PROGRAMMATIC AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT, BUREAU OF RECLAMATION, AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER REGARDING THE SALT WELLS ENERGY PROJECTS

WHEREAS, the Bureau of Land Management Stillwater Field Office (BLM) has determined that the Salt Wells Energy Projects (SWEP) proposed by Sierra Pacific Power Company (SPPC), Ormat Technologies, Inc. (ORMAT), and Vulcan Power Company (VULCAN), referred to as Proponent(s), in Churchill County, Nevada, may have an effect upon properties eligible for inclusion in the National Register of Historic Places (NRHP), and have consulted with the Nevada State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA); and

WHEREAS, BLM may issue permits, licenses, and right-of-way grants for geothermal operations proposed by ORMAT and VULCAN (Authorizations); and

WHEREAS, BLM and RECLAMATION may issue a right-of-way grant for SPPC proposed transmission line and facilities which crosses public lands (Authorizations); and

WHEREAS, the BLM, SHPO, and RECLAMATION shall be considered signatories; SPPC, ORMAT, and VULCAN shall be considered consulting parties to this Programmatic Agreement (PA), pursuant to 36 CFR 800.6(c) and 36 CFR 800.14(b), and these parties must concur on the execution this PA; and

WHEREAS, the Fallon Paiute-Shoshone Tribe (Tribe) that may have an interest in the area have been contacted and been offered an opportunity to participate in the Section 106 process; and

WHEREAS, the BLM has invited the Advisory Council on Historic Preservation (ACHP) to participate in consultation, and they elected on not to participate in the PA;

WHEREAS, the BLM has a Nationwide Programmatic Agreement and a State Protocol Agreement between BLM and SHPO dated October 26, 2009 (Protocol) that govern all other undertakings and historic properties that may occur within the Area of Potential Effect (APE) and those agreements are hereby incorporated by reference into this PA; and

WHEREAS, the definitions given in the Protocol between the Nevada Bureau of Land Management State Director and the SHPO apply throughout this PA, unless specifically modified below; and

WHEREAS, this PA covers all aspects of the planning, construction, and installation of the SWEP, including but not limited to, geothermal plants (binary air/water-cooled and/or flash), production, water, monitoring and injection wells, pipelines, substation(s), switching station(s), power lines, staging areas, access roads, other constructed facilities as identified; and

NOW, THEREFORE, the signators BLM, RECLAMATION, and SHPO, and the consulting parties SPPC, ORMAT, and VULCAN, agree that construction of the SWEP shall be administered in accordance with the following stipulations to ensure that historic properties will be treated to avoid or mitigate effects to the extent practicable, regardless of surface ownership and to satisfy BLM Section 106 responsibilities for all aspects of the undertaking.

I. ROLES AND RESPONSIBILITIES

A. The signatories agree that BLM will be the Lead Federal Agency for implementing this PA in accordance with the Protocol. The Protocol for implementing Section 106 of the NHPA is incorporated by reference and the document can be found here: http://www.blm.gov/style/medialib/blm/nv/cultural/permits.Par.99806.File.dat/state_protocol_agreement_oct2009.pdf

B. The BLM is responsible for administering this PA. This includes but is not limited to: ensuring that all signatories carry out their responsibilities; overseeing all cultural resource work, including reports, determinations of eligibility and effect, and treatment/data recovery plans; and assembling all submissions to the SHPO, other signatories, and interested parties during the implementation of this PA.

C. Proponent(s) signatory(s), or their designees, will be the responsible point of contact for the SWEP and provide the BLM with any and all information needed to implement this PA. The Stillwater Field Manager is the BLM Authorized Officer for the SWEP. The Authorized Officer, or their designee, is the SWEP point of contact for the BLM.

D. Proponent(s) will be responsible for costs of rehabilitation or mitigation, and may be subject to criminal penalties, should damage to cultural resources inside or outside the APE occur during the period of construction, operation or reclamation due to the unauthorized, inadvertent or negligent actions of the Proponents, their employees, contractors or any other project personnel.

