

APPENDIX A: AGENCY COMMUNICATION

ALLEN BIAGGI
Director

Department of Conservation
and Natural Resources

JENNIFER E. NEWMARK
Administrator

JIM GIBBONS
Governor



Nevada Natural Heritage Program
Richard H. Bryan Building
901 S. Stewart Street, suite 5002
Carson City, Nevada 89701-5245
U.S.A.

tel: (775) 684-2900
fax: (775) 684-2909



STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
Nevada Natural Heritage Program
<http://heritage.nv.gov>

04 September 2008

Lee Turner
Tetra Tech
639 Isbell Road, Suite 390
Reno, NV 89509

RE: Data request received 02 September 2008

Dear Mr. Turner:

We are pleased to provide the information you requested on endangered, threatened, candidate, and/or at risk plant and animal taxa recorded within or near the TT Cell Tower Site project. We searched our database and maps for the following, a five kilometer radius around the UTM Coordinates provided including:

Township 22S Range 63E Sections All

The enclosed printout lists the taxa recorded within the given area. Please be aware that habitat may also be available for: the rosy twotone beardtongue, *Penstemon bicolor* var. *roseus*, a Nevada Bureau of Land Management (BLM) Sensitive Species; the chuckwalla, *Sauromalus ater*, a Nevada BLM Sensitive Species; the banded Gila monster, *Heloderma suspectum cinctum*, a Nevada BLM Sensitive Species; and the Las Vegas bearpoppy, *Arctomecon californica*, a Nevada BLM Special Status Species also protected under Nevada state law (NRS 527.260-.300) as critically endangered. We do not have complete data on various raptors that may also occur in the area; for more information contact Ralph Phenix, Nevada Division of Wildlife at (775) 688-1565. Please note that all cacti, yuccas, and Christmas trees are protected by Nevada state law (NRS 527.060-.120), including species not tracked by this office.

Please note that our data are dependent on the research and observations of many individuals and organizations, and in most cases are not the result of comprehensive or site-specific field surveys. Natural Heritage reports should never be regarded as final statements on the taxa or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.

Thank you for checking with our program. Please contact us for additional information or further assistance.

Sincerely,

Eric S. Miskow
Biologist III/Data Manager

At Risk Taxa Recorded Near InSight Cell Tower Site Project Area
Compiled by the Nevada Natural Heritage Program for Tetra Tech EMI
04 September 2008

<u>Scientific name</u>	<u>Common name</u>	<u>Usfws</u>	<u>Blm</u>	<u>State</u>
Reptiles				
<i>Gopherus agassizii</i>	desert tortoise (Mojave Desert pop.)	LT	S	YES

U. S. Fish and Wildlife Service (Usfws) Categories for Listing under the Endangered Species Act:

LT Listed Threatened - likely to be classified as Endangered in the foreseeable future if present trends continue

Bureau of Land Management (Blm) Species Classification:

S Nevada Special Status Species - USFWS listed, proposed or candidate for listing, or protected by Nevada state law

United States Forest Service (Usfs) Species Classification:

T Region 4 and/or Region 5 Threatened species

Nevada State Protected (State) Species Classification:

Fauna:

YES Species protected under NRS 501.

Precision (Prec) of Mapped Occurrence:

Precision, or radius of uncertainty around latitude/longitude coordinates:

S Seconds: within a three-second radius
M Minutes: within a one-minute radius, approximately 2 km or 1.5 miles
G General: within about 8 km or 5 miles, or to map quadrangle or place name

Nevada Natural Heritage Program Global (**G**rank) and State (**S**rank) Ranks for Threats and/or Vulnerability:

- G Global rank indicator, based on worldwide distribution at the species level
- T Global trinomial rank indicator, based on worldwide distribution at the infraspecific level
- S State rank indicator, based on distribution within Nevada at the lowest taxonomic level
 - 1 Critically imperiled and especially vulnerable to extinction or extirpation due to extreme rarity, imminent threats, or other factors
 - 2 Imperiled due to rarity or other demonstrable factors
 - 3 Vulnerable to decline because rare and local throughout its range, or with very restricted range
 - 4 Long-term concern, though now apparently secure; usually rare in parts of its range, especially at its periphery
 - 5 Demonstrably secure, widespread, and abundant
- A Accidental within Nevada
- B Breeding status within Nevada (excludes resident taxa)
- H Historical; could be rediscovered
- N Non-breeding status within Nevada (excludes resident taxa)
- Q Taxonomic status uncertain
- U Unrankable
- Z Enduring occurrences cannot be defined (usually given to migrant or accidental birds)
- ? Assigned rank uncertain



United States Department of the Interior



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

October 1, 2008
File No. 84320-2008-SL-0484

Mr. Lee Turner
Tetra Tech EMI
639 Isbell Road, Suite 390
Reno, Nevada 89509-4967

Dear Mr. Turner:

Subject: Data Request for Species List at Proposed Project Site (Township 22 S,
Range 63 E, Section 15) and Surrounding Area

In response to your letter received on September 9, 2008, the following federally listed species may occur in the subject project area:

- Desert tortoise (*Gopherus agassizii*) (Mojave population), threatened

There is no designated critical habitat for the desert tortoise near the proposed project. This response fulfills the requirement of the Fish and Wildlife Service (Service) to provide information on federally listed species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), for projects that are authorized, funded, or carried out by a Federal agency. As you indicated in our phone conversation September 16, 2008, the proposed cellular phone tower installation project will occur on Federal land managed by the Bureau of Reclamation or Bureau of Land Management and will be licensed by the Federal Communications Commission.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern, are also on the sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we have adopted Heritage's sensitive species list and partnered with them to provide distribution data and information on the conservation needs for sensitive species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or those that are in serious decline. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

TAKE PRIDE
IN AMERICA 

For a list of sensitive species by county, visit Heritage's website at www.heritage.nv.gov. For a specific list of sensitive species that may occur in the project area, you can obtain a data request form from the website or by contacting Heritage at 901 South Stewart Street, Suite 5245, Carson City, NV 89701, 775-684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the Endangered Species Act. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address. Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (see <http://www.leg.state.nv.us/NAC/NAC-503.html>). Before a person can hunt, take, or possess any parts of wildlife species classified as protected, they must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (<http://www.ndow.org>; (702) 486-5127).

