

1.0 Introduction and Purpose and Need

This Final Environmental Impact Statement (FEIS) has been prepared to analyze Searchlight Wind Energy, LLC 's (also referred to as the Applicant) proposal to construct the Searchlight Wind Energy Project and the Western Area Power Administration's (Western) proposal to build an interconnection switching station. For clarity, the term "Proposed Project" is the general term utilized throughout the document to refer collectively to the wind energy facility and the interconnection switching station. *Please note that when the Western's proposed switching station is referred to separately in this document it is because Western is a federal agency and as such has different National Environmental Policy Act (NEPA) or mitigation requirements than those associated with the wind energy facility.*

1.1 About This Document

This document follows federal regulations of the Council on Environmental Quality (CEQ) for implementing the procedural provisions of NEPA (40 CFR 1500-1508); the Bureau of Land Management's (BLM) NEPA Handbook, H-1790-1; Sections 201, 202, and 206 of the Federal Land Policy Management Act (FLPMA) (43 USC 1761); the BLM's planning regulations (43 CFR 1600); and the BLM Land Use Planning Handbook, H-1601-1. This FEIS describes the Proposed Action and reasonable alternatives and the environmental consequences associated with each.

For ease of reading and to clearly present information for decision-making, the FEIS is arranged as follows:

Chapter 1 – Purpose and Need provides general background information and explains the purpose of and need for the Proposed Project, decisions to be made, and authorities regulating the NEPA process. It also provides a summary of issues raised by the public during the scoping phase of the process that are addressed in the EIS.

Chapter 2 – Proposed Action and Alternatives defines the Proposed Action and presents a reasonable range of alternatives to address the stated purpose and need for the Proposed Project, including the No Action Alternative and one other action alternative. It also discusses alternatives not carried forward for detailed analysis and summarizes environmental effects for each alternative.

Chapter 3 – Affected Environment describes the affected environment in the project area and identifies projects with the potential to cause cumulative impacts.

Chapter 4 – Environmental Consequences discloses potential direct, indirect, and cumulative environmental effects associated with all of the alternatives and discusses potential mitigation measures to reduce or minimize effects. It also describes the cumulative effects associated with the Proposed Action and other alternatives when added to other past, present, and reasonably foreseeable future actions in the cumulative effects study area.

Chapter 5 – Consultation and Coordination lists state and federal agencies and other governmental bodies that were consulted or that contributed to the preparation of the EIS; describes public participation during scoping and public hearings; and lists agencies, organizations, and persons to whom the EIS will be sent or has been sent. This chapter includes a summary of all substantive public and agency comments received on the Draft Environmental Impact Statement (DEIS).

Chapter 6 – References

1.2 NEPA Process

A summary of the NEPA process is given below.

1. **Conduct Scoping:** This is the initial phase, in which the BLM announces its intent to prepare an EIS to consider the Applicant and Western’s rights-of-way (ROW) applications. The purpose of scoping is to notify the public and federal, state, and local agencies and tribal governments of the Proposed Project and to gather information on potential impacts.
2. **Collect Data:** Based on the issues raised during scoping, all relevant resource data and management information are collected for the assessment of direct and indirect impacts.
3. **Develop Alternatives:** A range of reasonable alternatives is developed to meet the purpose and need for the EIS. This document will include a No Action Alternative and two action alternatives.
4. **Assess Impacts:** Using accepted scientific methods, the direct, indirect, cumulative, and residual impacts of the Proposed Action and alternatives are assessed.
5. **Circulate DEIS and Hold Public Comment Period:** The DEIS is circulated for public and agency review and comment. Meetings are usually held to explain the findings of the DEIS and to collect additional comments.
6. **Develop Final EIS:** The document is revised based on input from the public and other agencies.
7. **Circulate Final EIS:** The BLM circulates the Final Environmental Impact Statement, along with its preferred alternative.
8. **Issue Decision:** The BLM’s authorized officer will sign the Record of Decision (ROD) for the EIS process, which includes all approved mitigation measures.
9. **Hold Appeal Period:** After the ROD is signed, participants in the FEIS process who have legal standing can, within 30 days, file an appeal of the decision to the DOI Board of Land Appeals.