II. AREA OF POTENTIAL EFFECT

The APE shall be defined to include all potential direct effects, including visual effects, and indirect effects to cultural resources from any Development activities associated with the undertaking. The APE is described in Appendix A and illustrated in Figure 1.

III. STIPULATIONS

The BLM, in cooperation with the other signatories, shall ensure that the following stipulations are carried out:

A. Identification of Historic Properties

1. The BLM shall involve interested parties and the Tribe identified through the Section 106 process, as appropriate, in all activities carried out under this PA associated with the undertaking.

2. The BLM shall have the consulting archaeologists conduct records searches of General Land Office (GLO) plat maps, the BLM's Master Title Plats/Historic Index, the GLO Land Records website (http://www.glorecords.BLM SWFO.gov/), the Nevada State Lands Patent Database Query (http://www.lands.nv.gov/patents/patents.htm), the Nevada Cultural Resources Information System (NVCRIS), the National and State Register of Historic Places, National Trail System, historic maps, BLM and SHPO cultural resources records, and pertinent historic records/publications and maps to identify historic resources within the APE which could be directly and indirectly affected by the project.

3. Prior to Authorization, or as a Condition of Approval/Special Stipulation to the Authorization, BLM shall ensure that the Proponent(s) fund and complete the appropriate cultural resource Class I and Class III inventories identifying all historic properties, including reports, ethnographic studies/interviews, and visual impact assessments/simulations within the APE for all activity areas, or portions thereof, in a manner consistent with the Protocol. Class III inventory of all proposed project facilities shall be completed prior to construction.

4. The required inventory/identification activities shall be completed regardless of the ownership (Federal or private) of the lands involved. SPPC shall be responsible for pursuing commercially reasonable efforts for gaining access to privately held lands through applying all reasonable means available including obtaining right of entry through courts with legal jurisdiction. After reasonable efforts are made, if access cannot be obtained to private land and after consulting with the BLM, the SPPC shall use existing data to determine the types of resources that might be present and anticipated effects. Upon BLM determination that the intention of this section has been satisfied, the BLM Authorized Officer may issue a Notice to Proceed (NTP) for any construction segment as prescribed in Stipulation G.

B. Eligibility

1. The BLM, in consultation with the SHPO, shall evaluate all cultural resources located within the APE for eligibility to the NRHP. Eligibility will be determined prior to the initiation of activities that may affect cultural resources. Eligibility will be determined in a manner consistent with the Protocol.

2. The BLM shall consult with the appropriate Tribe to evaluate the eligibility of properties of traditional religious and cultural importance.

3. To the extent practicable, eligibility determinations shall be based on documented inventory information. If the information gathered in the inventory is inadequate to determine eligibility, the Proponent(s), through its contractor, may be required to conduct limited subsurface testing or other evaluative techniques to determine eligibility.

4. The BLM will review and comment on any report submitted by the Proponent(s), through its contractor, within thirty (30) calendar days of receipt. Comments from Reclamation, Tribe and interested parties will be considered and incorporated, as appropriate, into the revised report.

5. If any of the signatories, Tribe, or interested parties disagree regarding eligibility of a cultural property, the BLM, SHPO, and the signatories, Tribe, or interested parties shall work together to seek a resolution on the determination of eligibility. If the dispute cannot be resolved, the BLM shall seek a formal determination of eligibility from the Keeper of the National Register in accordance with 36 CFR 63.2. The Keeper's determination will be considered final.

C. Treatment

1. BLM shall submit the results of all identification, evaluation, effects assessment, and treatment efforts, including discovery situations, and Treatment or Data Recovery Plans to the SHPO. The SHPO will have fifteen (15) calendar days from their receipt to review and comment on any submission.

2. When avoidance is not feasible and data recovery is proposed to lessen or mitigate project-related adverse effects to historic properties, the BLM, in consultation with the SHPO, shall ensure that the Proponent(s), through its contractor, develop a Data Recovery/Treatment Plan (Plan) that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37), *Treatment of Historic Properties: A Handbook* (Advisory Council on Historic Preservation 1980) and ACHP's Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites dated June 17, 1999. BLM shall submit the Plan to SHPO with a fifteen (15) day review and comment period. At the same time, the BLM shall provide the Tribe and interested parties, as appropriate, with a copy of the Plan with the same fifteen (15) day review opportunity as afforded the SHPO.

