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Bureau of Land Management

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**An Environmental Assessment
of Western General, Inc's
Application for a Permit to Drill
the Tom Spring 4-34 Oil Well**

File Numbers: N-77572, N-92263

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Table of Contents

1.0 INTRODUCTION	1
Purpose and Need	1
Land Use Plan Conformance	1
Relationship to Statutes, Regulations, Policy, Plans or Other EAs	2
Scoping and Public Involvement	3
2.0 The Proposed Action and Alternatives	4
The Proposed Action.....	4
No Action Alternative.....	7
3.0 Affected Environment and Environmental Consequences	8
Supplemental Authorities.....	8
Other Resources Considered in the Analysis.....	11
Land Use Authorizations.....	12
Soils.....	12
Special Status Species.....	13
Vegetation	13
Visual Resources.....	14
Wildlife	14
4.0 Cumulative Effects.....	16
Past and Present Actions	16
Reasonable Foreseeable Future Actions (RFFA's).....	16
Cumulative impacts from past, present, and reasonably foreseeable future actions	17
5.0 TRIBES, PERSONS, ORGANIZATION, or AGENCIES CONSULTED	20
LIST OF PREPARERS.....	20
Appendix A	21
Appendix B	26
Appendix C	30
Appendix D	36

1.0 INTRODUCTION

Western General, Inc. (Western General) has leased a parcel of Federal land for potential oil and gas development under the Mineral Leasing Act of 1920, as amended and supplemented, and Part 3100 of Title 43, Code of Federal Regulations (CFR). On July 29, 2013, the Bureau of Land Management, Tonopah Field Office (BLM-TFO) received an Application for a Permit to Drill (APD) from Western General proposing to drill the Tom Spring 4-34 well. The proposed well would be situated in Section 4, T. 8 N., R. 57 E., MDM, approximately 12 miles south-southwest of the town site of Currant in Railroad Valley, Nevada. Western General also submitted an Application for Transportation and Utility Systems and Facilities on Federal Land (SF- 299) for a right-of-way to gain legal access to their lease.

The approval of an APD and a SF-299 are federal actions subject to analysis under the National Environmental Policy Act (NEPA) of 1969 (Public Law [PL] 1-91-190, as amended [42 United States Code (USC) 4321 *et seq.*]). The BLM-TFO has determined that an environmental assessment (EA) is required prior to the potential approval of the Tom Spring 4-34 APD and SF-299. The EA will analyze the direct, indirect, and the cumulative impacts of the proposals to determine if significant impacts would occur that would require the development of an Environmental Impact Statement (EIS).

Purpose and Need

The purpose of the action is to provide Western General with authorized use of the public land managed by the BLM to drill the Tom Spring 4-34 well and develop associated infrastructure in compliance with the Federal Land and Policy Management Act of 1976 (FLPMA) and other applicable federal and state laws. The need for the action is to respond to Western General's APD to drill Tom Spring 4-34 on Oil and Gas lease N-77572 on which they have valid existing lease rights and to reply to their SF-299 application.

Land Use Plan Conformance

The Proposed Action is in conformance with the Tonopah Resource Management Plan (RMP) and Record of Decision approved on October 2, 1997.

The Fluid Minerals Objective in the Tonopah RMP (page 22) is, "To provide opportunity for exploration and development of fluid minerals such as oil, gas, and geothermal resources, using appropriate stipulations to allow for the preservation and enhancement of fragile and unique resources."

The proposal is within an area that is designated as "open to fluid minerals leasing subject to standard lease terms and conditions" (Tonopah RMP, page 22).

The Proposed Action is also in conformance with the Lands and Rights-of-Way Objective, "to make lands available for community expansion and private economic development and to increase the potential for economic diversity (Tonopah RMP, page 19)."

Page 33 of the Tonopah RMP states, “Unless the land has been dedicated to a specific use or uses, public land within the Tonopah Planning Area is available for consideration for linear rights-of-way for access, and for utility transportation and distribution purposes. Such land is also available for areal rights-of-way.”

One stipulation attached to Oil and Gas Lease N-77572 is not in conformance with the Tonopah RMP. This stipulation, which is erroneously titled, “Timing Limitation Stipulation”, prohibits surface occupancy on the entirety of Section 4, T 8 E., R57 E. in order to protect the Railroad Valley Area Blue Eagle Pond Complex impoundments.

The correct stipulation, which is in conformance with the land use plan, is a “No Surface Occupancy” stipulation that prohibits surface occupancy on certain aliquot parts of Section 4, T 8 E., R57 E. for the protection of the Railroad Valley Wildlife Management Area. These aliquot parts mirror those described in Appendix 14 of the Tonopah RMP (page A-58). The lessee has been notified of the error and the change in the stipulation. After a 30-day period, it will officially be attached to the lease.