We are concerned that the project may impact the Gila monster (*Heloderma suspectum cinctum*), a species listed as sensitive under the Heritage Program and as a protected species under Nevada State law. The banded Gila monster resides primarily in the Mojave desert scrub and salt desert scrub ecosystems in southern Nevada, southeastern California, southwestern Utah, and western Arizona. The Gila monster is one of only two venomous lizard species in the world. Gila monsters are difficult to locate as they spend the majority of the year in underground burrows; however, illegal collection, construction of roads, and loss of habitat continue to threaten this sensitive. Given that the Gila monster may occur within the project area, we encourage you to minimize project impacts to any existing populations and suitable habitat for this species.

Construction of communications towers (including radio, television, cellular, and microwave) in the United States has been growing at an exponential rate, increasing an estimated 6 to 8 percent annually. The construction of new towers creates a potentially significant impact on migratory birds, especially some 350 species of night-migrating birds. Communications towers are estimated to kill 4 to 5 million birds per year, which violates the spirit and intent of the Migratory Bird Treaty Act of 1918, as amended. Some of the species affected are also protected under the Endangered Species Act and Bald Eagle Protection Act of 1940.

A Communication Tower Working Group composed of government agencies, industry, academic researchers, and non-governmental organizations has been formed to develop and implement a research protocol to determine the best ways to construct and operate towers to prevent bird strikes. Until research studies are completed, or until research efforts uncover significant new mitigation measures, the Service has developed a set of interim guidelines (<http://www.fws.gov/migratorybirds/issues/towers/comtow.html>), based on the best available information, for the design and construction of communications towers. At this time, these guidelines are the most prudent and effective measures for avoiding bird strikes at towers and should provide significant protection for migratory birds pending completion of current research studies. Implementation of these guidelines by the communications industry is voluntary, and our recommendations must be balanced with Federal Aviation Administration requirements and local community concerns. Although it must be recognized that some birds may be killed at

structures, such as communications towers, even if all reasonable measures to avoid it are employed, implementing these guidelines in design and construction of communications towers would help reduce the take of migratory birds.

Please reference File No. 84320-2008-SL-0484 in future correspondence concerning this species list. If you have questions regarding this correspondence or require additional information, please contact Corey Kallstrom in the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230.

Sincerely,



for

Robert D. Williams
Field Supervisor

APPENDIX B: PHOTOGRAPHIC LOG

ESA Photo Documentation Log
InSite Towers LLC
1350 Richard Bunker Avenue, Henderson, NV 89015

Photo: 1

Description:

A photo of the subject site from the southeast corner looking west.



Photo: 2

Description:

A photo of the subject site from the southeast corner looking north.



ESA Photo Documentation Log
InSite Towers LLC
1350 Richard Bunker Avenue, Henderson, NV 89015

Photo: 3

Description:

A photo of the subject site from the northeast corner looking west.



Photo: 4

Description:

A photo of the subject site from the northwest corner looking south.



ESA Photo Documentation Log
InSite Towers LLC
1350 Richard Bunker Avenue, Henderson, NV 89015

Photo: 5

Description:

A photo of the subject site from the southwest corner looking north.



Photo: 6

Description:

A photo of the subject site from the southwest corner looking east.



ESA Photo Documentation Log
InSite Towers LLC
1350 Richard Bunker Avenue, Henderson, NV 89015

Photo: 7

Description:

A small drainage that cuts southeast to northwest through the property.



Photo: 8

Description:

A photo of illegal dumping in the northeastern corner of site.



ESA Photo Documentation Log
InSite Towers LLC
1350 Richard Bunker Avenue, Henderson, NV 89015

Photo: 9

Description:

A photo of illegal dumping in the northwest corner of the site along Magic Way.



Photo: 10

Description:

A photo of illegal dumping in the southeast corner of the site along Magic Way.



APPENDIX C: DESERT TORTOISE PROPOSED MITIGATION PLAN

- A. InSite shall hire an authorized desert tortoise biologist for the project. In accordance with Procedures for Endangered Species Act Compliance for the Mojave Desert Tortoise (Service 1992), an authorized desert tortoise biologist should possess a bachelor's degree in biology, ecology, wildlife biology, herpetology, or closely related fields as determined by the Service. The biologist must have demonstrated prior field experience using accepted resource agency techniques to survey for desert tortoises and tortoise sign, which should include a minimum of 60 days field experience. All tortoise biologists shall comply with Service-approved handling protocol (Desert Tortoise Council 1994, revised 1999). In addition, the biologist shall have the ability to recognize and accurately record survey results and must be familiar with the terms and conditions of the biological opinion. Potential biologists shall complete the USFWS form and submit to the Service for review and approval. Allow 30 days for Service review and response.

- B. A desert tortoise education program will be presented to all personnel who will be onsite at any time, including but not limited to contractors, contractors' employees, supervisors, inspectors and subcontractors. This program will be presented in English and Spanish, if appropriate, and contain information concerning the biology and distribution of the desert tortoise and other sensitive species, its legal status and occurrence in the proposed project area, the definition of "take" and associated penalties, the terms and conditions of this biological opinion, 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 or in cases of non-compliance with this biological opinion. The name of each individual trained will be recorded on a sign-in sheet. Personnel will be required to check under vehicles before moving them as tortoises often seek shelter under parked vehicles.

- C. Vehicles will not exceed 20 miles per hour in the project area. Authorized biologist will monitor speed limit compliance during construction.

- D. The boundaries of all areas to be disturbed will be flagged before beginning any activities, and all disturbances will be confined to the flagged areas. All project personnel will be instructed that their activities must be confined within the flagged areas. Disturbance beyond the construction zone is prohibited.

- E. Any desert tortoise found in imminent danger shall be moved out of harm's way and onto adjacent land by an authorized biologist. All desert tortoises and desert tortoise eggs will be relocated 300 to 1,000 feet offsite into adjacent undisturbed habitat. A pair of new, disposable latex gloves will be used for each tortoise that must be handled. After use, the gloves

will be properly disposed. Tortoises found above ground will be placed under a marked bush in the shade; in an unoccupied burrow of similar size/orientation; or a burrow constructed by the authorized biologist in accordance with Section B-5-f (Desert Tortoise Council 1994, revised 1999). Any tortoise found within one hour before nightfall will be placed individually in a clean cardboard box and kept overnight in a cool, predator-free location. To minimize stress to the tortoise, the box will be covered and kept upright. Each box will be used only once and will then be discarded. The tortoise will be released the next day in the same area from which it was collected and placed under a marked bush in the shade.