3. For properties eligible under Criteria A through C as defined in National Park Service Bulletin #36, mitigation other than data recovery may be considered in the Treatment Plan (e.g., oral history, historic markers, exhibits, interpretive brochures or publications, etc.). Where appropriate, Treatment Plan shall include provisions (content and number of copies) for a publication for the general public.

4. To the extent practicable, BLM shall ensure that the Proponent(s) avoid adverse effects to historic properties through project design, or redesign, relocation of facilities, or by other means in a manner consistent with the Protocol.

5. Pursuant to Section H, the BLM shall ensure as a condition of approval/special stipulation on any license, permit or grant that the Proponent(s), through its contractor, implements and completes the fieldwork portions of any final Treatment or Data Recovery Plan prior to initiating any activities that may affect historic properties.

6. Pursuant to Section H, the BLM shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR 79 in an approved curation facility in Nevada. As defined in the Native American Graves Protection and Repatriation Act (NAGPRA) materials will be handled in accordance with 43 CFR 10. 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 and/or returned to their owners. The Proponent(s) or their contractor shall provide proof of curation to the BLM from the curatorial facility within two (2) weeks of BLM acceptance of the final reports.

7. Pursuant to Section H, the BLM shall ensure that all final archaeological reports resulting from actions pursuant to this PA will be provided to the signatories, Tribe, and other interested persons as identified. 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). A draft final report of all identification, evaluation, treatment activities will be due to the BLM from the Proponent(s) within nine (9) months after the completion of the fieldwork associated with the activity, unless otherwise negotiated. Final reports will be due sixty (60) days after receiving BLM comments.

D. Discovery Situations

1. Prior to initiating any activities within the APE, the Proponent(s) will provide the BLM with a list of, and schedule for, the SWEP employees, contractors, and subcontractors empowered to halt all activities in a discovery situation and who will be responsible for notifying BLM of any discoveries. At least one of these employees will be present during all SWEP activities.

2. When previously unidentified cultural resources are discovered or an unanticipated impact situation occurs, all SWEP related activities within 100 meters/300 feet of the discovery/impact will cease immediately. The Proponent(s) through its contractor or its authorized representative shall secure the location to prevent vandalism or other damage. The Proponent(s) or its authorized representative shall immediately notify the BLM Authorized Officer of the discovery followed by written confirmation. Activity at the location shall be suspended until the discovery has been evaluated and any necessary mitigation measures completed.

3. The BLM shall notify the SHPO, RECLAMATION, Tribe, and interested parties as appropriate, within one (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 initial discovery, the BLM shall notify all signatories or other parties, of the decision to either allow SWEP activities to proceed or to require further evaluation and/or mitigation.

4. 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, Tribe, and interested persons, as appropriate, to develop mitigating measures. The signatories, Tribe, and interested persons, as appropriate, will be allowed two (2) working days to provide BLM with comments to be considered when BLM decides on the nature and extent of mitigative

efforts. Within seven (7) working days of initial SHPO notification, the BLM will inform all signatories of the nature of the mitigation required, and ensure that such mitigative actions are implemented before allowing SWEP activities to resume.

5. Pursuant to Section H, the BLM shall ensure that reports of mitigation efforts for discoveries or unanticipated impacts 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 a fifteen (15) day review and comment period. Final reports shall be submitted to the SHPO, other signatories, Tribe, and interested persons, as appropriate for informational purposes.

6. Any disputes or objections arising during a discovery or unanticipated impact situation regarding the treatment of historic properties that cannot be resolved by BLM and SHPO shall be referred to the Nevada BLM State Office for resolution. The Nevada BLM State Office decision will be considered final.

7. SWEP related activities in the area of the discovery or unanticipated impact will be halted until the Proponent(s) are notified by the BLM Authorized Officer in writing that mitigation is complete and activities can resume.

E. Other Considerations

1. 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 Draft Secretary of the Interior's Professional Qualification Standards dated June 20, 1997 (62 FR 33707-33723).

