discussed via conference call by December 31 of each year for the duration of this PA. The implementation and operation of this PA shall be evaluated on an annual basis by the Consulting Parties. This evaluation, to be conducted after the annual conference call, may include meetings or additional conference calls among these parties, and suggestions for possible modifications or amendments to this PA.
- L. Any paleontological materials discovered on federal lands in association with an archaeological resource as defined in Section 3(l) of the ARPA (16 U.S.C. 470) or in section 2 of the NAGPRA (43 CFR 10) will be subject to the provisions set forth in this PA. Paleontological materials discovered on federal lands not associated with archaeological materials are outside the scope of this PA and will be subject to the regulations set forth in Subtitle D of Public Law 111-011, the Omnibus Public Land Management Act of 2009. Subtitle D is also known as the Paleontological Resources Protection Act (PRPA).

**VIII. Observation and Monitoring**

- A. Any Signatory may observe actions carried out pursuant to this PA. To the extent practicable, all such activities will be done so as to minimize the number of observers involved in the Undertaking.
- B. Any areas that the BLM, in consultation with the SHPO and other Consulting Parties as appropriate, identifies as sensitive will be monitored by an appropriate professional during any surface disturbing activities that may impact the area. Any surface disturbing activities within the boundary of the Gypsum Cave Traditional Cultural Property will require a professional monitor and a 30-day notice to the Tribes prior to initiating such activities. Tribal representative(s) will be invited to participate in the monitoring.
- C. HPTPs will contain Monitoring Plans, as needed. Monitors shall be empowered to stop work in the specific area of concern to protect cultural resources. The Proponent shall ensure that its contractors invite and encourage tribal members to participate in any construction monitoring.

**IX. Notices to Proceed**

The BLM, in consultation with Reclamation and SHPO, may issue a NTP to the Proponent for individual construction segments, as defined by the Proponent in its Construction Plan, under any of the following conditions:

- A. The BLM, in consultation with the SHPO, has determined that there are no cultural resources within the APE for the construction segment; or
- B. The BLM, in consultation with the SHPO, has determined that there are no historic properties within the APE for the construction segment; or
- C. The BLM, in consultation with the SHPO, has determined that there are no historic properties adversely affected; or
- D. The BLM, in consultation with the SHPO and Consulting Parties, has implemented an adequate HPTP for the construction segment, and
  1. The fieldwork phase of the treatment option has been completed; and
  2. The BLM has accepted a summary description of the fieldwork performed within the construction segment; and
  3. The BLM has submitted copies of any reports and HPTPs to the SHPO; and
  4. The SHPO has reviewed all fieldwork summaries. If the SHPO does not respond within two working days of receipt, BLM shall assume concurrence and issue the NTP.
- E. The Proponent will provide maps of segments to be released for construction to the BLM for approval.

**X. Curation**

All reports, records, photographs, maps, field notes, artifacts, and other materials collected or developed for any identification, evaluation, or treatment activities will be curated in a facility in Nevada approved by the BLM at the time the final report associated with that activity is accepted by the BLM, unless materials and artifacts must be returned to the owner. All reports, records, photographs, maps, field notes, artifacts, and other materials collected or developed for any identification, evaluation, or treatment activities on land administered by Reclamation will be curated in a facility chosen by Reclamation.

**XI. Time Frames**

- A. Reports: The Proponent shall ensure that a draft final report of all identification, evaluation, treatment, or other mitigation activities will be completed and sent to the BLM within nine (9) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated. BLM, Reclamation, and Clark County shall review and comment on any report submitted by Proponent within 30 calendar days of receipt.
- B. Consultation with Consulting Parties: Prior to SHPO consultation the BLM shall submit the results of all identification and evaluation efforts, including discovery situations, and HPTPs to the Tribes and other identified Consulting Parties for a 30 calendar-day review and comment period that commences upon receipt.
- C. SHPO Consultation: After review by the Consulting Parties and revision as needed, the BLM shall submit the results of all identification, evaluation, and treatment efforts, including discovery situations, HPTPs, and other reports to the SHPO for a 30 calendar-day review and comment period.
- D. If any Signatory to this PA or other Consulting Party fails to respond to the BLM within 30 calendar days of receipt of a submission, the BLM shall assume concurrence with the findings and recommendations as detailed in the submission and proceed accordingly.