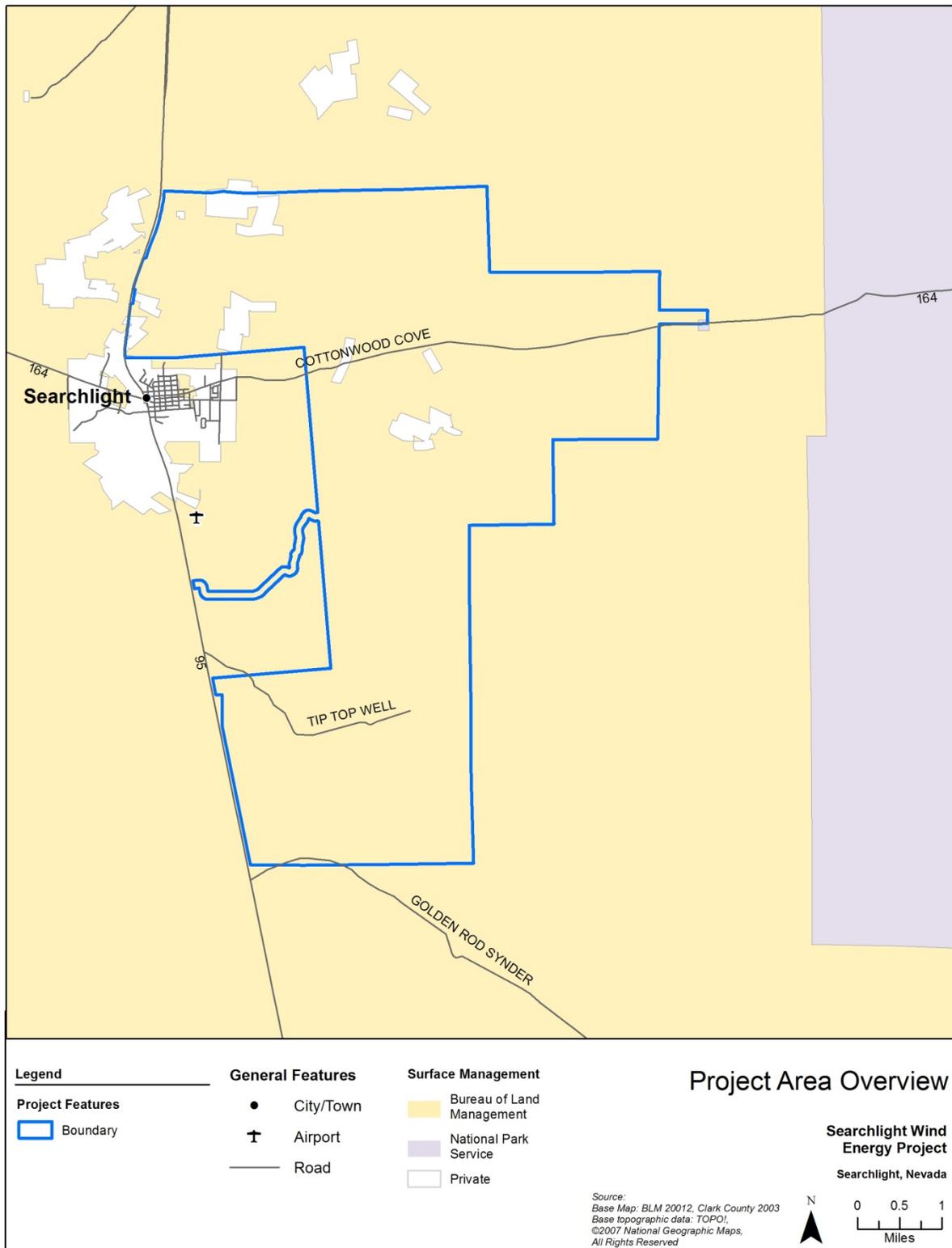
1.3 Background

Searchlight Wind Energy, LLC, a wholly owned subsidiary of Duke Energy has applied to the BLM for a ROW grant on public land to develop a wind energy generation project (ROW application NVN-084626). The Searchlight area was selected because it is considered the largest contiguous lower elevation region of good-to-excellent wind resources in southern Nevada near Las Vegas, and for its medium-to-high wind resource potential capable of supporting utility scale production Searchlight Wind Energy, LLC has conducted site specific testing (using meteorological data collected for 5 years) and determined that sufficient wind exists to support the project.

The Applicant’s objective is to develop a 200-megawatt (MW) wind energy facility on a site located in southern Clark County, NV near the town of Searchlight (Figure 1.3-1), which is approximately 1.5 miles west of the western border of Lake Mead National Recreation Area (NRA); 60 miles southeast of Las Vegas; and 40 miles north of Laughlin. Specifically, the project area is to the northeast, east and southeast of Searchlight and encompasses approximately 18,949 acres of BLM-managed land in the Eldorado Mountains and Piute Valley (Figure 1.3-1 and Figure 1.3-2).



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2 **Figure 1.3-1. Project Vicinity Map**



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 2 **Figure 1.3-2. Proposed Project Area Map**

1 The Proposed Project consists of construction, operation and maintenance (O&M), and decommissioning
2 of a 200-MW wind energy facility and associated infrastructure. After assessing wind resources,
3 proximity to electrical transmission, topography, land ownership, reduction of costs, and other factors, the
4 Applicant filed the ROW application and Plan of Development (POD) with the BLM for this tract of
5 public land. The Applicant has applied to Western to interconnect the wind power generating facility with
6 Western's transmission system, and would deliver wind-generated electrical power via Western's Davis-
7 Mead 230-kV transmission line near the crossing of Nevada State Route (SR) 164, also designated as
8 Cottonwood Cove Road, east of Searchlight.

9 Western proposes to construct, operate, and maintain a new switching station to interconnect the
10 Searchlight Wind Energy Project and has submitted a ROW application (NVN-086777) to the BLM. The
11 interconnection switching station is analyzed as part of this EIS.

12 The Nevada Renewable Portfolio Standard (NRPS) provides the Applicant with the opportunity to
13 propose this project because the NRPS mandates that state utilities provide for renewable energy offerings
14 and consumption goals that meet prevailing market demand for renewable energy. The Proposed Project
15 could help displace older fossil-fuel electric generating facilities with clean, renewable power, which
16 would contribute to the reduction of greenhouse gas (GHG) emissions. Likewise, it could further the
17 objectives of the federal government to eliminate or reduce GHG emissions and promote the deployment
18 of renewable energy technologies.

19 **1.3.1 BLM's Purpose and Need for the Proposed Project**

20 In accordance with FLPMA (Section 103(c)), public lands are to be managed for multiple use that takes
21 into account the long-term needs of future generations for renewable and non-renewable resources. The
22 Secretary of the Interior is authorized to grant ROW on public lands for systems of generation,
23 transmission, and distribution of electric energy (Section 501(a)(4)). Taking into account the BLM's
24 multiple use mandate, the purpose and need for the proposed actions is to respond to two FLPMA right-
25 of-way applications: one submitted by Searchlight Wind to construct, operate, maintain, and
26 decommission a wind energy facility and associated infrastructure and one submitted by Western to
27 construct, operate, maintain, and decommission a switching station that would conduct the power
28 generated from the wind facility to Western's electrical grid system. Both proposed actions would be
29 located on public lands administered by the BLM. Consideration of the ROW applications would be in
30 compliance with FLPMA, BLM right-of-way regulations, and other applicable Federal laws and
31 policies. These actions would, if approved, assist the BLM in addressing the management objectives in
32 the Energy Policy Act of 2005 (Title II, Section 211) which establish a goal for the Secretary of the
33 Interior to approve at least 10,000 MWs of electricity from non-hydropower renewable energy projects
34 located on public lands. This proposed action, if approved, would also further the purpose of Secretarial
35 Order 3285A1 (March 11, 2009, amended February 22, 2010) that establishes the development of
36 environmentally responsible renewable energy as a priority for the Department of the Interior.

37 The BLM will decide whether to deny the proposed ROWs, grant the ROWs, or grant the ROWs with
38 modifications. Modifications may include modifying the proposed use or changing the route or location
39 of the proposed facilities (43 CFR 2805.10(a)(1)).