Relationship to Statutes, Regulations, Policy, Plans or Other EAs

BLM Onshore Order #1 was established pursuant to the authority prescribed in 43 CFR 3160. It requires that approval of all proposed exploratory, development, and service wells, and all required approvals of subsequent well operations and other lease operations be obtained in accordance with 43 CFR 3162.3-1, 3162.3-2, 3162.3-3, 3162.3-4 and 3162.5-1. Pursuant to 43 CFR 3101.1-2, a lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to: stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed.

The exploration must be in conformance with all Nevada State and Federal requirements including, but not limited to, those of the BLM, State of Nevada Division of Minerals, State of Nevada Division of Environmental Protection, Nevada State Engineer, and the Federal Environmental Protection Agency.

Regulations at 43 CFR 2801.6 define the circumstances under which right-of-way grants are issued. In this case, regulations at 43 CFR 2801.6 (a) (1) is applicable: Grants for necessary transportation or other systems and facilities which are in the public interest and which require the use of public lands for the purposes identified in 43 U.S.C. 1761, and administering, amending, assigning, renewing, and terminating them.

The Federal Land Policy and Management Act of 1976, as amended, section 501 [43 USC 1761] 9 (a) contains the following provision: “The Secretary, with respect to the public lands ... are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for, ... (6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities.”

Conformance with the Nye County Plan

The Proposed Action is in conformance with Nye County Policy Plan for Public Lands (2011, page 38) which states, “Oil and gas resources should be inventoried and development encouraged. Public lands with a high potential for oil or gas resources should not be withdrawn from exploration”.

Scoping and Public Involvement

Western General’s APD was made available for public review and comment in the public room of the Tonopah Field Office from July 30, 2013 to August 30, 2013.

Letters were sent to the Duckwater, Timbisha, and Yomba Shoshone Tribes informing them of the Proposed Action on July 12, 2013. On August 15, 2013, a BLM resource specialist met with a representative of the Duckwater Shoshone Tribe at the proposed project area. No resource concerns were expressed as a result of the field tour.

The Timbisha Shoshone Tribe declined to participate in field tour because they indicated that Railroad Valley is outside of the Tribe’s traditional homeland. Comments were received from Yomba Shoshone Tribe on August 22, 2013. No resource concerns were expressed.

The Nevada Department of Wildlife (NDOW) was informed of the Proposed Action on July 9, 2013. Coordination with the NDOW resulted in the incorporation of mitigation measures and certain Standard Operating Procedures (SOPs) as presented in Appendices A and B.

2.0 THE PROPOSED ACTION AND ALTERNATIVES

The Proposed Action

Western General has leased a parcel of Federal land for potential oil and gas development under the Mineral Leasing Act of 1920, as amended and supplemented, and Part 3100 of Title 43, Code of Federal Regulations (CFR). On July 29, 2013, the BLM received an APD from Western General to drill the Tom Spring 4-34 in Railroad Valley, Nevada. The proposed well location would be situated in Section 4, T. 8 N., R. 57 E., MDM, approximately 12 miles south-southwest of town site of Current in Railroad Valley, Nevada.

The proposed wellhead would be located on a 1-acre gravel pad (250 x 175 ft.). The drilling mud would be contained in a reserve pit located outside of the well pad which would cover approximately 0.23 acres (100 x 100 ft.). Due to the low permeability of soils and the depth of the water table in this area (approximately 150 feet), the reserve pit would not be lined. The reserve pit would be fenced and netted to prevent access by wildlife, livestock, avian species and humans. Escape ramps, ladders or other methods of escape would be incorporated into the design. The proposed well would be drilled to an approximate depth of 9,700 feet.

Water for the drilling of the proposed oil well would be obtained from a well located in section 23, T. 9 N., R. 56 E., MDM. A waiver for the temporary use of the ground water must be obtained from the Nevada Division of Water Resources. Approximately 352,000 gallons of water would be used during drilling operations.

Access to the project area would be via existing and newly constructed roads. In order to gain legal access to their lease, Western General has applied for a 20-foot right-of-way (ROW) across 4.9 miles of existing road and 1.7 miles of road proposed for construction. From Western General's lease boundary, an additional 0.7 miles of new road would be constructed to reach the proposed well pad. The newly proposed road would be bladed to accommodate a 16-foot graveled running surface. The width of the existing road is sufficient as it stands and would require limited resurfacing to be made serviceable.

Four turnouts would be constructed on the 2.4-miles of new access road to accommodate heavy equipment. Each turnout would be approximately 10 feet by 100 feet for a total of 0.09 acres. Culverts would be installed and drainage ditches would be developed if determined necessary by the Authorized Officer. The total surface disturbance associated with the construction of the well pad, the reserve pit, and the construction of the new access road with four turnouts would be approximately 10.8 acres.

Western General would use a community gravel pit for the extraction of approximately 5,140 cubic yards of gravel needed for the construction of the well pad and the surfacing of the proposed and existing roads. The pit is located in section 36, T. 9 N., 57 E. Mount Diablo Meridian (MDM). Approximately 1,385 cubic yards of gravel would be required to construct the pad, while approximately 3,755 cubic yards of gravel would be required to adequately surface the roads. The extraction of this quantity of gravel would require no surface disturbance beyond what was analyzed for this community pit under environmental assessment NV65-EA95-61.