2. Prior to construction, the Proponent(s), in cooperation with BLM and SHPO, shall provide in house training by the Cultural Contractor 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. Subsequent hires for field work will also be required to be subject to similar training prior to operating in the field. Training can be in association with the Proponent(s) safety and or related job training and project orientation. The Proponent(s) shall cooperate with the BLM to ensure compliance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470) on Federal lands and with Nevada Revised Statutes (NRS) 381 for private lands.

3. Pursuant to Section H, the Proponent(s) shall bear the expense of identification, evaluation, and treatment of all cultural properties directly or indirectly affected by SWEP related activity. Such costs shall include, but not be 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. If the Proponent(s) withdraw project applications, then the Proponent(s) shall incur no further expense except for completing fieldwork and post-fieldwork activities (production of final

inventory, testing and data recovery reports covering the description and analysis of data, and the curation of materials) that has occurred as of the date of withdrawal.

4. In general, the identification, evaluation, and treatment of historic properties directly affected by the SWEP shall be limited to the project-related construction. However, identification, evaluation, and treatment efforts may extend beyond the geographic limits of the construction when the resources being considered extend beyond the boundary of the construction activities.

5. Properties of traditional religious and cultural importance will be identified, evaluated, and treated through consultation with appropriate interested persons and shall be consistent with the Protocol. The Proponent(s) may contract for data gathering to assist the BLM in identifying, evaluating, and treating these properties. However, formal consultation, as needed, will be completed and documented by the BLM.

6. Information on the location and nature of all cultural resources and information considered proprietary by Tribe will be held confidential to the extent provided by Federal and state law.

7. 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. In coordination with this PA, 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 on private land will be handled according to the provisions of NRS 383.

F. Monitoring

1. Any signatory may monitor actions carried out pursuant to this PA. To the extent practicable, all monitoring activities will be done so as to minimize the number of monitors involved in the undertaking.

2. Any areas that the BLM, in consultation with the SHPO, RECLAMATION, Tribe, or interested party identifies as sensitive will be monitored by an appropriate professional (Monitor) during related construction activities. The Proponent(s) may also provide for a tribal representative during construction activities that may impact the area. Monitors shall be empowered to stop work to protect resources if that work is inconsistent with the terms of this PA or any corresponding treatment/monitoring plan.

G. Notices to Proceed

The BLM, in consultation with the other signatories, may issue NTP to each of the Proponent(s) for individual construction segments as defined by the Proponent(s) in their Construction Plan, under any of the following conditions:

1. The BLM and SHPO have determined that there are no cultural resources within the APE for that construction segment/location; or

2. The BLM and SHPO have determined that there are no historic properties within the APE for the construction segment/locations; or

3. The BLM, after consultation with the SHPO and interested persons, has implemented an adequate Treatment Plan for the construction segment/location, and

(a) The fieldwork phase of the treatment option has been completed; and

(b) The BLM has accepted a summary description of the fieldwork performed and a reporting schedule for that work; and

(c) The SHPO has received, reviewed and accepted the description of the fieldwork prior to the Notice to Proceed; and

(d) RECLAMATION has received, reviewed and accepted the description of the fieldwork prior to the Notice to Proceed.

4. The Proponent(s) have posted a surety as set forth in Section H.1.

H. Surety Bonds

1. Based on a written detailed cost estimate submitted by the Cultural Contractor and agreed to by the responsible Proponent(s) and BLM, the Proponent(s) will post a surety bond with the BLM in an amount sufficient to cover all post-fieldwork costs associated with the inventory; implementing a Treatment Plan, Data Recovery Plan, or other cultural resource management activities. Such costs may include, but are not limited to post-fieldwork analyses, research and report preparation, interim and summary reports preparation, and the curation of project documentation and artifact collections in an approved curation facility. The surety shall be posted prior to BLM issuing any NTP. Additional surety bonds may be required by BLM to cover any of the issues associated with Sections C, D, and E of the PA.