- F. The project area will be surveyed by an authorized biologist for desert tortoises and their burrows immediately prior (within 24 hours) to the onset of construction in any given area. The surveys will provide 100-percent coverage of the project area. All potential tortoise burrows shall be identified and flagged for avoidance or excavation. All desert tortoise surveys, handling of desert tortoises, and burrow excavation will be performed only by an authorized biologist.

Special precautions will be taken to ensure that desert tortoises are not harmed as a result of their capture and movement during extreme temperatures (i.e., air temperatures below 55° F or above 95° F). Under such adverse conditions, tortoises captured will be monitored continually by an authorized biologist until the tortoise exhibits normal behavior. If a desert tortoise shows signs of heat stress, procedures shall be implemented as identified in Service-approved protocols (Desert Tortoise Council 1994, revised 1999).

- G. Hazardous materials will not be drained onto the ground. All fuel, transmission or brake fluid leaks, or other hazardous waste leaks, spills, or releases will be reported immediately to the designated environmental supervisor. The environmental supervisor shall be responsible for spill material removal and disposal to an approved offsite landfill, and if necessary, will notify the appropriate federal agency. Servicing of construction equipment will take place at a designated area on off site lands.
- H. A litter-control program will be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit fox, coyotes, and common ravens. Trash and food items will be disposed of properly in predator-proof containers with re-sealing lids. Trash containers will be emptied and construction waste will be removed daily from the project area and disposed of in an approved landfill.
- I. InSite shall report any observations of raven predation on desert tortoises in the project area.

- J. All construction, operation and maintenance activities would be conducted in a manner that would minimize disturbance to vegetation and drainage channels.
- K. Cross-country travel and travel outside construction zones will be prohibited.
- L. In temporary construction areas where ground disturbance is substantial or where re-contouring is required, surface restoration would occur as required by the land management agency. The method of restoration normally would consist of removing and stockpiling topsoil and large rocks from disturbed areas to return temporally disturbed areas to original contours. Depending on the size of temporary disturbance that needs to be restored and because of the small footprint of this project, InSite Towers LLC. may conduct a cleanup in the area to remove the non-hazardous waste that has been illegally dumped in lieu of planting the site with native vegetation. This determination will be made by the Reclamation Biologist assigned to this project after construction is complete.

APPENDIX D: AGENCY CORRESPONDENCE



JIM GIBBONS
Governor

MICHAEL E. FISCHER
Department Director

STATE OF NEVADA
DEPARTMENT OF CULTURAL AFFAIRS
State Historic Preservation Office
100 N. Stewart Street
Carson City, Nevada 89701
(775) 684-3448 • Fax (775) 684-3442
www.nvshpo.org

RONALD M. JAMES
State Historic Preservation Officer

October 23, 2008

William J. Liebhauser, Director
Resource Management Office
U.S. Bureau of Reclamation
Lower Colorado Regional Office
PO Box 61470
Boulder City NV 89006-1470

RE: New Cellular Tower Site, InSite Towers, Magic Way Area, Henderson, Clark County.

Dear Mr. Liebhauser:

The Nevada State Historic Preservation Office (SHPO) reviewed the additional information provided for the subject undertaking. This cultural resource inventory report was completed following an intensive archaeological and historic inventory of the project area. The SHPO concurs with the U.S. Bureau of Reclamation's determination that no historic properties were found within the area of potential effects (APE) for the subject undertaking.

If buried and previously unidentified resources are located during project activities, the SHPO recommends that all work in the vicinity of the find cease and this office be contacted for additional consultation per 36 CFR 800.13.b.3..

If you have any questions concerning this correspondence, please contact me by phone at (775) 684-3443 or by e-mail at Rebecca.Palmer@nevadaculture.org.

Sincerely,

Rebecca Lynn Palmer
Review and Compliance Officer, Archaeologist

LC-2632
ENV-3.0

Ronald James
State Historic Preservation Office
Capitol Complex
100 N. Stewart Street
Carson City, Nevada 89701

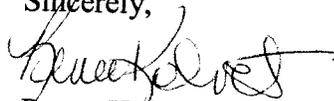
Attn: Rebecca Palmer

Subject: InSite Towers Cell Phone Project and transmittal of Negative Cultural Resources Report for a portion of the W ½ of the SW 1/4 of T. 22 S, R. 63 E, Section 15

Dear Mr. James: I am writing to transmit a negative cultural resources report for a small inventory conducted in the vicinity of the Insite Towers Cell Phone Project in Henderson, Nevada (enclosed). I personally conducted a Class I literature review and a 4.8 acre cultural resources inventory in February of 2008 in this area as part of a City of Henderson easement request along Venice Avenue and Magic Way. The InSite Towers project falls within this surveyed parcel. I am therefore submitting the Cultural Resources Negative Report (enclosed) at this time. Reclamation's letter to Nevada SHPO dated September 26, 2008 (enclosed) correctly stated that no historic properties will be affected by the InSite Towers project. I am also enclosing copies of InSite Towers' plans since they apparently were omitted from the letter. Please accept our apologies for any oversights.

For your information, we have received a single letter of response from the Moapa Band of Paiutes (enclosed). For your information, Ms. Jill Dale of Tetra Tech is currently preparing an Environmental Assessment for this project at Reclamation's request. If you have any questions or further needs, please do not hesitate to contact me at 702-293-2395 or by email: rkolvet@lc.usbr.gov.

Sincerely,



Renee Kolvet
Environmental Protection Specialist
And Archeologist

Enclosures: 4 (Reclamation letter dated Sept. 26, Moapa Tribe letter dated October 6, Negative Report with map, and InSite Towers plan drawings)