**XII. Decommissioning**

- A. Prior to decommissioning the Undertaking, the BLM, in consultation with the Signatories to this PA, will assess the direct, indirect and cumulative effects of decommissioning this transmission line and associated facilities on historic properties. The BLM will consult with the Signatories to seek ways to avoid or minimize adverse effects to historic properties. If adverse effects cannot be avoided BLM will consult with the parties to this PA to determine appropriate mitigation measures.
- B. The BLM will provide all assessments of effect from decommissioning to historic properties in writing to the Signatories to this PA. Review will proceed according to the procedures and timeframes established in Stipulation XI.
- C. Disagreement regarding assessments of effect will be handled according to the procedures established in Stipulation XIII.

**XIII. Dispute Resolution**

- A. If any Consulting Party to this PA provides notice to the BLM of its objection to an action under this PA, or implementation of the measures stipulated in this PA, within 30 days of becoming aware of an objection, the BLM shall consult with the objecting party and other Signatories to resolve the objection. If the BLM determines that the objection cannot be resolved, the BLM shall forward all documentation relevant to the dispute to the ACHP. The objecting party must provide reasons for, and a justification of, its objection at the time it initially submits its objection to the BLM. Within 30 days after receipt of all pertinent documentation, the ACHP shall provide the BLM with recommendations, which the BLM shall take into account in reaching a final decision regarding the dispute.
- B. The BLM shall continue to implement all aspects of this PA that are not in dispute.

**XIV. Amendment**

Any Signatory or Consulting Party to this PA may request that this PA be amended, whereupon the Signatories will consult for no more than 30 days or any other time frame as agreed to by the Signatories to consider such amendment. Any amendments will become effective immediately upon execution by the Signatories.

**XV. Termination**

- A. Any Signatory to this PA may terminate the PA by providing 30 days advance written notice with cause to the other Signatories, provided that the Signatory Parties will consult during the period prior to termination to seek agreement on amendments or other actions that will avoid termination.
- B. In the event this PA is terminated and, to the extent feasible prior to work continuing on the undertaking, BLM must either (a) execute a new agreement pursuant to 36 CFR § 800.14(b)(3), or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. BLM shall notify the Signatories as to the course of action it will pursue.

**XVI. Duration**

- A. This PA shall become effective on the date of the last Signatory signature is affixed below, and shall remain in effect until terminated as provided in Stipulation XV, or for the life of the ROW, which is 35 years. If the Undertaking has not been initiated within 5 years of execution, the PA will automatically terminate.
- B. This PA shall be reviewed a minimum of every 5 years to determine if any amendments are necessary. Six months before each fifth-year anniversary of the execution of this PA, the BLM will invite the Signatories to discuss this PA. If changes to this PA are necessary, it shall be amended as described in Stipulation XIV, or can be terminated as described in Stipulation XV.

**XVII. Execution**

A copy of this PA shall be attached to and incorporated by reference into the Construction, Operation, and Maintenance Plan (COMP) or final Plan of Development (POD), and shall be binding upon the person or entity who is responsible to the BLM for complying with the terms of the COMP (or POD) during development of the Undertaking. Reclamation will be allowed to review and comment on the COMP or POD.

Execution of this PA by the BLM, Reclamation, SHPO, and ACHP and implementation of its terms is evidence that the BLM has taken into account the effects of this Undertaking on historic properties and afforded ACHP an opportunity to comment.

## APPENDIX A

## DEFINITIONS

1. *Adverse Effect*. When an Undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that will diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration will be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for listing in the National Register. Adverse effects may include reasonably foreseeable effects caused by the Undertaking that may occur later in time, be farther removed in distance or be cumulative (36 CFR 800.5[a][1]). Adverse effects on historic properties include, but are not limited to:
  - Physical destruction of or damage to all or part of the property;
  - Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, which is not consistent with the Secretary of the Interior's Professional Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines;
  - Removal of the property from its historic location;
  - Change in the character of the property's use or of physical features within the property's setting that contribute to its historic significance;
  - Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;
  - Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization; and
  - Transfer, lease, or sale of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.
2. *Area of Potential Effect (APE)*. The geographic area or areas within which an Undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist (36 CFR 800.16[d]).
3. *Class III Inventory*. A Class III inventory is an intensive, 100% pedestrian field survey to determine the distribution, number, location, and condition of historic properties in an area in order to determine effects and potential mitigation methods. A Class III inventory is used when it is necessary to know precisely what historic properties exist in a given area or when information sufficient for later evaluation and treatment decisions is needed on individual historic properties (BLM Manual 8110).
4. *Concurring Parties*. Concurring Parties are Consulting Parties who have participated in the consultations and may be invited to concur in the agreement. Concurring Parties who refuse to concur in the agreement do not invalidate the agreement (36 CFR 800.6[c][3]).