2. The surety bond posted shall be subject to forfeiture if the post-fieldwork tasks are not completed within the time period established by the treatment option selected; provided, however, the BLM and the Proponent(s) may agree to extend any such time periods. The BLM shall notify the Proponent(s) that the surety is subject to forfeiture and shall allow the Proponent(s) thirty (30) calendar days to respond before action is taken to forfeit the surety.

3. The surety bond shall be released, in whole or in part, as specific post-fieldwork tasks, including final disposition of all collections, are completed and accepted by the BLM.

IV. Dispute Resolution

1. If there is an objection by any signatory to the manner in which the terms of this PA are implemented, the objecting signatory will notify the Stillwater Field Manager in writing of the objection. The Stillwater Field Manager will notify all other signatories of the objection. All signatories will consult to resolve the objection. If the BLM determines that the objection cannot be resolved, it shall request assistance of the BLM Nevada State Office to help resolve the objection. The final decision for resolution of the objection by any signatory shall be made by the BLM State Director.

2. The signatories may continue all actions under this PA that are not the subject of the dispute.

V. Amendment

Any signatory to this PA may request that this PA be amended, whereupon the signatories will consult to consider such amendment.

VI. Termination

Any signatory may initiate consultation for termination by providing written notice to the other parties of their intent. After notification by the initiating consulting party, the remaining signatories shall have thirty (30) calendar days to consult to seek agreement on amendments or any other actions that would address the issues and avoid termination. If such consultation fails, the termination will go into effect at the end of this thirty (30) calendar-day period, unless all parties agree to a longer period. The party or parties to the termination shall be required to meet any and all current or outstanding obligations the party or parties assumed under the terms of the PA.

VII. Execution

1. Execution and implementation of this PA evidences that the signatories have satisfied their Section 106 responsibilities for all actions associated with the construction of the SWEP.

2. In the event that the signatories do not carry out the requirements of this PA or it is terminated, the BLM will comply with the provisions of the Protocol.

3. This PA shall become effective on the date of the last signature below, and shall remain in effect until terminated as provided in Section VI. or until undertaking is completed.

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Signatories:

Bureau of Land Management, Stillwater Field Office

Teresa Knutson, Field Manager — Date: 10/05/2010

Nevada State Historic Preservation Officer

Ronald M. James, State Historic Preservation Officer and Historian — Date: 10-5-10

Bureau of Reclamation, Lahontan Basin Area Office

Kenneth Parr, Area Manager Lahontan Basin Area Office — Date: 09/27/10

Consulting Parties:

Sierra Pacific Power Company

Lee R. Simpkins, Team Leader Environmental Services Dept. — Date: 09/28/10

Vulcan Power Company

Ken Bonin, Sr., Director of Permitting — Date: 09/30/10

Ormat Technologies, Inc.

Scott Kessler, Project Manager — Date: 9-27-2010

APPENDIX A: AREA OF POTENTIAL EFFECT

SALT WELLS ENERGY PROJECT GENERAL LEGAL DESCRIPTION

Sierra Pacific Power Company—(815 acres)

Proposed Greenwave Substation(approx. 12 acres): NW/NW of Sec. 1, T.18N, R. 28E.

Proposed 60kV folds (approx. 200 x 100 ft): SW/SW of Sec. 36, T.19N, R.28E.

Proposed Action and Alternatives for 230kV lines (approx. 45 miles x 300 ft): Begins in the NW/NW/NW of Sec. 1, T.18N, R.28E and crosses Secs. 1, 12, 13, 24, 25, and 36 in that township and range; Sec. 1 of T.17N, R.28E; Secs. 19, 20, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 of T.18N, R.29E; Secs. 1, 2, 3, 4, 6, 7, 8, 9, and 10, T.17N, R.29E; Sec. 31, T.18N, R.30E; Secs. 5, 8, 9, 15, 22, 23, 26, and ending in the NW/SW of Sec. 36, T.17N, R.30E.

Proposed Bass Flat 230kV Switching Station (approx. 12 acres): SE/SE Sec. 22, T.16N, R.30E.

Ormat Technologies, Inc.---(325 acres)

Ormat legal descriptions include block areas surrounding proposed wells, pipelines, and powerplants within the Ormat Lease Boundary.