Cc: Jill Dale (Tetrattech),
Bc: Marc Maynard, Jason Kirby

**United States Department of Interior
Bureau of Reclamation**

Cultural Resources Negative Report

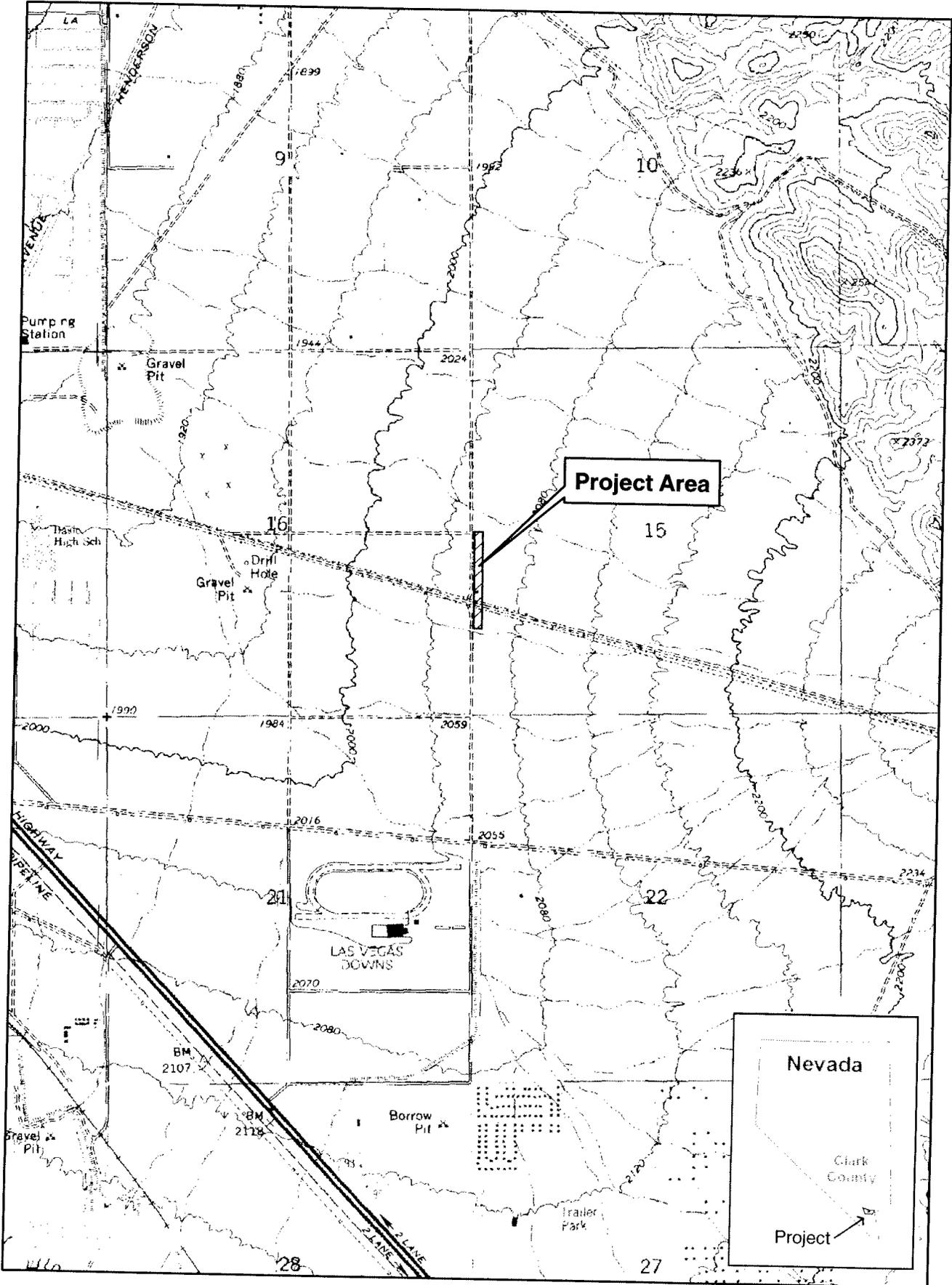
1. CR Report No.: LC-NV-08-08 N
2. Date: 1/30/08
3. Archeologist: Renee Kolvet
4. Project Name and Description: Venice Avenue Easement. City of Henderson, Nevada, requested a facility easement adjacent to Magic Way. The north corner of the easement begins at intersection of Venice Avenue and Magic Way and borders the eastern shoulder of Magic Way. Reclamation conducted a pedestrian inventory of the larger area, approximately 1390 x 150 feet (4.8 acres).
5. Office: Environmental Compliance, Lower Colorado Regional Office, Boulder City, Nevada
6. County and State: Clark County, Nevada
7. Planning Unit/Resource Area: N/A
8. Land Status: USDO, Bureau of Reclamation
9. Legal Description: The project area is in T. 22 S, R. 63 E, portions of the W ½ SW 1/4 of Section 15.
10. Relationship to Cadastral Markers:--
11. Relationship to Other Permanent Features: Parallels Magic Way near intersection with Venice Avenue in Henderson.
12. Map Reference: Henderson 7.5' USGS Quadrangle
13. Purpose of Survey: To ensure that no historic properties will be impacted by construction in or around requested easement on Reclamation land.
14. Consultations/Existing Data Review: Reviewed cultural resources GIS database and Class III reports for TTF (White 1995), Harry Allen to Mead Powerline Project (HAMD) (Gilreath 2004) and other relevant reports.
15. Vegetation Zones: Lower Sonoran, Creosote series of Eastern Mohave Desert Scrub Biotic Community.
16. Soils: Sandy alluvium from River Mountains.

17. Nearest Water: Las Vegas Wash approximately 2 miles north/northeast.
18. Field Techniques: Zig-zag pedestrian survey (15m transect intervals).
19. Findings: The survey area extends east from an unpaved portion of Magic Way in Henderson. Garbage and heaps of construction debris litter the area and the surface has been heavily disturbed by motorized vehicles. No cultural resources were located.
20. National Register Recommendations: No Historic Properties Affected; no further work recommended.
21. Summary and Avoidance Recommendations: None necessary for cultural resources although the project area will be encircled with temporary fencing during construction for tortoise protection.
22. Project Area: The Area of Potential Effect is 150 x 1390 feet for a total of 4.8 acres.
23. Time Expenditure: 4 hours.
24. Submitted by: Renee Corona Kolvet Date: 2/6/08
 Title: Environmental Protection Specialist and Archeologist
- Reviewed by: Pat Nuhn Date: 10/23/08
25. Approved by: Pat Nuhn Date: 10/23/08
Regional Archeologist

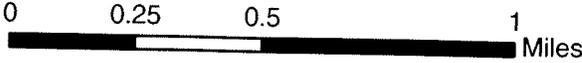
References Cited:

- White, Bill
 1995 A Cultural Resources Inventory for Geotechnical Investigations associated with the Southern Nevada Water Authority Treatment and Transmission Facility. Prepared for SNWA.
- Gilreath, Amy (Far Western)
 2004 Archaeological Survey of the Harry Allen to Mead 500 kV Transmission Line. Prepared for Nevada Power Company et al.