5. Construction. The construction phase begins when BLM has issued a Notice to Proceed (NTP) to the proponent for the Undertaking. It includes all activities related to construction of the undertaking, including activities required to be completed in advance of construction, as well as all activities completed in order to reclaim lands disturbed during construction for two years after construction is completed or until cost recovery agreements related to construction expire.
6. Consulting Parties. All required Signatories, Invited Signatories, and Concurring Parties.
7. Cultural Resource. A definite location of human activity, occupation, or use identifiable through field inventory (survey), historical documentation, or oral evidence. The term includes archaeological, historic, or architectural sites, structures, or places with important public and scientific uses, and may include definite locations (sites or places) of traditional religious or cultural significance to specified social and/or cultural groups (Traditional Cultural property). Cultural resources are concrete, material places and things that are located, classified, ranked, and managed through the system of identifying, protecting, and utilizing for public benefit described in the BLM 8100 Manual. They may be but are not necessarily eligible for listing in the National Register.
8. Cumulative Effects. Cumulative effects are the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions (40 CFR 1508.7). For the purposes of the PA and paraphrasing 40 CFR 1508.7, cumulative effects on historic properties are the effects that result from the incremental impact of the Undertaking when added to other past, present and reasonably foreseeable future undertakings regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.
9. Day(s). For the calculation of time periods under this PA, “days” means calendar days. Any time period specified in this PA that ends on a weekend or a state or federal holiday is extended until the close of the following business day.
10. Decommissioning. The action in which the transmission line(s) and/or related facilities such as substations are taken out of commission (cease to operate) and are physically dismantled.
11. Effect. An alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register (36 CFR 800.16[i]).
12. Historic Property. Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious or cultural significance to an Indian tribe and that meet the National Register criteria (36 CFR 800.16[1]). The phrase ‘eligible for inclusion in the National Register’ is used to refer to both properties formally determined as such by the Secretary of the Interior and all other properties that meet National Register listing criteria as defined in 36 CFR 800.16(1)(2).
13. Historic Property(ies) Treatment Plan (HPTP). A document that details the procedures and techniques for resolving adverse effects on historic properties within the APE through avoidance, minimization, and/or mitigation.

14. Literature Review. A “literature review,” “existing data review,” “file search,” or “records check” is generally the brief first step before initiating a field inventory. Ideally, completing an existing data review means consulting the SHPO’s automated database, as well as BLM or USFS office records. The literature review provides information regarding whether any inventory has been conducted and any cultural properties have been recorded within or near the project location.
15. Monitoring. Actions performed to ensure compliance with the terms, conditions, and stipulations of a grant. Actions include inspection, construction, operation, maintenance, and termination of permanent or temporary facilities and protection and rehabilitation activities until the holder completes rehabilitation of the ROW and the BLM approves it. Monitoring for cultural resources may have different objectives depending on the phase of the project.
16. National Historic Trail (NHT). A trail or route designated by Congress as a National Historic Trail under the National Trails System Act of 1968 as amended. To qualify for designation as a National Historic Trail, a trail or route must be established by historic use and be historically significant as a result of that use; be of national significance; and have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. Generally, they are extended trails of one hundred or more miles in length which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. National historic trails have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment.
17. Notice to Proceed (NTP). A written authorization by the Administrative Officer (AO) that allows the holder to initiate actions under the ROW grant. The AO can issue separate notices to proceed if the project involves distinct work phases and/or locations. Each notice to proceed will specify the nature of work, location, and dates to be authorized.
18. Operations and Maintenance. Activities associated with operation and maintenance of the approved ROW grant over the life of the ROW grant. This includes all activities related to the functioning of the Undertaking after construction and reclamation are completed and prior to any activities related to decommissioning of the Undertaking, pursuant to Stipulation XII. Activities during this time are generally infrequent, predictable, and routine. Any actions not specifically approved in the ROW grant, such as changes in equipment used or actions outside the ROW require approval of the BLM.
19. Right-of-Way (ROW) Grant Holder. The entity that currently has the BLM ROW authorization for the project. ROW grants may be assigned to others, pursuant to 43 CFR 2805.14.
20. Segment. Any of the parts into which something (i.e. transmission line) is separated; section.
21. Signatories. Required Signatories execute, may amend, and may terminate this agreement. *Invited Signatories* have the same rights to amend and terminate the agreement once they sign it pursuant to 36 CFR 800.6(c)(2).
23. Summary Report. A document that summarizes results of treatment activities undertaken on an individual historic property for the purposes of informing the agency and Consulting Parties for the purposes of gaining approval for the Project to go forward prior to the acceptance of the final Historic Properties Treatment Plan.