40 Additional applicable mandates include the following federal laws, regulations, and guidance pertaining
41 to the development of renewable energy resources:

- 42 • Sec. 211 of Energy Policy Act of 2005, enacted in August 2005, which states that the Secretary of
43 the Interior, should seek to have approved up to at least 10,000 MW of non-hydropower renewable
44 energy projects on public lands by 2015.
- 45 • Instruction Memorandum 2009-043, "Wind Energy Development Policy," dated December 19,
46 2008, establishes BLM policy to ensure the timely and efficient processing of energy ROWs for
47 wind power on the public lands.

- 1 • Secretarial Order 3283 “Enhancing Renewable Energy Development on the Public Lands,” signed
2 January 16, 2009. This Secretarial Order facilitates the DOI efforts to achieve the goals established
3 in Section 211 of the Energy Policy Act of 2005. Specifically, Secretarial Order 3285A1
4 “Renewable Energy Development by the DOI,” signed March 11, 2009 (as amended February 22,
5 2010), establishes the development of environmentally responsible renewable energy as a priority
6 for the DOI and creates a departmental Task Force on Energy and Climate Change.
- 7 • Instruction Memorandum 2011-059 “National Environmental Policy Act Compliance for Utility-
8 Scale Renewable Energy ROW Authorizations,” dated February 7, 2011, reiterates and clarifies
9 existing BLM NEPA policy.
- 10 • Instruction Memorandum 2011-060 “Solar and Wind Energy Applications – Due Diligence,” dated
11 February 8, 2011, provides updated guidance on the due diligence requirements of ROW
12 applications for solar and wind development project on public lands.
- 13 • Instruction Memorandum 2011-061 “Solar and Wind Energy Applications – Pre-Application and
14 Screening,” dated February 7, 2011, establishes process for protection of areas and resources of
15 national interest and other specially designated areas that protect wildlife, visual, cultural, historic, or
16 paleontological resource values.
- 17 • 43 CFR Part 2800 provides overall guidance for processing ROWs, including those for wind energy
18 development. The Proposed Action requires a ROW to be processed under these regulations.

19 The BLM will use this EIS to analyze terms, conditions, and mitigation to determine which, if any,
20 modifications to the Proposed Project would be effective and would protect resource values.

21 **1.3.2 BLM Decisions to be Made**

22 This FEIS provides the information and environmental analysis necessary to inform the BLM’s
23 authorized officer and the public about the potential environmental consequences of the Proposed Action
24 and alternatives. The BLM’s decision will either:

- 25 • Approve the Proposed Action or alternative and grant the ROWs to the Applicant and Western;
- 26 • Approve the Proposed Action or alternative and grant the ROWs with mitigation measures; or
- 27 • Deny the ROW applications.

28 Federal, state, and local permits and approvals would be required before construction and operation of the
29 Proposed Project could proceed. The Applicant and Western would be responsible for obtaining all
30 permits and approvals required to construct, operate and maintain, and decommission the Proposed
31 Project if the ROW applications are approved by the BLM.

32 **1.3.3 Western’s Purpose and Need**

33 The Applicant requests to interconnect its project with Western’s Davis-Mead 230-kV transmission line.
34 Western’s purpose and need is to approve or deny the interconnection request in accordance with its Open
35 Access Transmission Service Tariff (Tariff) and the Federal Power Act, as amended (FPA).

36 Under the Tariff, Western offers capacity on its transmission system to deliver electricity when capacity is
37 available. The Tariff also contains terms for processing requests for the interconnection of generation
38 facilities to Western’s transmission system. The Tariff substantially conforms to Federal Energy
39 Regulatory Commission (FERC) final orders that provide for non-discriminatory transmission system
40 access. Western originally filed its Tariff with FERC on December 31, 1997, pursuant to FERC Order
41 Nos. 888 and 889. Responding to FERC Order No. 2003, Western submitted revisions regarding certain
42 Tariff terms and included Large Generator Interconnection Procedures (LGIP) and a Large Generator
43 Interconnection Agreement in January 2005. In response to FERC Order No. 2006, Western submitted
44 additional term revisions and incorporated Small Generator Interconnection Procedures and a Small

1 Generator Interconnection Agreement in March 2007. In September 2009, Western submitted yet another
2 set of revisions to address FERC Order No. 890 requirements along with revisions to existing terms.

3 In reviewing interconnection requests, Western must ensure that existing reliability and service is not
4 degraded. Western’s LGIP provides for transmission and system studies to ensure that system reliability
5 and service to existing customers are not adversely affected by new interconnections. These studies also
6 identify system upgrades or additions necessary to accommodate the Proposed Project and address
7 whether the upgrades/additions are within the project scope.

8 **1.3.4 Western Decisions to be Made**

9 Western must consider interconnection requests to its transmission system in accordance with its Tariff
10 and the FPA. Western satisfies FPA requirements to provide transmission service on a non-
11 discriminatory basis through compliance with its Tariff. Under the FPA, FERC has the authority to order
12 Western to allow an interconnection and to require Western to provide transmission service at rates it
13 charges itself and under terms and conditions comparable to those it provides itself.

14 Western, a Federal agency, is participating in the EIS process as a cooperating agency. Western will use
15 this EIS, once adopted pursuant to CEQ regulations, to support its decision on whether or not to construct
16 the interconnection switching station and approve or deny the Applicant’s interconnection request.

17 **1.3.5 Cooperating Agencies**

18 The BLM is the lead federal agency, and in accordance with the BLM policies, Western and the National
19 Parks Service (NPS) have been formally designated as cooperating agencies for this NEPA process.
20 Although the NPS does not have a project-related decision or approval to make, they are a cooperating
21 agency in the development of this document. As such, the BLM defines the collaborative process as one
22 in which interested parties work together to “seek solutions with broad support for managing public and
23 other lands” (BLM 2005a). Cooperating agency status provides a formal framework for governmental
24 units to engage in active collaboration with the BLM for this project to implement the requirements of
25 NEPA. The BLM together with the cooperating agencies has the lead responsibility to arrange for
26 collection of resource, environmental, social, economic, and institutional data and information, or to share
27 data that are already assembled and available. Collaboration mandates methods, not outcomes, and it
28 brings diverse parties together to seek broadly acceptable solutions to what are usually complex issues. It
29 does not imply that the parties will achieve consensus. The BLM is the final decision-maker on matters
30 within its jurisdiction.