Venice Avenue Development Project Area



Base Map: 7.5' USGS, Henderson, NV Topo
T.22S, R.63E, Sec. 15



1:24,000





United States Department of the Interior



BUREAU OF RECLAMATION

Lower Colorado Regional Office

P.O. Box 61470

Boulder City, NV 89006-1470

IN REPLY REFER TO:

LC-2632

ENV-3.00

SFP 26 2008

CERTIFIED – RETURN RECEIPT REQUESTED

Mr. Ronald James
State Historic Preservation Officer
Capitol Complex
100 North Stewart Street
Carson City, Nevada 89701

Subject: Notification of Proposed InSite Towers Cell Phone Project in Henderson, Nevada

Dear Mr. James:

This letter is written to apprise you of plans to construct a cell phone tower in T. 22 S., R. 63 E., MDM, in the NW 1/2 of the SW ¼ of Sec. 15. The project is located immediately east of Magic Way and the Nevada Power Substation in Henderson, Nevada at 1350 Richard Bunker Avenue. The project entails the installation of an 80-foot monopole within a 70 x 70-foot fenced pad. The tower will be accessed by a 70-foot long gravel road from Magic Way. The Area of Potential Affect is less than an acre (engineered drawings and photographs enclosed). An Environmental Assessment is being prepared by the Bureau of Reclamation, Lower Colorado Regional Office and Tetra Tech Incorporated.

The project is a federal undertaking (36 Code of Federal Regulations (CFR) 800.16 (y)) as it is located on a disturbed parcel of Reclamation land. Reclamation archaeologists recently inventoried this area for cultural resources with negative results. Based on our findings, the project has little or no potential to impact historic properties (36 CFR 800.3 (a)). Pursuant to Section 106 of the National Historic Preservation Act, Reclamation has notified the appropriate Native Americans of the project and sought their input on properties of religious and cultural significance as well as the cell phone tower itself. Unless we receive information from the tribes, Reclamation and the Federal Communications Commission will have no further obligations under Section 106 of the National Historic Preservation Act.

If you have questions or comments on this project please direct them to Environmental Protection Specialist and Archeologist, Ms. Renee Kolvet at 702-293-2395 or rkolvet@lc.usbr.gov, or Natural Resource Specialist, Mr. Marc Maynard at 702-293-8344 or mmaynard@lc.usbr.gov. Thank you in advance for your time.

Sincerely,

William J. Liebhauser, Director
Resources Management Office

Enclosure

Continued on the next page.



MOAPA BAND OF PAIUTES

MOAPA RIVER INDIAN RESERVATION

P.O. BOX 340

MOAPA, NEVADA 89025

TELEPHONE (702) 865-2787

Fax (702) 865-2875

October 6, 2008

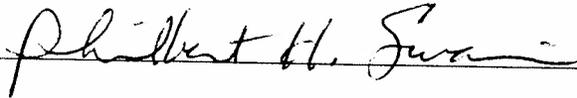
United States Department of the Interior
William J Liebhauser, Director
Bureau of Reclamation
Lower Colorado Regional Office
Po Box 61470
Boulder City, NV 89006-1470

Subject: Response letter regards to Notification of Proposed InSite Towers Cell Phone Project in Henderson, Nevada.

Dear William Liebhauser:

I have reviewed your consultation Request under Section 106 of the National Historic Prevention Act regarding the proposed collocation of wireless antennas project referenced above and offer the following response as indicated by the box that is checked and my initials

- The Moapa Business Council does NOT object to the proposed being implemented. However, should any resources or items of interest be discovered during project construction, the Moapa Business Council requests that the Moapa Band of Paiutes be notified and that work be halted until such time that the items or resources can be properly identified.



(Signature of duly authorized Tribal Official)

Phil Swain, Tribal Business Council Chairman (Print Name / Title)

Moapa Band of Paiutes Indian River Reservation (Tribe / Organization)

10/8/08

Oct 7, 2008 (Date)

10-8
10/8
10-15
10/13
2008
2600
2500
RCK-2632

1008-1008



IN REPLY REFER TO:

LC-2632
ENV-3.00

United States Department of the Interior

BUREAU OF RECLAMATION

Lower Colorado Regional Office

P.O. Box 61470

Boulder City, NV 89006-1470

SEP 26 2008



CERTIFIED – RETURN RECEIPT REQUESTED

Honorable Timothy Williams
Chairperson, Fort Mojave Tribal Council
500 Merriman Avenue
Needles, California 92362

Subject: Notification of Proposed InSite Towers Cell Phone Project in Henderson, Nevada

Dear Chairperson:

This letter is written to apprise you of plans to construct a cell phone tower in T. 22 S., R. 63 E., MDM, in the NW 1/2 of the SW 1/4 of Sec. 15. The project is located immediately east of Magic Way and the Nevada Power Substation in Henderson, Nevada at 1350 Richard Bunker Avenue (engineered drawings and photographs enclosed). The 80-foot monopole will be installed on supports inside a 70 x 70-foot fenced pad and will be accessed by a 70-foot long gravel road from Magic Way. The Area of Potential Affect is less than an acre. An Environmental Assessment is being prepared by the Bureau of Reclamation, Lower Colorado Regional Office and Tetra Tech Incorporated.

The project is a Federal undertaking (36 Code of Federal Regulations 800.16 (y)) since it is located on Reclamation land. Reclamation recently inventoried this area for cultural resources with negative results. Based on our findings, the project has little or no potential to impact historic properties. However, pursuant to Section 106 of the National Historic Preservation Act, Reclamation should seek information on properties of religious and cultural significance to Native Americans. We therefore are interested in knowing if there are areas of cultural concern to Native Americans in the vicinity of the project. We would also be interested in knowing your views on the proposed cell phone tower.

Please direct your questions or comments to Environmental Protection Specialist and Archeologist, Ms. Renee Kolvet at 702-293-2395 or rkolvet@lc.usbr.gov, or Natural Resource Specialist, Mr. Marc Maynard at 702-293-8344 or mmaynard@lc.usbr.gov. We would appreciate hearing from you within 30 days of receipt of this letter. Thank you in advance for your time.