Western General, Inc. Tom Springs 4-34

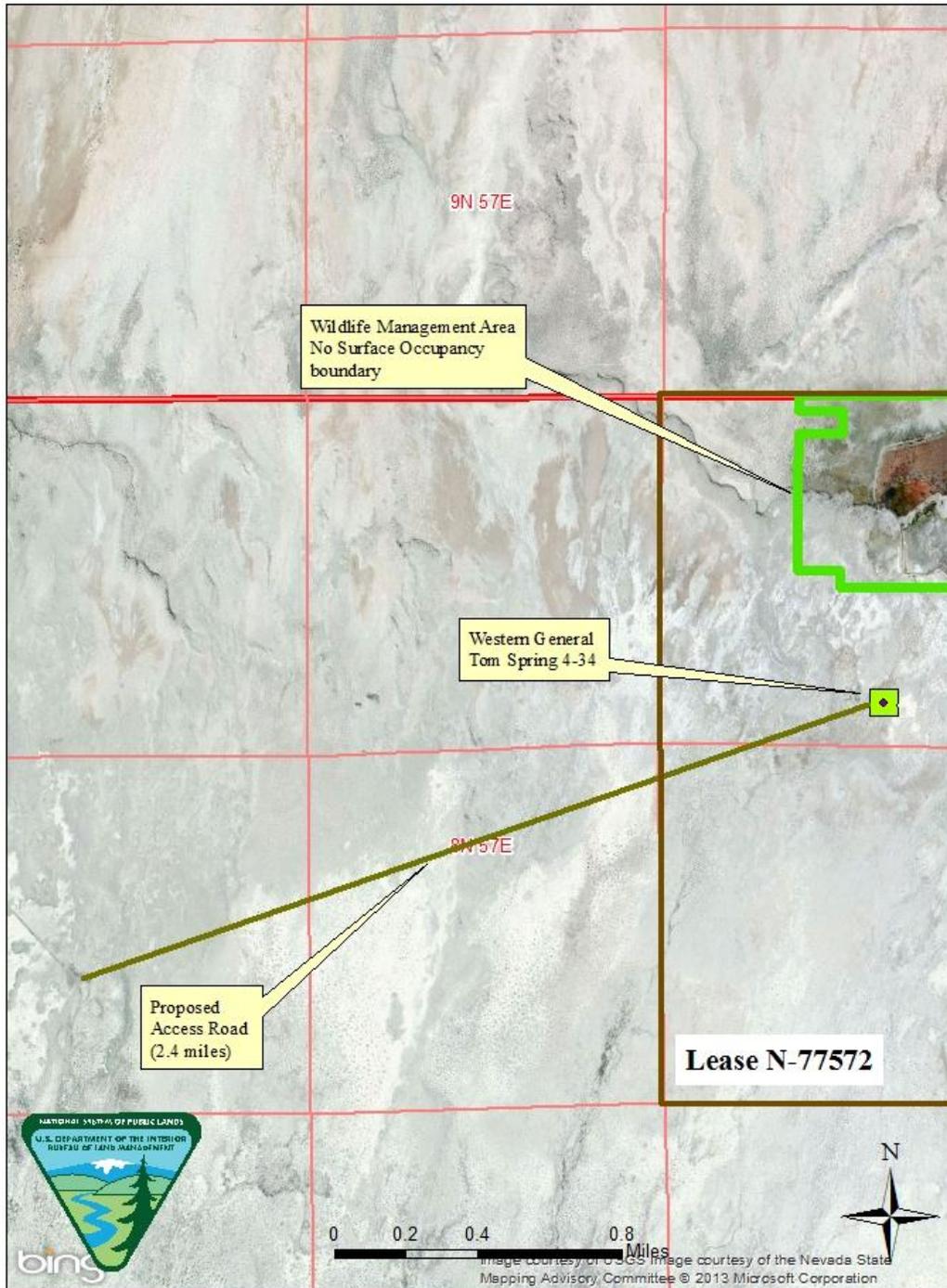


Figure 1. Location map of the proposed oil well (1:24,000).