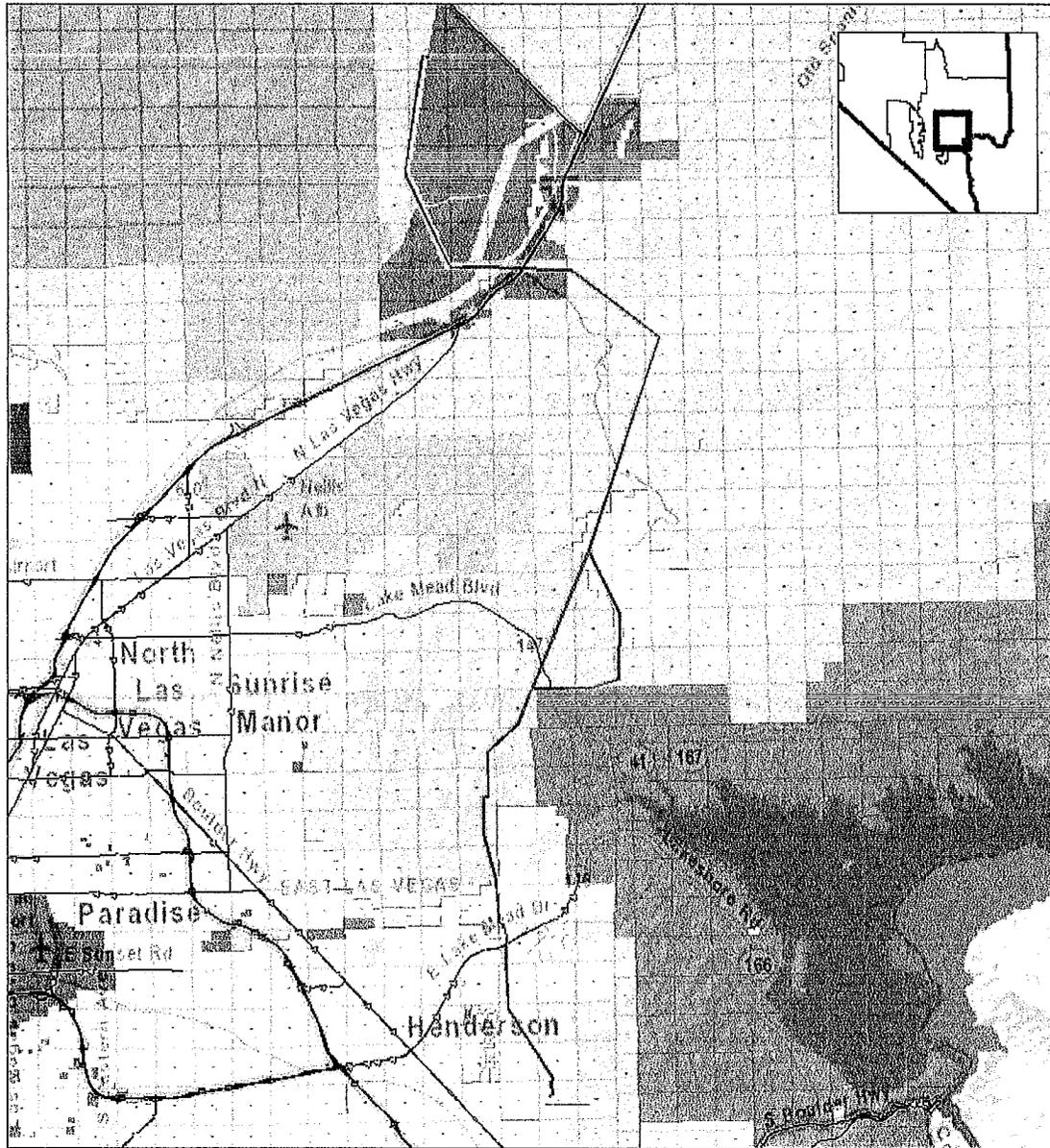
24. *Traditional Cultural Property (TCP)*. A property that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community (National Register Bulletin 38).