31 **1.4 Summary of Public Scoping and Issue Identification**

32 **1.4.1 Public Scoping Process**

33 Chapter 5, Consultation and Coordination, contains an in-depth discussion of the scoping process and the
34 issues raised by the public and other agencies during that process (See Appendix A, Public Scoping
35 Report). Specifically, potential issues identified during the public scoping process included the following:

- 36 • NEPA Process;
- 37 • Project Description;
- 38 • Project Alternatives;
- 39 • Purpose and Need;
- 40 • Air Quality and Climate Change;
- 41 • Noise/Vibration;
- 42 • Geology, Soils, and Minerals;
- 43 • Water Resources;
- 44 • Biological Resources;

- 1 • Cultural and Historic Resources;
- 2 • Land Use;
- 3 • Special Management Areas (SMA)
- 4 • Recreation;
- 5 • Visual Resources;
- 6 • Transportation;
- 7 • Human Health and Hazardous Materials;
- 8 • Socioeconomics and Environmental Justice; and
- 9 • Cumulative Effects

10 The CEQ regulations (40 CFR 1501.7 (a) 3) specifically require that environmental documents identify
 11 and eliminate from detailed study the issues that are not significant or which have been covered by prior
 12 environmental review (Sec. 1506.3), thus narrowing the discussion of these issues in the EIS to a brief
 13 presentation of why they would not have a significant effect on the human environment or providing a
 14 reference to their assessment elsewhere in the document.

15 In compliance with that directive and based on public scoping comments, the BLM environmental staff
 16 separated the issues to be examined in detail in this NEPA process into substantive and nonsubstantive
 17 groups. Substantive issues are defined as those impacts on resources directly or indirectly caused by
 18 implementing the Proposed Project. An issue or resource would be considered nonsubstantive if it was (1)
 19 outside the scope of the Proposed Action; (2) already decided by law, regulation, another NEPA
 20 document, or other higher level decision; (3) irrelevant to the decision to be made; or (4) conjectural and
 21 not supported by scientific or factual evidence.

22 **Table 1.4-1. Potentially Affected Resources**

Identified Resource	Substantive Potential Impact Identified	
	Yes	No
Air Quality and Climate Change	X	-
Biological Resources	X	-
Cultural Resources	X	-
Environmental Justice	X	-
Farmlands (Prime or Unique)	-	X
Fire/Fuels Management	-	X
Floodplains	-	X
Geology, Soils, and Minerals	X	-
Human Health and Safety/Hazardous Materials	X	-
Lands and Realty	X	-
Noise/Vibration	X	-
Weeds/Invasive Species	X	-
Paleontological Resources	X	-
Recreation	X	-
Special Management Areas	-	X
Socioeconomics and Environmental Justice	X	-
Transportation	X	-
Visual Resources	X	-
Night Sky Resources	X	-
Water Resources	X	-

1 The Federal Register Notice of Availability of the Draft EIS was published on January 20, 2012, marking
2 the beginning of the comment period for the project. The 90-day comment period ended on April 18,
3 2012. This period exceeds the BLM minimum requirement for a comment period (45 days). On February
4 21, 22, and 23, 2012, the BLM held public hearings in Laughlin, Searchlight, and the City of Boulder
5 City, respectively. The BLM received over 75 public comments on the DEIS. All comments and BLM
6 responses are presented in Appendix A-4. More information about the public and agency involvement
7 can be found in Chapter 5 of this FEIS. In summary, most of the concerns were related to the following
8 resources area: noise, visual, socioeconomic, and biological resources.

9 **1.4.2 Issues Eliminated From Detailed Evaluation**

10 In compliance with 40 CFR 1501.7 a (3), the following resources were eliminated from detailed
11 evaluation and the rationale for their elimination is presented below.

12 **Farmlands (Prime or Unique)**

13 This resource was not considered for detailed evaluation because effects would be irrelevant to the
14 decision to be made as no farmlands (prime or unique) occur within or near the Proposed Project area.
15 Therefore, no further investigation is required.

16 **Fire/Fuels Management**

17 As prescribed in the BLM 1998 Las Vegas Resource Management Plan (RMP) and outlined in the
18 Applicant's Draft POD, Applicant Proposed Measures (APMs), BLM-recommended best management
19 practices (BMPs), and applicable federal, state, and local policies, laws, and ordinances would be adhered
20 to during construction, O&M, and decommissioning to ensure safety in both the human and natural
21 environments (see Section 4.8, Land Use Impacts, and Section 4.14 Human Health and Safety Impacts).
22 Therefore, no detailed investigation is required.

23 **Floodplains**

24 This resource was not considered for detailed evaluation because effects would be irrelevant to the
25 decision to be made. Federal Emergency Management Agency (FEMA) flood insurance hazard maps of
26 the Proposed Project area were examined to determine if any floodplains exist. The maps indicate that
27 none of the project locations are within a designated floodplain (FEMA 2009). Additionally per 10 CFR
28 1022, Western's siting of the switching station took into account the location of flood hazard zones.
29 Therefore, no further investigation is required.

30 **Special Management Areas**

31 Detailed evaluation of this resource was not considered because the Proposed Project would not occur on
32 BLM-administered lands with special management designations. The Desert Wildlife Management Area
33 (DWMA) and the Piute-Eldorado Valley Area of Critical Environmental Concern (ACEC) are adjacent to
34 and surround the project area. The ACEC is managed by the BLM to protect critical habitat of the desert
35 tortoise. While the Las Vegas RMP (BLM 1998) considered the DWMA, and more specifically the
36 ACEC surrounding the project site, to be ROW exclusion and/or avoidance areas, in December 2005 the
37 1998 Las Vegas RMP was effectively amended as part of the BLM Wind Energy Development Program.
38 Thus, currently the project area does not include lands managed as exclusion or avoidance areas except as
39 allowed within 0.5-mile of a designated federal aid roadway as defined in the LV RMP. However,
40 indirect effects on adjacent lands, if any, are considered in Chapter 4 of this document.