Western General, Inc. Tom Springs 4-34

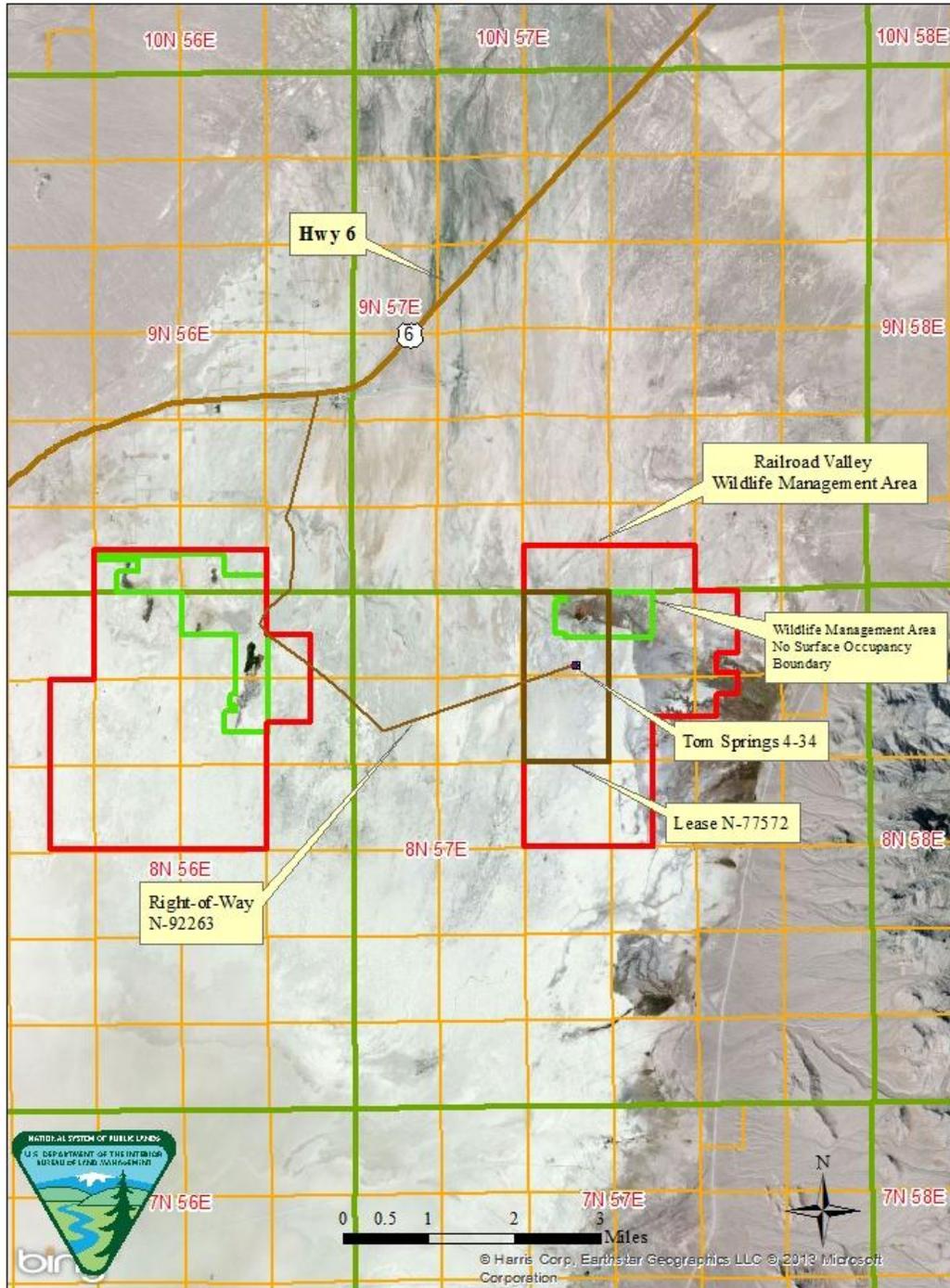


Figure 2. Location map of the proposed oil well (1:100,000).

All authorized construction and reclamation would be consistent with the Gold Book (2007 ed.) and BLM Manual 9113 (Engineering Road Standards). Standard Operating Procedures (SOPs) and Conditions of Approval are presented in Appendix B. Lease-specific stipulations associated with Oil and Gas lease N-77572 are presented in Appendix C and ROW stipulations are presented in Appendix D.

No Action Alternative

Under the No Action alternative, the BLM would not approve the APD or the SF-299 for Western General to access and drill the proposed oil well. BLM's authority to implement the No Action alternative is limited because oil and gas leases holders possess valid existing rights to explore and potentially develop their lease subject to the stipulations of the specific lease agreement. BLM can deny the APD if the proposal would violate lease stipulations, applicable laws and regulations and also can impose restrictions to prevent undue or unnecessary environmental degradation.

3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This section describes the current status of resources associated with the various supplemental authorities that may be affected by either the Proposed Action or No Action Alternative.

Supplemental Authorities

The NEPA is only one of many authorities that contain procedural requirements that pertain to treatment of elements of the environment when the BLM is considering a federal action. To comply with NEPA and these supplemental authorities, the BLM mandates that all EAs address specific elements of the environment that are subject to requirements specified in statute, regulation, or by Executive Order. Table 1 identifies the supplemental elements that must be addressed in all EAs and whether or not the Proposed Action potentially affects those elements. The supplemental elements that are “Present/May be Affected” will be analyzed.