Sincerely,

William J. Liebhauser, Director
Resources Management Office

Enclosures - 2

Continued on the next page.

cc: Ms. Jill Dale, CEM, LEED AP
Senior Environmental Specialist
Tetra-Tech EM Inc.
6000 S Eastern Ave, Suite 5-A
Las Vegas, Nevada 89119

Ms. Linda Otero
Cultural Resources Management
Aha Makav Cultural Society
P.O. Box 5990
Mohave Valley, Arizona 86440

Mr. Ronald James
State Historic Preservation Officer
Capitol Complex
100 North Stewart Street
Carson City, Nevada 89701-4258

Identical Letters Sent To:

Honorable Phil Swain
Chairperson, Moapa Business Council
P.O. Box 340
Moapa, Nevada 89025

cc: Ms. Deanna Domingo
Cultural Resources
Moapa Tribe
P.O. Box 391
Moapa, Nevada 89025

Honorable Charles Wood
Chairperson, Chemehuevi Tribal Council
P.O. Box 1976
Havasu Lake, California 92362

cc: Mr. David Halmo
Cultural Resources Coordinator
Chemehuevi Tribal Council
P.O. Box 1976
Havasu Lake, California 92362

Honorable Daniel Eddy
Chairperson, Colorado River Indian Tribes
Route 1, Box 23-B
Parker, Arizona 85344

cc: Dr. Michael Tsosie
Colorado River Indian Tribal Museum
Colorado River Indian Tribes
26600 Mojave Road
Parker, Arizona 85344

Honorable Charlie Vaughn
Chairperson, Hualapai Tribal Council
P.O. Box 179
Peach Springs, Arizona 86434

cc: Ms. Loretta Jackson-Kelly
Tribal Historic Preservation Officer
Hualapai Tribe
P.O. Box 310
Peach Springs, Arizona 86434-0310

Honorable Benny Tso
Chairperson, Las Vegas Paiute
Tribal Council
One Paiute Drive
Las Vegas, Nevada 89106

cc: Mr. Kenny Anderson
Cultural Representative
Las Vegas Paiute Tribe
One Paiute Drive
Las Vegas, Nevada 89106



Ms. Janet Bair
US Fish and Wildlife Service
September 8, 2008
Page 1 of 1

September 8, 2008

Ms. Janet Bair
US Fish and Wildlife Service
Ecosystem Services
4701 N Torrey Pines Dr
Las Vegas, NV 89130

Subject: Data Request for Species List at Proposed Project Site and Surrounding Area

Dear Janet Bair:

Tetra Tech EM Inc. (Tetra Tech) requests a special status species list for the following area:
NV Township 22S, Range 63E, Section 15

UTM coordinates bounding Section 15 are in UTM Zone-11 meters, NAD27 datum:

Northwest corner coordinates: Northing 3990500, Easting 685300

Southeast corner coordinates: Northing 3989200, Easting 686600

This requested information will be used for management of a cellular phone tower installation project.

Please send the information to:

Lee Turner
Tetra Tech EMI
639 Isbell Road, Suite 390
Reno, NV 89509-4967

Thank you for providing the species data. If there is anything else I can provide concerning this data request, please call me. My direct line is 775-333-8464 and mobile number is 775-772-6401.

Sincerely,



Lee Turner
Ecologist



United States Department of the Interior



FISH AND WILDLIFE SERVICE

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

October 1, 2008
File No. 84320-2008-SL-0484

Mr. Lee Turner
Tetra Tech EMI
639 Isbell Road, Suite 390
Reno, Nevada 89509-4967

Dear Mr. Turner:

Subject: Data Request for Species List at Proposed Project Site (Township 22 S,
Range 63 E, Section 15) and Surrounding Area

In response to your letter received on September 9, 2008, the following federally listed species may occur in the subject project area:

- Desert tortoise (*Gopherus agassizii*) (Mojave population), threatened

There is no designated critical habitat for the desert tortoise near the proposed project. This response fulfills the requirement of the Fish and Wildlife Service (Service) to provide information on federally listed species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), for projects that are authorized, funded, or carried out by a Federal agency. As you indicated in our phone conversation September 16, 2008, the proposed cellular phone tower installation project will occur on Federal land managed by the Bureau of Reclamation or Bureau of Land Management and will be licensed by the Federal Communications Commission.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern, are also on the sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we have adopted Heritage's sensitive species list and partnered with them to provide distribution data and information on the conservation needs for sensitive species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or those that are in serious decline. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

For a list of sensitive species by county, visit Heritage's website at www.heritage.nv.gov. For a specific list of sensitive species that may occur in the project area, you can obtain a data request form from the website or by contacting Heritage at 901 South Stewart Street, Suite 5245, Carson City, NV 89701, 775-684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the Endangered Species Act. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address. Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (see <http://www.leg.state.nv.us/NAC/NAC-503.html>). Before a person can hunt, take, or possess any parts of wildlife species classified as protected, they must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (<http://www.ndow.org>; (702) 486-5127).

We are concerned that the project may impact the Gila monster (*Heloderma suspectum cinctum*), a species listed as sensitive under the Heritage Program and as a protected species under Nevada State law. The banded Gila monster resides primarily in the Mojave desert scrub and salt desert scrub ecosystems in southern Nevada, southeastern California, southwestern Utah, and western Arizona. The Gila monster is one of only two venomous lizard species in the world. Gila monsters are difficult to locate as they spend the majority of the year in underground burrows; however, illegal collection, construction of roads, and loss of habitat continue to threaten this sensitive. Given that the Gila monster may occur within the project area, we encourage you to minimize project impacts to any existing populations and suitable habitat for this species.

Construction of communications towers (including radio, television, cellular, and microwave) in the United States has been growing at an exponential rate, increasing an estimated 6 to 8 percent annually. The construction of new towers creates a potentially significant impact on migratory birds, especially some 350 species of night-migrating birds. Communications towers are estimated to kill 4 to 5 million birds per year, which violates the spirit and intent of the Migratory Bird Treaty Act of 1918, as amended. Some of the species affected are also protected under the Endangered Species Act and Bald Eagle Protection Act of 1940.

A Communication Tower Working Group composed of government agencies, industry, academic researchers, and non-governmental organizations has been formed to develop and implement a research protocol to determine the best ways to construct and operate towers to prevent bird strikes. Until research studies are completed, or until research efforts uncover significant new mitigation measures, the Service has developed a set of interim guidelines (<http://www.fws.gov/migratorybirds/issues/towers/comtow.html>), based on the best available information, for the design and construction of communications towers. At this time, these guidelines are the most prudent and effective measures for avoiding bird strikes at towers and should provide significant protection for migratory birds pending completion of current research studies. Implementation of these guidelines by the communications industry is voluntary, and our recommendations must be balanced with Federal Aviation Administration requirements and local community concerns. Although it must be recognized that some birds may be killed at

Mr. Lee Turner

File No. 84320-2008-SL-0484

structures, such as communications towers, even if all reasonable measures to avoid it are employed, implementing these guidelines in design and construction of communications towers would help reduce the take of migratory birds.