41 SMAs do occur on adjacent NPS-administered lands, specifically Lake Mead NRA. Instruction
42 Memorandum 2011-061 provides direction on wind energy development project pre-application and
43 screening criteria for public lands of national interest and other specially designated areas that protect
44 wildlife, visual, cultural, historic or paleontological resource values. As a cooperating agency in this

1 NEPA effort, NPS has participated in discussions, site visits, and preliminary resource investigations to
 2 assist in the identification of potential environmental and siting constraints that would result in the fewest
 3 possible resource conflicts and the greatest likelihood of success in the permitting process. Potential
 4 resources issues and mitigations specifically associated with NPS SMAs are addressed in appropriate
 5 sections in Chapters 3 and 4. These may include, but not be limited to, biological, and cultural resources,
 6 land use, viewsheds, noise, or recreation.

7 **1.5 Land Use Plan Conformance Determination**

8 The Proposed Project is in full conformance with applicable BLM land use plans and policies as
 9 described below.

10 Typically, guidance regarding the development of wind energy on BLM-managed public lands would be
 11 published in the Las Vegas RMP and the Land Use Planning Handbook. However, policies regarding the
 12 development of renewable resources have been published more recently. This section explains these
 13 updated policies and how they amend the current RMP, which is currently undergoing revision.

14 The BLM prepared a Wind Energy Development Programmatic EIS (PEIS) to address the National
 15 Energy Policy recommendations to increase renewable energy production capability specifically
 16 regarding the development of wind energy resources. The PEIS analyzed the potential impacts of wind
 17 energy development to public lands. This PEIS was published in June 2005, and in December 2005 the
 18 ROD was signed. The ROD implements a comprehensive Wind Energy Development Program for the
 19 development of wind energy resources on BLM-managed public lands in 11 western states including
 20 Nevada. Additionally, the ROD amended 52 BLM land use plans including the Las Vegas Field Office
 21 RMP. The amendment to the Las Vegas RMP includes the adoption of the programmatic policies of the
 22 Wind Energy Development Program and BMPs to address the administration of wind energy
 23 development actions on BLM lands and identifies the minimum requirements for mitigation measures.
 24 Both of these elements allow project-specific analysis to focus on the site-specific issues and concerns of
 25 individual projects. This FEIS serves as the site-specific analysis of the Searchlight Wind Energy Project.

26 Additionally on March 11, 2005, BLM released an updated Land Use Planning Handbook (H-1601-1)
 27 that supersedes the previous version. This handbook requires that land use planning efforts address
 28 existing and potential development areas for renewable energy projects, including wind energy (see H-
 29 1601-1, Appendix C, II. Resource Uses, Section E. Lands and Realty).

30 Because the 1998 Las Vegas RMP is currently undergoing revision, the existing land use plans decisions
 31 (i.e. Land Use Planning Handbook [H-1601-1]) and amendments to the RMP remain in effect during the
 32 revisions to the RMP (BLM 2005a).

33 **1.6 Policies, Plans, and Laws**

34 **1.6.1 Relationship to Policies, Plans, and Laws**

35 The Proposed Project is considered a major federal action that, under NEPA, requires an EIS. This FEIS
 36 complies with the CEQ regulations for implementation of NEPA (40 CFR 1500-1508), Department of
 37 Interior NEPA regulations 43 CFR Part 46, and BLM's NEPA Handbook (H-1790-1) (BLM 2008a).
 38 Table 1.6-1 lists the federal, state, and local policies, plans, and laws potentially applicable to the
 39 Proposed Action or alternative.

40 **Table 1.6-1. Potentially Applicable Polices, Plans, and Laws**

Policies, Plans, and Laws	Reference
Federal	
Administrative Procedures Act	5 United States Code (USC) 511-599
American Indian Religious Freedom Act of 1978	42 USC 1996 and 1996a

Policies, Plans, and Laws	Reference
Antiquities Act of 1906	16 USC 431 et seq.
Archaeological and Historic Preservation Act of 1974	16 USC 469-469c
Archaeological Resources Protection Act of 1979	16 USC 470aa-470mm
Bald and Golden Eagle Protection Act	16 USC 668; 50 CFR 22 et seq.
Bureau of Land Management <i>NEPA Handbook</i> H-1790-1	
Cactus and Yucca Removal Guidelines, BLM	
Clean Air Act	42 USC 7401 et seq., as amended
Clean Water Act	33 USC 1251 et seq.
Comprehensive Environmental Response, Compensation, and Liability Act of 1980	42 USC 9601 et seq.
Council on Environmental Quality (CEQ) general regulations implementing NEPA	40 Code of Federal Regulation (CFR) Parts 1500-1508
Department of the Interior Fish and Wildlife Policy	CFT 43 Part 24
Endangered Species Act	16 USC 1531-1544; 50 CFR 17.1-17.95(b)
Energy Policy Act of 2005	Public Law 109-58
Enhancing Renewable Energy Development on the Public Lands	Secretarial Order 3282
Environmental Justice	Executive Order 12898
Federal Aviation Administration	14 CFR Part 77
Federal Land Policy and Management Act (FLPMA) of 1976	FLPMA 1976 (PL 94-579) 43 USC 1761-1771; 43 CFR Part 2800
Federal Noxious Weed Act of 1974 as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, Section 1453 “Management of Undesirable Plants on Federal Lands”	USC 2801 et seq.; BLM Executive Order 13112
Materials Act of 1947	30 USC 601 et seq., as amended
Hazardous Management and Resource Restoration Program, BLM	
Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans	49 CFR 172.800
Las Vegas Resource Management Plan, BLM	
Migratory Bird Treaty Act	16 USC 7.3-712; 50 CFR 10
General Mining Law of 1872	30 USC 21 et seq., as amended
Mining and Mineral Policy Act of 1990	30 USC 21
National Electrical Code, National Fire Protection Association 780	
National Environmental Policy Act (NEPA) of 1969	NEPA 43 USC 4321 et seq.; 40 CFR Part 1500; 516 DM Parts 1-15, 43 CFR Part 46
National Environmental Policy Act Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations	Instruction Memorandum 2011-059
National Historic Preservation Act and implementing regulations	16 USC 470 et seq.; 36 CFR 800
Native American Graves and Protection and Repatriation Act of 1990	25 USC 3001 et seq.; 43 CFR Part 10
Noise Control Act of 1972, as amended	42 USC 4901 et seq.
Objects Affecting Navigable Airspace, Federal Aviation Administration	14 CFR 77
Occupational Health and Safety Act	29 CFR 1910 and 1926
Paleontological Resources Preservation Act of 2009	Public Law 111-011
Pollution Prevention Act of 1990	42 USC 13101 et seq.
Preserve America	Executive Order 13287