Table 1. Supplemental Authorities Considered in the Analysis.				
Supplemental Authority¹	Not Present²	Present/Not Affected	Present/May be Affected³	Rationale
Air Quality		•		There would not be any potentially significant effects to the air quality associated with the implementation of the Proposed Action because the Standard Operating Procedures (SOPs) presented in Appendix B require dust abatement.
Area of Critical Environmental Concern (ACEC)	•			There are no ACECs within or near the area of the Proposed Action.
Cultural Resources		•		Cultural resources identified during a Class III survey would not be affected because they would be avoided and a monitor would be present on-site during the construction of the well pad to ensure adverse effects to undiscovered cultural resources does not occur.
Environmental Justice	•			No minority or low-income populations would be disproportionately affected by the Proposed Action.
Farmlands Prime or Unique	•			No prime or unique farmlands are located within the area of the Proposed Action.
Noxious Weeds/ Invasive Non-	•			The Proposed Action would have little effect on noxious weed species because

¹ See H-1790-1 (January 2008) Appendix 1 Supplemental Authorities to be Considered.

² Supplemental Authorities determined to be Not Present or Present/Not Affected need not be carried forward for analysis or discussed further in the document.

³ Supplemental Authorities determined to be present/May be Affected *must* be carried forward for analysis in the document.

Table 1. Supplemental Authorities Considered in the Analysis.

Supplemental Authority ¹	Not Present ²	Present/Not Affected	Present/May be Affected ³	Rationale
native Species				there are no weeds in the project area currently. In addition, the Proposed Action incorporates SOPs which commits Western General to prevent the establishment of weeds and eradicate them where they occur (Appendix B).
Native American Religious Concerns	•			The Proposed Action would not compromise the integrity of any known traditional, spiritual, cultural or ceremonial use area, nor would it limit or prevent access to any traditional or ceremonial sites that may be currently in use.
Floodplains	•			The proposed project is not located within a FEMA-designated 100-year flood zone.
Riparian/Wetlands		•		The nearest wetland is associated with Blue Eagle Spring which is located approximately 0.55 miles north of the proposed oil well. The water for drilling purposes would be pumped from a well in Trap Springs Field, 6 miles northwest of the spring. The 352,000 gallons proposed for use in the proposed drilling operations is a negligible amount of water at the aquifer scale and no effects are anticipated.
Threatened and Endangered Species	•			The proposed well site is 10 miles east of North and Reynolds springs which contain populations of the Railroad Valley springfish, a threatened species. However, there is no expectation that the waters in the spring would be affected by drilling of the proposed well since the water bearing zones in the oil well would be cemented and cased. The pumping of 352,000 gallons of water is not likely to have an effect either since this is a negligible amount of water at the aquifer scale.
Migratory Birds		•		The Proposed Action would not affect migratory birds because the mitigation measures presented in Appendix A contain timing limitations during the nesting season and require the survey for and avoidance of nests.
Waste – Hazardous/Solid		•		The operator or any contractor company working for the operator would have Material Safety Data Sheets (MSDS) available for all chemicals, compounds, or substances that are used during the

Table 1. Supplemental Authorities Considered in the Analysis.

Supplemental Authority ¹	Not Present ²	Present/Not Affected	Present/May be Affected ³	Rationale
				course of drilling, completion, and production operations. Additionally, all chemicals would be handled in an appropriate manner to prevent leaks or spills to the environment. Because the project operations would comply with all applicable federal and state laws concerning hazardous materials and the operator's Spill Prevention, Control, and Countermeasure Plan, and NTL-3A Reporting of Undesirable Events, there would be no impacts from hazardous or solid waste.
Water Quality		•		The Proposed Action would have little potential for affecting water quality of either surface or ground waters in the project area because the proposed oil well would be cased and cemented from the surface to near the bottom of the hole. After testing, the well would either be set up for production or the well would be shut in or plugged in accordance with BLM regulations and Nevada State laws. The State laws also require capping and containing artesian flow. The recirculated drilling fluids contained in the reserve pit would be handled according to State regulations.
Wild & Scenic Rivers	•			No wild and scenic rivers are located within the area of the Proposed Action.
Wilderness/Wilderness Study Areas/Lands with wilderness characteristics	•			The proposed project is located approximately 4.5 miles west of the Blue Eagle WSA, and 23 miles northeast of the Wall WSA. The project area was found to not possess wilderness characteristics based on a LWC inventory conducted in 2013.
Forests and Rangelands (HFRA only)	•			This project does meet the requirements to qualify as a HFRA project.
Human Health and Safety		•		Human health and safety would not be affected by the proposal because Western General is committed to the implementation of SOPs and Condition of Approval (Appendix B) which are designed, in part, to ensure human health and safety.

Other Resources Considered in the Analysis

Other resources of the human environment that have been considered for this environmental assessment (EA) are listed in the table below. Elements that may be affected are further described in the EA. Rationale for those elements that would not be affected by the Proposed Action and alternative is listed in the table below.