Please reference File No. 84320-2008-SL-0484 in future correspondence concerning this species list. If you have questions regarding this correspondence or require additional information, please contact Corey Kallstrom in the Nevada Fish and Wildlife Office in Las Vegas at (702) 515-5230.

Sincerely,



for

Robert D. Williams
Field Supervisor

ALLEN BIAGGI
Director

Department of Conservation
and Natural Resources

JENNIFER E. NEWMARK
Administrator

JIM GIBBONS
Governor



Nevada Natural Heritage Program
Richard H. Bryan Building
901 S. Stewart Street, suite 5002
Carson City, Nevada 89701-5245
U.S.A.

tel: (775) 684-2900
fax: (775) 684-2909



STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
Nevada Natural Heritage Program
<http://heritage.nv.gov>

04 September 2008

Lee Turner
Tetra Tech
639 Isbell Road, Suite 390
Reno, NV 89509

RE: Data request received 02 September 2008

Dear Mr. Turner:

We are pleased to provide the information you requested on endangered, threatened, candidate, and/or at risk plant and animal taxa recorded within or near the TT Cell Tower Site project. We searched our database and maps for the following, a five kilometer radius around the UTM Coordinates provided including:

Township 22S Range 63E Sections All

The enclosed printout lists the taxa recorded within the given area. Please be aware that habitat may also be available for: the rosy twotone beardtongue, *Penstemon bicolor* var. *roseus*, a Nevada Bureau of Land Management (BLM) Sensitive Species; the chuckwalla, *Sauromalus ater*, a Nevada BLM Sensitive Species; the banded Gila monster, *Heloderma suspectum cinctum*, a Nevada BLM Sensitive Species; and the Las Vegas bearpoppy, *Arctomecon californica*, a Nevada BLM Special Status Species also protected under Nevada state law (NRS 527.260-.300) as critically endangered. We do not have complete data on various raptors that may also occur in the area; for more information contact Ralph Phenix, Nevada Division of Wildlife at (775) 688-1565. Please note that all cacti, yuccas, and Christmas trees are protected by Nevada state law (NRS 527.060-.120), including species not tracked by this office.

Please note that our data are dependent on the research and observations of many individuals and organizations, and in most cases are not the result of comprehensive or site-specific field surveys. Natural Heritage reports should never be regarded as final statements on the taxa or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.

Thank you for checking with our program. Please contact us for additional information or further assistance.

Sincerely,

Eric S. Miskow
Biologist III/Data Manager

At Risk Taxa Recorded Near the TT Cell Tower Site Project Area

Compiled by the Nevada Natural Heritage Program for Tetra Tech EMI

04 September 2008

<u>Scientific name</u>	<u>Common name</u>	<u>Usfws</u>	<u>Blm</u>	<u>Usfs</u>	<u>State</u>	<u>Srank</u>	<u>Grank</u>	<u>UTM E</u>	<u>UTM N</u>	<u>Prec</u>	<u>Last observed</u>
Reptiles <i>Gopherus agassizii</i>	desert tortoise (Mojave Desert pop.)	LT	S	T	YES	S2S3	G4	685957.89	3989138.33	S	1998-04-24

U. S. Fish and Wildlife Service (Usfws) Categories for Listing under the Endangered Species Act:

LT Listed Threatened - likely to be classified as Endangered in the foreseeable future if present trends continue

Bureau of Land Management (Blm) Species Classification:

S Nevada Special Status Species - USFWS listed, proposed or candidate for listing, or protected by Nevada state law

United States Forest Service (Usfs) Species Classification:

T Region 4 and/or Region 5 Threatened species

Nevada State Protected (State) Species Classification:

Fauna:
YES Species protected under NRS 501.

Precision (Prec) of Mapped Occurrence:

Precision, or radius of uncertainty around latitude/longitude coordinates:

S Seconds: within a three-second radius
M Minutes: within a one-minute radius, approximately 2 km or 1.5 miles
G General: within about 8 km or 5 miles, or to map quadrangle or place name

Nevada Natural Heritage Program Global (Grank) and State (Srank) Ranks for Threats and/or Vulnerability:

- G Global rank indicator, based on worldwide distribution at the species level
- T Global trinomial rank indicator, based on worldwide distribution at the infraspecific level
- S State rank indicator, based on distribution within Nevada at the lowest taxonomic level
- 1 Critically imperiled and especially vulnerable to extinction or extirpation due to extreme rarity, imminent threats, or other factors
- 2 Imperiled due to rarity or other demonstrable factors
- 3 Vulnerable to decline because rare and local throughout its range, or with very restricted range
- 4 Long-term concern, though now apparently secure; usually rare in parts of its range, especially at its periphery
- 5 Demonstrably secure, widespread, and abundant
 - A Accidental within Nevada
 - B Breeding status within Nevada (excludes resident taxa)
 - H Historical; could be rediscovered
 - N Non-breeding status within Nevada (excludes resident taxa)
 - Q Taxonomic status uncertain
 - U Unrankable
 - Z Enduring occurrences cannot be defined (usually given to migrant or accidental birds)
 - ? Assigned rank uncertain

**APPENDIX E: NEVADA DEPARTMENT OF WILDLIFE GILA
MONSTER PROTOCOL**



NEVADA DEPARTMENT OF WILDLIFE

Southern Region

4747 W. Vegas Drive, Las Vegas, Nevada 89108
Phone: 702-486-5127, Fax: 702-486-5133



1 November 2007

GILA MONSTER STATUS, IDENTIFICATION AND REPORTING PROTOCOL FOR OBSERVATIONS

Gila Monster Status

- Per Nevada Administrative Code 503.080, the Gila monster (*Heloderma suspectum*) is classified as a Protected reptile.
- Per Nevada Administrative Codes 503.090, and 503.093, no person shall capture, kill, or possess any part thereof of Protected wildlife without the prior written permission by the Nevada Department of Wildlife (NDOW).