Policies, Plans, and Laws	Reference
Protecting Wilderness Characteristics on Lands Managed by the BLM	Executive Order 3310
Protection and Enhancement of the Cultural Environment	Executive Order 11593
Protection and Preservation of Native American Sacred Sites	Executive Order 13007
Renewable Energy Development by the Department of Interior	Secretarial Order 3285A1, as amended February 22, 2010
Resource Conservation and Recovery Act of 1976	42 USC 6901 et seq.
Safe Drinking Water Act	42 USC 300f et seq.
Solar and Wind Energy Applications – Pre-Application and Screening	Instruction Memorandum 2011-061
Superfund Amendments and Reauthorization Act of 1986, Emergency Planning and Community Right to Know Act	Title III
Surface Resources Act of 1955	30 USC 611 et seq.
Wild Horses and Burros: Protection, Management, and Control	16 USC 1331; 43 CFR 4700
Wilderness Act of 1964	16 USC 1131(c)
Wind Energy Development Policy	Instruction Memorandum 2009-043
State	
Nevada Hazardous Materials Disposal Statute	Nevada Revised Statute (NRS) 459 and 477
Nevada Critically Endangered Flora Law	NRS 527.060-527.120
Nevada Occupational Safety and Health Administration (OSHA) Program	NRS Chapters 459-477
Nevada Wildlife Action Plan	Annual Interior and Related Agencies Appropriations law (beginning P.L. 106-291 to present) for Land and Water Conservation Funds to State Wildlife Grants
Local	
Clark County Fire Code	Unified Development Code Title 79 and 80
Clark County Comprehensive Plan	Energy Policy CV7-1.6
Clark County Site Environmental Standards, Noise	Unified Development Code Title 30.68.020
Clark County Air Pollution Control Program	NRS 445B.500
Clark County Conservation of Public Land and Natural Resources Act of 2002	Public Law 107-282
Clark County	Multi-Jurisdictional Hazard Mitigation Plan
BLM Las Vegas Field Office	Noxious Weed Plan 2006
Southern Nevada	Regional Airport System Plan

1 1.6.2 Federal, State and Local Permitting

- 2 If the Proposed Project is approved by BLM, the Applicant and Western would be required to obtain the
3 applicable permits and other authorizations listed in Table 1.6-2 from federal, state, and local regulatory
4 agencies prior to construction.

1 **Table 1.6-2. Potential Federal, State, and Local Permits for the Proposed Project**

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
I. Federal Permits or Authorizations				
<i>Bureau of Land Management (BLM)</i>				
Right-of-Way (ROW)	Lease of federal lands for the wind energy generation facility, access road, transmission line	BLM Wind Energy Development Policy, dated December 19, 2008, stipulates that Applications for commercial wind energy facilities will be processed as ROW authorizations under Title V of the FLPMA 43 USC 1761-1771 and Title 43, Part 2804 of the CFR. BLM’s “...policy is to facilitate environmentally responsible commercial development of wind energy projects on public lands and to use wind energy systems on BLM facilities where feasible...to ensure the timely and efficient processing of energy ROW for wind power on the public lands.	Applicant prepares a Plan of Development describing the Proposed Action. BLM conducts environmental and other reviews before considering awarding a grant.	Notice of Intent (NOI) issued on December 16, 2008 in 73 Federal Register 76, 377
ROW	Lease of federal lands for the switching station	Required for permanent and temporary use of BLM administered lands.	Western prepares a Plan of Development describing the Proposed Action. BLM conducts environmental and other reviews before considering awarding a grant.	NOI issued on December 16, 2008.
EIS Record of Decision ROW grant for use of Federal Lands	National Environmental Policy Act (NEPA) requires environmental review leading to a Record of Decision for major projects on federal lands that might significantly affect the quality of the human environment	Lead agency (BLM) prepares an EIS that assesses the potential environmental effects of constructing and operating the project leading to the BLM’s Record of Decision. 40 CFR 1505.2 and 10 CFR1021.315.	None.	EIS in progress.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
BLM/ State Historic Preservation Office (SHPO) National Historic Preservation Act (NHPA) Section 106 Compliance	Ground disturbance associated with wind turbine generators (WTGs), switching stations, access road(s), and transmission line could affect eligible historic properties	NHPA Section 106 requires that federal agencies take into consideration the effects of their undertakings on historic properties, which are properties eligible for listing in the National Register of Historic Places (NRHP) 16 USC 470 and 36 CFR 800.3	The Applicant and Western, on behalf of the federal agency (BLM), conducts an inventory of cultural resources within the APE evaluates these to determine which are historic properties (significant properties), and determines potential project effects on these properties. The agency consults with SHPO to resolve any adverse effects on historic properties.	Cultural Report has been submitted to SHPO.
Federal Aviation Administration (FAA)				
FAA Aviation Hazard Clearance	Commencement of Construction all structures requiring a no-hazard determination	Required by 14 CFR Part 77	The Applicant submits an application to the FAA.	Not yet applied for
Notice of Proposed Construction or Alteration (Form 7460.1)	Required for vertical structures greater than 200 feet tall	49 USC, 44718 and, if applicable, 14 CFR 77 (2005), to determine whether the structure exceeds obstruction standards or is a hazard to air navigation	The Applicant submits an application to the FAA.	Not yet applied for
Federal Communications Commission (FCC)				
Radio Station License	Operation of two-way radio Communication system	47 CFR Part 90.	The Applicant prepares a license application for FCC review.	Not yet applied for
U.S. Fish and Wildlife Service (USFWS)				
Endangered Species Act (ESA) Section 7 Biological Opinion/Incidental Take Permit	Required for construction on BLM-administered public lands that would disturb and result in the loss of habitat for the federally threatened desert tortoise and may result in harm or harassment of resident tortoises	ESA (16 USC 1531) requires that federal agencies consult with the USFWS regarding any undertaking or action having the potential to cause a take of species listed as threatened or endangered.	BLM submits a Biological Assessment that considers a project’s potential impacts on species listed under the ESA and proposes measures to mitigate potential take of listed species. USFWS issues a Biological Opinion and, if required, an Incidental Take Permit describing the conditions under which take of a listed species would be allowed.	The USFWS has issued a Biological Opinion for the proposed project, which is included in Appendix B-2: USFWS Biological Opinion.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
Bald and Golden Eagle Act	Project activities on BLM administered land that might affect bald or golden eagles	Bald and Golden Eagle Protection Act (16 USC 668-668c).	Applicant prepares a Bird and Bat Conservation Strategy (formerly referred to as an Avian Protection Plan) in coordination with BLM and USFWS. USFWS will comment on the plan. Decision as to whether the applicant will apply for an eagle take permit is between the Sppllicant and USFWS.	Applicant has prepared a Bat and Bird Conservation Strategy (formerly referred to as an Avian and Bat Protection Plan). It is included in Appendix B-4: Bird and Bat Conservation Strategy.
U.S. Army Corps of Engineers (USACE)				
Clean Water Act (CWA) Section 404 Permit	Project construction would alter existing drainage channels that the USACE considers to be “waters of the United States.”	CWA Section 404 (33 United States Code [USC] 1344) requires a permit for dredging or filling waters of the United States.	Applicant prepares a report including a detailed delineation of wetlands and an analysis of whether or not they meet requirements to be considered jurisdictional (i.e., waters of the United States). USACE determines whether drainage features are jurisdictional.	Applicant report submitted to BLM. USACE has made jurisdictional determination. 404 Application is pending.
II. State of Nevada Permits or Authorizations				
Nevada Department of Transportation (NDOT)				
ROW Encroachment Permit	Required for construction activities within the NDOT ROW Category IV permit required for commercial development	Nevada Administrative Code (NAC) 408.403; 408.407.	Applicant and Western applies for an NDOT Encroachment Permit	Clark County Department of Public Works will apply for this permit.
Traffic Barricade Plan Approval	Required for NDOT ROW Encroachment Permit	NAC 408.413	Contractor submits a Traffic Barricade Plan	Clark County Department of Public Works will submit the Plan.
Over-Dimensional Vehicle (ODV) Permit	Required for vehicles that exceed regulatory established limits	Nevada Revised Statute (NRS) 484D.615 and NRS 484D.635	Contractor applies for ODV Permit	Construction Contractor applies for this permit 2 business days in advance, 30-days for Special Purpose or Super Load ODV