Proposed blocks include: the W1/2/SE/SW and the SW/NE/SW of Sec. 19; the SW1/4, the SW/SW/SE, the SE/NW, and part of the SW/NE/NW of Sec. 30; most of the N1/2, and the eastern edge of the SE1/4 of Sec. 31; and part of the W1/2 of the SW1/4 of Sec. 32, T.18N, R.30E; part of the W1/2 of Sec. 5, the SE/SE of Sec. 6, part of the E1/2 of Sec. 7, and part of the W1/2 of Sec. 8, T.17N, R.30E; and S1/2 N 1/4 of Sec. 31, T.18N, R.31E .

Proposed Macari 230kV Switching Station (approx. 12 acres): SE/NW of Sec. 31, T.18N, R.30E.

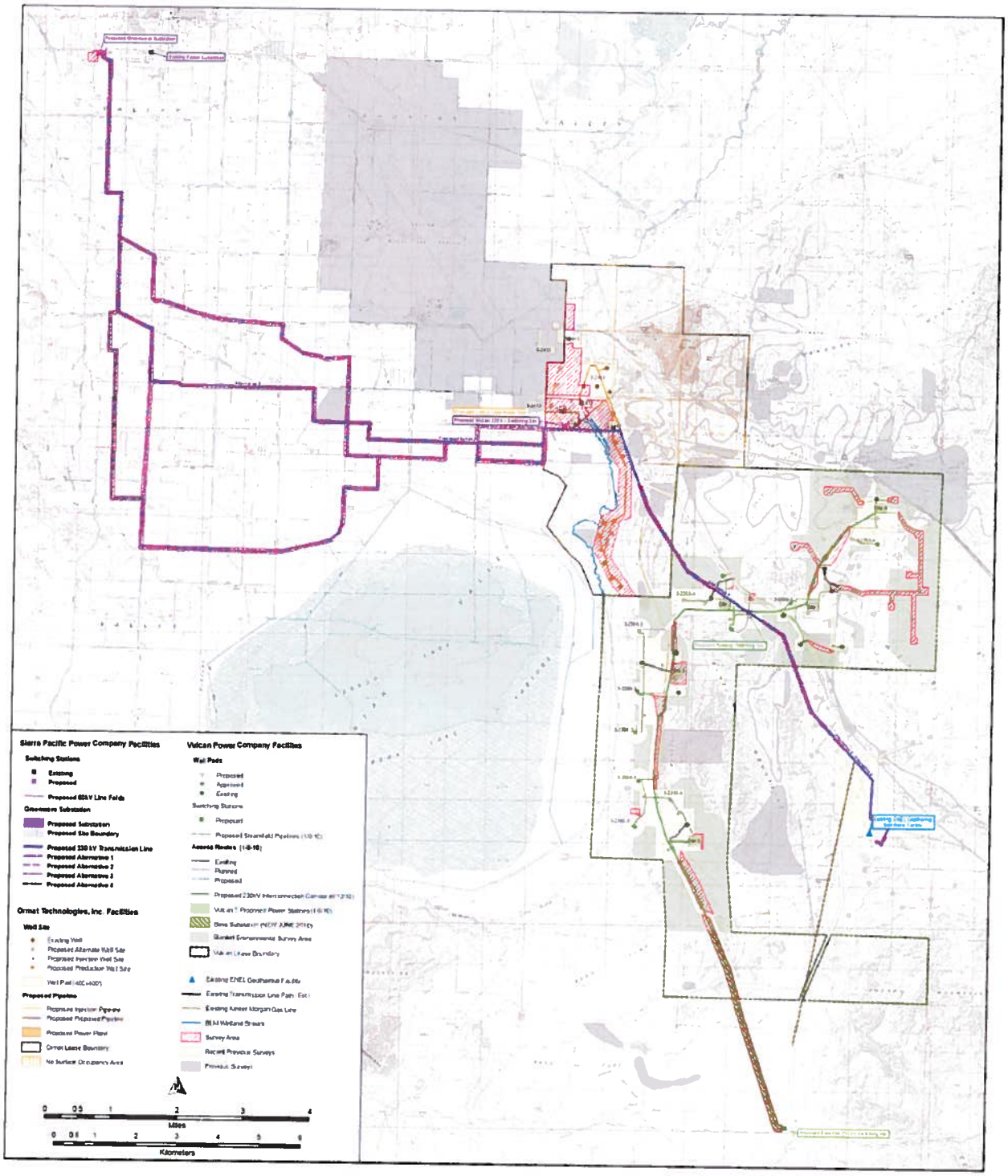
Vulcan Power Company—(approx. 826 acres)