This species is rarely observed relative to other species which is the primary reason for its Protected classification by the State of Nevada. The USDI Bureau of Land Management has recognized this lizard as a sensitive species since 1978. Most recently, the Gila monster was designated as an *Evaluation* species under Clark County's Multiple Species Habitat Conservation Plan (MSHCP). The evaluation designation was warranted because inadequate information exists to determine if mitigation facilitated by the MSHCP would demonstrably cover conservation actions necessary to insure the species' persistence without protective intervention as provided under the federal Endangered Species Act.

The banded Gila monster (*H.s. cinctum*) is the subspecies that occurs in Clark, Lincoln, and Nye counties of Nevada. Found mainly below 5,000 feet elevation, its geographic range approximates that of the desert tortoise (*Gopherus agasizii*) and is coincident to the Colorado River drainage. Gila monster habitat requirements center on desert wash, spring and riparian habitats that inter-digitate primarily with complex rocky landscapes of upland desert scrub. They will use and are occasionally encountered out in gentler terrain of alluvial fans (bajadas). Hence, Gila monster habitat bridges and overlaps that of both the desert tortoise and chuckwalla (*Sauromalus ater*). Gila monsters are secretive and difficult to locate, spending >95% of their lives underground.

The Gila monster is the only venomous lizard endemic to the United States. Its behavioral disposition is somewhat docile and avoids confrontation. But it will readily defend itself if threatened. Most bites are considered illegitimate and consequential to harassment or careless handling. These lizards are not dangerous unless molested or handled and should not be killed.

Scant information exists on detailed distribution and relative abundance in Nevada. The Nevada Department of Wildlife (NDOW) has ongoing management investigations addressing the Gila monster's status and distribution, hence additional distribution, habitat, and biological

information is of utmost interest. In assistance to gathering additional information about Gila monsters in Nevada, NDOW will be notified whenever a Gila monster is encountered or observed, and under what circumstances (see Reporting Protocol below).

Identification



The Gila monster is recognizable by its striking black and orange-pink coloration and bumpy, or beaded, skin. In keeping with its namesake, the banded Gila monster retains a black chain-link, banded appearance into adulthood. Other lizard species are often mistaken for the Gila monster. Of these, the non-venomous western banded gecko (*Coleonyx variegatus*) and non-venomous chuckwalla are most frequently confused with the Gila monster. All three species share the same habitats.

The western banded gecko is often mistakenly identified as a baby or juvenile Gila monster. Western banded geckos do have a finely granular skin and pattern that can be suggestive of the Gila monster to the untrained eye. However, western banded gecko heads are somewhat pointed at the snout and the relatively large eyes have vertical pupils. Snouts of Gila monsters are bluntly rounded and the smallish eyes have round pupils.



Newly hatched Gila monsters are about 5-6 inches long with a vivid orange and black, banded pattern. Adult western banded geckos are at best cream to yellow and brown in pattern and do not exceed 5 inches.



Both juvenile and adult chuckwallas are commonly confused with the Gila monster. Juvenile chuckwallas have an orange and black, banded tail. Although banding of the tail fades as chuckwallas mature, their large adult size (up to 17 inches) rivals that of the Gila monster. Adult chuckwallas have a body shape somewhat suggestive of the Gila monster, but they lack the coarsely beaded skin and black and orange body pattern of the Gila monster.

Reporting Protocol for Gila Monster Observations

Field workers and personnel in southern Nevada should at least know how to: (1) identify Gila monsters and be able to distinguish it from other lizards such as chuckwallas and western banded geckos (see Identification section above); (2) report any observations of Gila monsters to the Nevada Department of Wildlife (NDOW); (3) be alerted to the consequences of a Gila monster bite resulting from carelessness or unnecessary harassment; and (4) be aware of protective measures provided under state law.

- 1) Live Gila monsters found in harms way on the construction site will be captured and then

detained in a cool, shaded environment ($\leq 85^{\circ}\text{F}$) by the project biologist or equivalent personnel until a NDOW biologist can arrive for documentation, marking and obtaining biological measurements and samples prior to releasing. Despite that a Gila monster is venomous and can deliver a serious bite, its relatively slow gate allows for it to be easily coaxed or lifted into an open bucket or box carefully using a long handled instrument such as a shovel or snake hook (*Note: it is not the intent of NDOW to request unreasonable action to facilitate captures; additional coordination with NDOW will clarify logistical points*). A clean 5-gallon plastic bucket w/ a secure, vented lid; an 18"x 18"x 4" plastic sweater box w/ a secure, vented lid; or, a tape-sealed cardboard box of similar dimension may be used for safe containment. Additionally, written information identifying the mapped capture location, Global Positioning System (GPS) coordinates in Universal Transverse Mercator (UTM) using the North American Datum (NAD) 83 zone 11. Date, time, and circumstances (e.g. biological survey or construction) and habitat description (vegetation, slope, aspect, substrate) will also be provided to NDOW.

- 2) Injuries to Gila monsters may occur during excavation, blasting, road grading, or other construction activities. In the event a Gila monster is injured, it should be transferred to a veterinarian proficient in reptile medicine for evaluation of appropriate treatment. Rehabilitation or euthanasia expenses will not be covered by NDOW. However, NDOW will be immediately notified of any injury to a Gila monster and which veterinarian is providing care for the animal. If an animal is killed or found dead, the carcass will be immediately frozen and transferred to NDOW with a complete written description of the discovery and circumstances, date, time, habitat, and mapped location (GPS coordinates in UTM using NAD 83 Z 11).
- 3) Should NDOW's assistance be delayed, biological or equivalent acting personnel on site should detain the Gila monster out of harms way until NDOW personnel can respond. **The Gila monster should be detained until NDOW biologists have responded.** Should NDOW not be immediately available to respond for photo-documentation, a digital (5 megapixel or higher) or 35mm camera will be used to take good quality images of the Gila monster in situ at the location of live encounter or dead salvage. The pictures will be provided to NDOW at the address above or the email address below along with specific location information including GPS coordinates in UTM using NAD 83 Z 11, date, time and habitat description. Pictures will show the following information: (1) Encounter location (landscape with Gila monster in clear view); (2) a clear overhead shot of the entire body with a ruler next to it for scale (Gila monster should fill camera's field of view and be in sharp focus); (3) a clear, overhead close-up of the head (head should fill camera's field of view and be in sharp focus).

Please contact NDOW Biologist Polly Conrad at (702) 486-5127 x3718
or by e-mail at pconrad@ndow.org for additional information regarding these protocols.