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
<i>Nevada Department of Wildlife (NDOW)</i>				
Special Purpose Permit authorizing removal of wildlife out of harm’s way	Project construction would disturb habitat of state-protected wildlife and the ability for project proponent to move affected wildlife individuals out of harm’s way is a desirable impact minimization measure	NAC 503.597 and 503.093	Department conducts a project review that includes a wildlife and habitat consultation. Permit or written approval is necessary prior to handling any wildlife as defined by the State of Nevada for the purpose of removal out of harm’s way. A survey for state-listed species within the Proposed Project area is required. Other information required includes project alignment, area of disturbance, and the state-listed species to be disturbed.	Applicant will apply for this permit prior to construction of the wind facility and Western’s switching station.
Industrial Artificial Pond Permit	Project construction and operation activities may include use of lined holding or evaporation ponds for containing/disposing of process and/or other accumulated wastewater.	NRS 502.390, NAC 502.460 through 502.495 as applicable	NDOT authorizes program to manage process water or other wastewater where solutions may become hazardous to wildlife	Applicant will apply for this permit prior to construction.
<i>Nevada Division of Environmental Protection (NDEP)</i>				
Stormwater Discharge Permit	Construction of the wind energy facilities has the potential to discharge sediment in stormwater and will involve disturbance of more than 1 acre.	National Pollutant Discharge Elimination System requires filing an NOI to use the General Stormwater Discharge Permit and the preparation of an stormwater pollution prevention plan (SWPPP). NRS 445A.228.	Applicant prepares the SWPPP and notifies the NDEP of its intention to use the General Stormwater Permit. SWPPP must be kept on the construction site and available for inspection.	Applicant will prepare a SWPPP and file NOI 3 months before construction of the wind facility and switching station begins.
CWA Section 401 Water Quality Certification	Project construction would alter drainage in existing drainage channels that might be considered waters of the United States.	CWA Section 401 (33 USC 1341) requires a water quality certification to accompany the Section 404 permit.	Applicant(s) prepares a permit application that describes any construction-related discharges and the methods proposed to protect water quality.	Applicants will apply for this permit 3 months before construction begins, if needed.
NEV permits	Construction, operation, and maintenance facilities such as individual sewage disposal systems and artificial ponds have the potential to affect groundwater quality.	NRS 445A.415	Proposed projects are evaluated to ensure that the background water quality is not degraded or that drinking water quality standards are not exceeded.	Applicant will apply for this permit before construction.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
<i>Nevada Division of Forestry</i>				
Permit to remove fully protected native flora	Project construction might disturb habitat of state-protected plants.	NRS 527.260-300	Department conducts a project review that includes a wildlife and habitat consultation.	Applicants will apply for this permit 3 months before construction begins.
<i>Nevada Public Utilities Commission (PUCN)</i>				
Nevada Utility Environmental Protection Act Permit (UEPA)	UEPA permits are required for all utility facilities of 70-MW or greater in the State of Nevada.	NRS 704.820 – 704.900.	Applicant prepares an engineering project description and environmental impacts analysis. UEPA permit must be obtained prior to commencement of construction.	Applicant submitted the Initial UEPA permit application to the PUCN. A revised application will be submitted when the Record of Decision is issued for the project.
<i>Nevada State Fire Marshal</i>				
Hazardous Materials Storage Permit	Project would involve handling of hazardous materials.	NRS 477.045.	Applicant applies for permit to store materials above the threshold quantities established by the State Fire Marshal.	Applicant and Western will apply for this permit 3 months before construction begins.
III. Clark County and Regional Permits or Authorizations				
<i>Clark County Department of Air Quality and Environmental Management</i>				
Dust Control Permit	Grading the WTG foundation pads, access road, and transmission access.	Clark County Air Quality Regulations - Section 94.	Applicant submits an assessor’s map, owner’s designation, and per-acre fee.	Applicant and Western will apply for this permit 3 months before construction begins.
Stationary Source Permit (Minor Source)		Clark County Air Quality Regulations– Section 12	Applicant submits an assessor’s map, owner’s designation, and per-acre fee.	Applicant will apply for this permit 3 months before construction begins.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
Clark County Regional Flood Control District				
Land Development Review	Project construction would alter drainage in existing drainage channels.	Any development that is not a subdivision shall be required to meet the requirements for subdivisions as outlined in these regulations if the Local Administrator determines that the flood hazard so requires. If the proposed development would affect the implementation of the Master Plan, the Local Administrator shall defer to the Chief Engineer for a final determination. Clark County Regional Flood Control District Uniform Regulations for the Control of Drainage.	Applicant submits development proposals to the District for review if the development has regional flood control significance, meaning those facilities, land alterations, portions of the natural drainage system, and regulatory actions that affect the implementation of the Master Plan, or lie within Special Flood Hazard Areas.	Applicant will apply for this review 6 months before construction begins.