Table 1: Other Resources Considered in the Analysis.				
Other Resources	Not Present⁴	Present/Not Affected	Present/May be Affected	Rationale
Grazing Management		•		The Proposed Action would not result in a reduction in AUMs or any other effects to grazing management.
Land Use Authorizations			•	See the discussion under the section titled, <i>Land Use Authorizations</i>
Minerals	•			There are no active, pending, or expired mining Plans of Operation or Notices, or active or pending sodium or potassium prospecting permits located within 4-mile radius of the proposed project.
Paleontological Resources	•			There are no fossil-bearing formations outcropping in the area of the Proposed Action.
Recreation		•		There are only dispersed recreational resources in the project area. Impacts to dispersed recreational opportunities (hiking, horseback riding, bird watching, and hunting) would be very slight and temporary.
Socio-Economic Values	•			The Proposed Action would take place over the course of 3-4 weeks and would not be expected to create new jobs or significant revenues for local communities.
Soils			•	See the discussion under the section titled, <i>Soils</i>
Special Status Species			•	See the discussion under the section titled, <i>Special Status Species</i> .
Vegetation			•	See the discussion under the section titled, <i>Vegetation</i> .
Visual Resources			•	See the discussion under the section titled, <i>Visual Resources</i> .
Wild Horses and Burros	•			No wild horse or burros are known to inhabit the project area.
Wildlife			•	See the discussion under the section, titled, <i>Wildlife</i> .

⁴ Other Resources determined to be Not Present or Present/Not Affected need not be carried forward for analysis or discussed further in the document based on the rationale provided.

The supplemental elements that are not “Present/Not Affected” will not be discussed further, as there is no alternative that has the potential to affect these elements.

Land Use Authorizations

Affected Environment

Access to the lease boundary would be via 4.9 miles of existing graveled road and 1.7 miles of road proposed for construction. A ROW application was filed by Western General (N-92263) on August 7, 2013 to establish legal access to use the existing road and to construct the new segment of road to the N-77572 lease boundary. The ROW would be 20-foot wide and approximately 6.6 miles long; beginning at Hwy 6 and terminating at the western boundary of N-77572 lease.

A 0.5 mile section of the existing road for which the ROW is proposed traverses the Big Well Ponds unit of the Railroad Valley WMA which is defined in the Tonopah RMP as a ROW avoidance area.

Environmental Consequences of the Proposed Action on Land Use Authorizations

Approval of ROW N-92263 would authorize use and maintenance of approximately 6.6 miles of existing and constructed roads to provide access to the N-77572 lease boundary. The issuance of the ROW across the 0.5 mile section of the Big Well Ponds WMA is compatible with the special values of the area because no new ground disturbance is proposed and the use of the road would be short-term.

Environmental Consequences of the No Action Alternative on Land Use Authorizations

Under the No Action alternative, gaining legal access to Western General’s lease would be mute, because the APD would not be approved, the proposed well pad would not be constructed and the well would not be drilled.

Soils

Affected Environment

The project area lies within the Rustigate-Nuyobe-Kawich Complex. This complex covers approximately 50,703 acres surrounding the area of the Proposed Action. The soils representative of this complex are poorly drained. The surface texture is loamy but silt and sand are also present in small amounts. The runoff is typically slow, water erodibility is slight, and wind erodibility is slight to moderate.

Environmental Consequences of the Proposed Action on Soils

The construction of 2.4 miles of proposed road, 4 turnouts, 1 well pad and a reserve pit would disturb 10.8 acres of the Rustigate-Nuyobe-Kawich Complex. These actions would result in an

increase in wind and water erosion potential due to the removal of vegetation and the disturbance of surface soils.

These effects are not likely to be substantial because the area is generally flat, gravel would be used in well pad and road construction and water would be used to abate dust. Use of the proposed road and the construction of the well pad would result in soil compaction which would be alleviated during reclamation.

Environmental Consequences of the No Action Alternative on Soils

Under the No Action alternative, there would be no affects to soil.

Special Status Species

Affected Environment

A search of the Nevada Natural Heritage Program (NNHP) database indicates that no special status plant species have been identified within a mile of the either the existing or proposed roads or the proposed well pad location. The only known special status animal species that could inhabit the area are Bald and Golden Eagles.

Eagles

Although Bald eagles have not been documented within the project area, they have been observed in other portions of Railroad Valley. The project area and the immediately adjacent landscape does not contain any known Bald or Golden eagle nests, however, the project area and adjacent areas may provide marginal foraging habitat for eagles.

Environmental Consequences of the Proposed Action on Special Status Species

Due to relatively short duration of the project and the fact that the new disturbances would be located in marginal foraging habitat, it is not anticipated that any direct effects would occur to eagles. Further, there is a sufficient amount of foraging habitat in Railroad Valley surrounding the project area. Effects may include temporary displacement from or avoidance of the project area due to increased noise and traffic.

Environmental Consequences of the No Action Alternative on Special Status Species

Under the No Action alternative, there would be no effects to the Bald or Golden eagles or their habitat.