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**APPENDIX B**

**Maps**

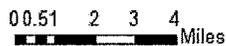
### Silverhawk to Newport



**Silverhawk to Newport**

- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Reclamation
- City of Las Vegas
- Clark County, NV
- Department of Defense
- Fish and Wildlife Service
- National Park Service
- Nevada State
- Private

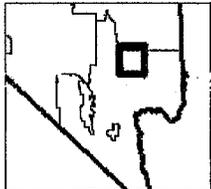
No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.



MAP 1

### Gemmill to Tortoise



No Warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data.

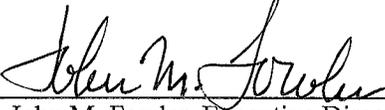
**MAP 2**

0.4 0.9 1.8 2.7 3.6 Miles

-  Gemmill to Tortoise
-  Bureau of Indian Affairs
-  Bureau of Land Management
-  Bureau of Reclamation
-  Clark County, NV
-  Fish and Wildlife Service
-  Private

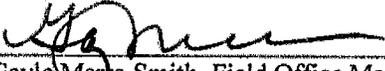
**SIGNATORY PARTIES:**

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 6/22/16  
John M. Fowler, Executive Director

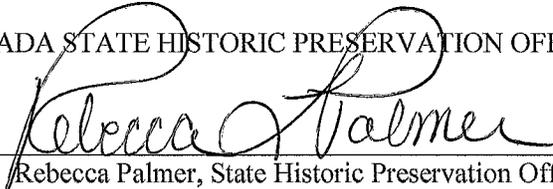
**SIGNATORY PARTIES:**

BUREAU OF LAND MANAGEMENT,  
SOUTHERN NEVADA DISTRICT, LAS VEGAS FIELD OFFICE

By:  Date: 2/17/2016  
Gayle Mars-Smith, Field Office Manager

**SIGNATORY PARTIES:**

NEVADA STATE HISTORIC PRESERVATION OFFICE

By:  Date: 6/1/16  
Rebecca Palmer, State Historic Preservation Officer

**SIGNATORY PARTIES:**

BUREAU OF RECLAMATION,  
LOWER COLORADO REGIONAL OFFICE

By:   
\_\_\_\_\_  
Marc Maynard, Chief Resources Management Office

Date: 2/19/2016

**INVITED SIGNATORIES**

CLARK COUNTY, NEVADA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Steve Sisolak, Chair

**INVITED SIGNATORIES**

SILVER STATE ENERGY ASSOCIATION

By:  Date: 4/3/16  
Scott Krantz, Manager

Approved to as form:

  
Dana Walsh, Director, Legal Services

**INVITED SIGNATORIES**

NATIONAL PARK SERVICE,  
NATIONAL TRAILS, INTERMOUNTAIN REGION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Aaron Mahr, Superintendent

CONCURRING PARTY

LAS VEGAS PAIUTE INDIAN TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Benny Tso, Chairman

CONCURRING PARTY

MOAPA BAND OF PAIUTES

By:



Robert Tom, Chairman

Date:

4-22-16

**CONCURRING PARTY**

CHEMEHUEVI INDIAN TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Charles F. Wood, Chairman

**CONCURRING PARTY**

TIMBISHA SHOSHONE TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
George Gholson, Chairman

**CONCURRING PARTY**

PAIUTE INDIAN TRIBE OF UTAH

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corrina Bow, Chairman

**CONCURRING PARTY**

FORT MOJAVE INDIAN TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Timothy Williams, Chairman

**CONCURRING PARTY**

KAIBAB BAND OF PAIUTES

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ronald Maldonado, Chairman

**CONCURRING PARTY**

CITIZENS FOR ACTIVE MANAGEMENT

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Dr. Stephen Rowland PhD., Chairman

CONCURRING PARTY

OLD SPANISH TRAIL ASSOCIATION

By: \_\_\_\_\_



Ashley Hall, President

Date: \_\_\_\_\_

2/18/16

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