Clark County Development Services Department				
Permit for Temporary Structures	Required for installation of temporary facilities.	Clark County Code, Title 22.02.120, Unified Development Code.	Applicant obtains a third-party plan review/approval and files an application for a temporary building with Fire Prevention Bureau.	Applicant will apply for this permit 3 months before construction begins.
Building Permit for Permanent Structures	Required for construction and occupancy of project facilities.	Clark County Code, Title 30.32.030, Unified Development Code.	Applicant and Western submit building permit application and plans.	Applicant and Western will apply for this permit 6 months before construction begins.
Use Permit and Design Review	The wind energy facilities would be considered a major construction project.	Clark County Code, Title 30, Unified Development Code.	Applicant provides a Title 30 Land Use Application and site plan, elevation, floor plan, etc.	Applicant will apply for this permit 6 months before construction begins.
Waiver of Development Standards	Needed only if the facility would need to deviate from the Development Code.	Clark County Code, Title 30, Unified Development Code.	Applicant provides a Title 30 Land Use Application.	Applicant will apply for this waiver 6 months before construction begins, if needed.
Grading Permit	Grading the WTG foundation pads, access road, and transmission access.	Clark County Code, Title 30.32.040, Unified Development Code.	Applicant and Western submit grading and drainage plans to the County.	Applicant and Western will apply for this permit 6 months before construction begins.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
Civil Division Encroachment Permit (contingent)	Would be required only if construction would encounter public ROW.	Clark County Code, Title 30.80 and 0.32, Unified Development Code.	Applicant submits plans and assessor’s parcel maps.	Applicant will apply for this permit 6 months before construction begins.
Land Disturbance Permit Report (contingent)	This applies only if the project were to affect non-federal lands (not planned) that are habitat for the desert tortoise.	Clark County Code, Title 30.32.050, Unified Development Code.	Applicant must document payment of fees required under the Clark County MSHCP and the County’s Section 10(a) Incidental Take Permit.	Unlikely to be needed, as Proposed Project would not affect habitat on private land.
Pad Certification for Grading and Earthwork	Shall be submitted and approved prior to any inspection being made.	Clark County Building Administrative Code 22.02.780A and Clark County Code 22.02.460(A).	Certify that construction is in accordance with geotechnical investigation.	Applicant and Western will obtain prior to construction.
Soils Report Submittal	Required for Grading Permit	Clark County Building Administrative Code 20.02.430(7)(10) and Clark County Code 22.02.235.	Applicant and Western will prepare and submit soils report to Clark County for review and approval.	Applicant and Western will prepare and submit prior to construction.
Temporary Sign Permit	Required for construction of onsite and offsite temporary signs.	Clark County Code, Title 30.72.070, Unified Development Code.		Applicant will obtain prior to construction.
Clark County Fire Department, Fire Prevention Bureau				
Flammable/ Combustible Liquid Aboveground Storage Tanks Permit	Applies to all development projects	Clark County Fire Code Article 79.	At the time of permit application, Applicant will submit three (3) sets of plans, drawn to an indicated scale, for review and approval relating to the installation and permitting of flammable/combustible aboveground storage tanks, including diesel generators.	Applicant will obtain prior to construction.
Permit Survey Form	Applies to all development projects	Clark County Fire Code.	Applicant and Western fill out Permit Survey Form and submit to Fire Department for the department to determine what hazards exist that warrants a permit. Additionally, Project owner completes/submits Application for Permit/Plan Review or Other Services for all permit application submittals.	Applicant and Western will apply for this permit 3 months before construction begins.
Hazardous Materials Permit	Storage and use of hazardous materials at the facility.	Clark County Fire Code, Article 80.	Applicant and Western prepare and submit site plans and Hazardous Materials Information Sheets for hazardous materials with quantities in excess of permitting thresholds.	Applicant and Western will apply for this permit 3 months before construction begins.

Permit or Authorization	Project Action Requiring Permit	Mandate	Permit Requirement	Status
Clark County Public Works Department				
Drainage Permit	Site drainage associated with construction of a new facility requiring more than 2 acres within Clark County ROW.	Clark County Code Title 30.52.050, requiring compliance with the Uniform Regulations for the Control of Drainage & Hydrologic Criteria & Drainage Design Manual.	Department reviews and approves drainage plan.	Applicant and Western will obtain prior to construction.
Southern Nevada Health District				
Small Commercial Septic System Permit		NAC 444.8302.	Applicant submits plans for a small commercial system to the Southern Nevada Health District for review.	Applicant will obtain prior to construction.