Proposed power plants, well pads, pipelines, and access road corridors would cross parts of the following: Secs. 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 29, 32, and 33, T.17N, R.30E, and part of Sec. 4, T.16N, R.30E. A new 500-foot-wide transmission corridor extends through parts of Secs. 9, 10, 15, and 22 ending at the proposed Bass Flat 230kV Switching Station in the SE1/4 of Sec. 22, T.16N, R.30E.

Vulcan Power Company—(approx. 4,016 acres)

Blanket environmental surveys cover parts of Secs. 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 28, 29, 32, and 33, T.17N, R.30E, and all of Sec. 4, T.16N, R.30E. A new 500-foot-wide transmission corridor extends through parts of Secs. 9, 10, 15, and 22 ending at the proposed Bass Flat 230kV Switching Station in the SE1/4 of Sec. 22, T.16N, R.30E.

FIGURE 1: MAP OF THE PROJECT AREA



FIRST AMENDMENT
PROGRAMMATIC AGREEMENT
AMONG
THE BUREAU OF LAND MANAGEMENT, BUREAU OF RECLAMATION,
AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE SALT WELLS ENERGY PROJECTS

WHEREAS, the Salt Wells Energy Projects Programmatic Agreement (PA) between the Bureau of Land Management (BLM), the Bureau of Reclamation (Reclamation), and the Nevada State Historic Preservation Officer (SHPO) was executed on October 5, 2010. BLM is the lead federal agency for the implementation of this PA.

WHEREAS, Reclamation requires further clarification of Reclamation's responsibilities under this PA; and

WHEREAS, BLM will send a copy of this executed amendment to the ACHP; and

NOW THEREFORE, in accordance with Section V of the Agreement, BLM, Reclamation, NPS, and SHPO agree to amend the Agreement as follows:

1. Add the following clauses:

WHEREAS, the BLM has authority to manage the subsurface estate, including geothermal resources, on Reclamation withdrawn lands while Reclamation retains surface management. Reclamation will issue a license for surface occupancy for the construction and maintenance of the 230kV transmission line where it crosses Reclamation withdrawn and acquired lands, and may issue additional licenses for surface activities related to this project.

WHEREAS, the BLM has determined that the Pony Express National Historic Trail will be adversely affected by the proposed undertakings and has notified the National Park Service National Trails Intermountain Region office (NPS). The NPS has elected to participate in the development of Treatment Plan(s) to mitigate adverse effects; and

2. Amend the following clause to read as follows:

NOW, THEREFORE, the signatories BLM, Reclamation, NPS, and SHPO, agree that construction of the SWEP shall be administered in accordance with the following stipulations to ensure that historic properties will be treated to avoid or mitigate effects to the extent practicable, regardless of surface ownership and to satisfy BLM, NPS, and Reclamation Section 106 responsibilities for all aspects of the undertaking.

3. Amend Stipulation III.B.1 so it reads as follows:

The BLM, in consultation with Reclamation, for resources on Reclamation land, and the SHPO, shall evaluate all cultural resources located within the APE for eligibility to the NRHP.

Eligibility will be determined prior to the initiation of activities that may affect cultural resources. Eligibility will be determined in a manner consistent with the Protocol.

4. Amend Stipulation III.C.1 so it reads as follows:

   BLM shall submit the results of all identification, evaluation, effects assessment, and treatment efforts to avoid adverse effects, including discovery situations, to Reclamation, for historic properties on Reclamation land, to the National Park Service (NPS) for the Pony Express National Historic Trail (NHT), and the SHPO. The SHPO, NPS for result regarding the Pony Express NHT, and Reclamation, for results regarding Reclamation land, will have fifteen (15) calendar days from their receipt to review and comment on any submission.