Vegetation

Affected Environment

The project area is mapped as a Saline Bottom, RO029XY004NV, SAVE4/SPAI-LECI4. Vegetation in this area is typically characterized by alkali sacaton, basin wildrye and black

greasewood. Other vegetation includes inland saltgrass, alkali rabbitbrush, and rubber rabbitbrush. Vegetative cover ranges from 40 to 60 percent. The vegetation is typical of the Rustigate-Nuyobe-Kawich Soil Complex which covers 50,703 acres in and around the project area. Average production (dry weight) for this Ecological Site is 1,300 pounds per acre.

Environmental Consequences of the Proposed Action on Vegetation

Implementation of the Proposed Action would result in the temporary removal of vegetation across an area of approximately 10.8 acres. Due to the temporary, small-scale nature of the removal, impacts to the vegetation community would be minimal. Reclamation and re-seeding after the drilling of the well would enable the re-establishment of native vegetation within several years.

Environmental Consequences of the No Action Alternative on Vegetation

Under the No Action alternative, there would be no change to the existing vegetation.

Visual Resources

Affected Environment

The project area is located in a Class IV Visual Resource Management (VRM) area. The Class IV objective allows for contrasts that may attract attention and be a dominant feature of the landscape, however, the change should repeat the basic elements inherent in the characteristic landscape. The level of change to the characteristic landscape can be high.

Environmental Consequences of the Proposed Action on Visual Resources

The drill rig would be visible and the operation likely noticeable in the foreground-middleground zone of three to five miles during drilling operations. At greater distances, the drill rig would fall into the background zone and be less discernible due both to distance and the varying patterns of the mountainous background.

These activities are within the allowable limits of Class IV Visual Resource Management areas identified in the Tonopah RMP and Record of Decision, dated October 1997.

Environmental Consequences of the No Action Alternative on Visual Resources

Under the No Action alternative, there would be no change to the existing visual environment.

Wildlife

Affected Environment

The existing road that would be used for access to the proposed well location enters a no surface occupancy zone associated with the Big Well Ponds unit of the Railroad Valley Wildlife Management Area (WMA) and 0.7 miles of the proposed road and the well pad would be

situated within the Blue Eagle Unit of the Railroad Valley WMA. A no occupancy zone associated with the Blue Eagle unit is located approximately 0.55 miles north of the proposed well pad. These units include a number of ponds and marshes that provide habitat for many species of migratory birds, including waterfowl. There is also a basic component of small mammals, reptiles, and predators.

The project area and adjacent areas may provide important foraging habitat for a number of raptors including rough-legged hawks and Northern harriers.

Environmental Consequences of the Proposed Action on Wildlife

The construction of approximately 2.4 miles of road and a well pad would disturb approximately 10.8 acres of marginal habitat which would result in a minimal impact to local wildlife populations. Vast amounts of similar habitat located adjacent to the proposed project area would provide sufficient forage and escape cover. No elements of the proposed project would affect the higher values pond or marsh habitats of either unit of the Railroad Valley WMA.

Vehicle traffic on both the existing and proposed roads could cause some wildlife mortalities, temporary displacement or avoidance. However, impacts to wildlife from vehicle traffic and increased noise would be short-term due to the temporary nature of the project.

Fluids produced during drilling would be directed to a fenced reserve pit. The proposed well would include blow-out preventers that are designed to prevent the release of hydrocarbon-contaminated fluids to the environment. Therefore, there would be minimal potential for wildlife to encounter any hazardous materials during drilling or operations.

Environmental Consequences of the No Action Alternative on Wildlife

Under the No Action alternative, there would be no change to the existing wildlife populations or their habitat.

4.0 CUMULATIVE EFFECTS

The Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 CFR 1508.7) define cumulative impacts as:

“ . . . the impact on the environment which results from the incremental impact of the action when added to other past, present, or reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”

The following analysis identifies past, present, or reasonably foreseeable future actions which, together with the proposed project, may incrementally impact the environment. In order to provide structure to the analysis, a geographic scope and a timeframe were established. The geographic scope or the Cumulative Effects Study Area (CESA) is the distribution of the Rustigate-Nuyobe-Kawich Complex soil association and associated vegetation types. The CESA covers approximately 50,703 acres in the area of the Proposed Action. This CESA was selected because it represents the maximum spatial extent of the resources that would be impacted by the Proposed Action.

A 5-year timeframe, both in the past and into the future, was selected for the analysis. This timeframe for considering cumulative effects was selected because it represents the maximum amount of time that effects associated with the Proposed Action are likely to persist.

Past and Present Actions

Past and present actions that have occurred or are occurring in the CESA include dispersed cattle ranching and oil exploration. The CESA is located within the Blue Eagle and Butterfield Allotments. The Blue Eagle allotment is permitted for 220 head of cattle from 3/1-3/15, one cow from 5/15-6/14, and 226 cattle from 6/15-2/28. Actual use is usually lower than the permitted numbers. The Butterfield allotment is permitted for 399 cattle from 3/1-11/30 and 396 cattle from 12/1 to 2/28. This allotment is usually grazed with fewer cattle than permitted.

Oil exploration in the CESA in the last 5 years has been limited to the drilling of a wildcat well, Makoil's Trap Springs 27-41 and three production wells in the Makoil's Munson Ranch oil field.