5. Amend Stipulation III.C.2 so it reads as follows:

   When avoidance is not feasible and mitigation is proposed to lessen project- related adverse effects to historic properties, the BLM, in consultation with Reclamation, for data recovery on Reclamation land, in consultation with NPS for a treatment plan on the Pony Express NHT, and the SHPO, shall ensure that the Proponent(s), through its contractor, develop a Data Recovery/Treatment Plan (Plan) that is consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37), Treatment of Historic Properties: A Handbook (Advisory Council on Historic Preservation 1980) and ACHP's Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites dated June 17, 1999. BLM shall submit the Plan to SHPO, to Reclamation, for Plans on Reclamation land, and to NPS for Plans on the Pony Express NHT with a fifteen (15) day review and comment period. At the same time, the BLM shall provide the Tribe and interested parties, as appropriate, with a copy of the Plan with the same fifteen (15) day review opportunity as afforded the SHPO.

6. Amend Stipulation III.C.6 so it reads as follows:

   Pursuant to Section H, the BLM shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR 79 in an approved curation facility in Nevada. As defined in the Native American Graves Protection and Repatriation Act (NAGPRA) materials will be handled in accordance with 43 CFR 10. 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 and/or returned to their owners. The Proponent(s) or their contractor shall provide proof of curation to the BLM from the curatorial facility within two (2) weeks of BLM acceptance of the final reports. Collections and associated records recovered from Reclamation lands belong to Reclamation and will be delivered to Reclamation for accessioning and inventory. Reclamation will enter into a curation agreement with a Nevada facility that meets 36 CFR 79 for curation of collections from Reclamation land.

7. Amend Stipulation III.D.3 so that it reads as follows:

The BLM shall notify and consult with the SHPO, Reclamation, Tribe, and interested parties as appropriate, within one (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 initial discovery, the BLM shall notify all signatories or other parties, of the decision to either allow SWEP activities to proceed or to require further evaluation and/or mitigation.

8. Amend Stipulation III.D.5 so it reads as follows:

Pursuant to Section H, the BLM shall ensure that reports of mitigation efforts for discoveries or unanticipated impacts 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 and Reclamation for discoveries or unanticipated impacts on Reclamation land, for a fifteen (15) day review and comment period. Final reports shall be submitted to the SHPO, other signatories, Tribe, and interested persons, as appropriate for informational purposes.

9. Amend Stipulation III.D.6 so it reads as follows:

Any disputes or objections arising during a discovery or unanticipated impact situation regarding the treatment of historic properties that cannot be resolved by BLM and SHPO shall be referred to the Nevada BLM State Office or to Reclamation for Reclamation lands for resolution. The Nevada BLM State Office or Reclamation, for Reclamation land, decision will be considered final.

10. Amend Stipulation IV.1 so it reads as follows:

If there is an objection by any signatory to the manner in which the terms of this PA are implemented, the objecting signatory will notify the Stillwater Field Manager in writing of the objection. The Stillwater Field Manager will notify all other signatories of the objection. All signatories will consult to resolve the objection. If the BLM determines that the objection cannot be resolved, it shall request assistance of the BLM Nevada State Office or Reclamation for Reclamation land to help resolve the objection. The final decision for resolution of the objection by any signatory shall be made by the BLM State Director or the Reclamation's authorized official.

11. Amend Stipulation VII.2 so it reads as follows:

In the event that the signatories do not carry out the requirements of this PA or it is terminated, the BLM will remain the lead Federal agency for this Project and comply with the provisions of the Protocol.

Signatures:

Bureau of Land Management, Stillwater Field Office

Teresa J. Knutson

Teresa Knutson, Field Manager

06/14/2011
Date

Nevada State Historic Preservation Officer

Ronald M. James, State Historic Preservation Officer and Historian

6-15-2011
Date

Bureau of Reclamation, Lahontan Basin Area Office

Kenneth L. Parr

Kenneth Parr, Area Manager

6/7/11
Date