Reasonable Foreseeable Future Actions (RFFA's)

Other than additional oil exploration and the continuation of highly dispersed cattle grazing, there are no reasonably foreseeable future actions anticipated in this area during the 5-year timeframe under consideration. At this time, there are no proposals for projects, pending decisions, nor allocated funding for land management actions in the CESA.

Cumulative impacts associated with past, present, and reasonably foreseeable future actions

Cumulative Impacts to Land Use Authorizations

Past and present land use authorizations for grazing has resulted in the granting of grazing claimed ROWs to local ranchers in the CESA for the use of pre-existing ditches and canals. Future foreseeable land use authorization for grazing are likely for range improvements as local ranchers permitted in the Nayala and Butterfield allotments apply for ROW grants for installation of water troughs, water pipes, fencing, water rights or for use of historic or new ditches and canals.

Past and present ROW grants have been issued to oil companies for the drilling of wildcat and production oil wells in the CESA. As most wildcats wells in Railroad Valley are plugged and abandoned, the ROW holders typically cancel the ROWs after the well is plugged and abandoned. The ROWs granted for the drilling of the production wells may be kept, if the well is a producer. The Proposed Action would result in the issuance of an additional ROW within the CESA. It is unlikely that this land use authorization will be cumulative to those associated with past, present and reasonably foreseeable actions since, like most authorizations associated with oil exploration, it is likely to be temporary.

Cumulative Impacts to Soils

Past and present grazing activity has resulted in localized areas of soil disturbance and compaction where cattle congregate, such as trails, trough locations, springs and salting grounds. These impacts have increased wind and water erosion potential in these areas, especially on slopes. However, the dispersed nature of grazing, in general, and particularly areas of congregation, has limited the impact to relatively few intensively impacted areas within the CESA. Since cattle tend to congregate habitually, it is likely that the areas that have been impacted in the past will be repeatedly impacted into the foreseeable future.

As described in the section titled, ***Soils***, the Proposed Action would temporarily disturb 10.8 acres of surface soils due to access road, turnout, and well pad construction, increasing erosion potential in these areas. Once reclamation and seeding are completed, the project area should return to a natural condition, which could take several years.

Taken together, the cumulative impact to soils associated with past, present and reasonably foreseeable future actions have been minor. Although there are some localized areas of increased erosion potential and compaction, the intensity of the impact has been, and will remain, very low because so few acres have been impacted relative to the size of the CESA.

Cumulative Impacts to Special Status Species

Past and present grazing activity has destroyed or disturbed potential foraging habitat for Golden Eagles in localized areas of intensive use. These impacts are not likely to increase in the

foreseeable future because the areas of intensive use tend to remain more or less static, especially over the short-term (i.e., 5 years).

Past and present and oil exploration has removed potential foraging habitat which would be of a short-term nature. The Proposed Action would temporarily remove an additional 5.97 acres. It is reasonably foreseeable that the impact would be reduced and eventually eliminated once reclamation activities are completed.

The intensity of the cumulative impact to Golden Eagle foraging habitat associated with past, present and reasonably foreseeable future actions have been, and will continue to be, very low because such a small area of foraging habitat has been, or will be, impacted relative to the total available foraging habitat in the CESA.

Cumulative Impacts to Vegetation

Past and present grazing activities has resulted in the denuding of vegetation in areas of intensive use including trails, trough locations and salting grounds. Though native vegetation is unlikely to return to these areas due to repeated intensive use, they tend to be dispersed widely across the landscape which reduces the intensity of the collective effect.

Consider together, the intensity of the cumulative impacts to vegetation associated with past, present and reasonably foreseeable future actions would be very slight because such a small amount of the vegetation has been impacted relative to the total amount of vegetation in the CESA.

Cumulative Impact to Visual Resources

Past and present grazing activity has resulted in few impacts to visual resources because areas of intensive grazing activity, where impacts are most likely to occur, are widely dispersed across the CESA. While there are some cases where intensive grazing activity may be seen in the foreground zone, especially from roads, these would be uncommon. At greater distances, evidence of intensive grazing activity would not likely be seen at all. Since it is typical for areas of intensive grazing activity to remain consistent through time, it is not likely that impacts to visual resources would accumulate substantially over the next 5 years.

Past and present oil exploration has created short-term effects since the drill rig associated with the drilling of Makoil's four wells would have been noticeable in the foreground-middle ground zone during drilling operations. Once the drilling operation was completed, there would have been no further impacts to visual resources. The same short-term effects would be associated with the Proposed Action.

Impacts to visual resources associated with past, present and reasonably foreseeable actions are not likely to accumulate because the same areas of intensive grazing activity would likely be used over the 5-year period and impacts from oil exploration would be temporary.

Cumulative Impacts to Wildlife

Impacts associated with past, present and reasonably foreseeable grazing activity and oil exploration would be very minor. While there has been, and would be, some competition between wildlife and cattle for forage and water, there are ample amounts of these resources within the CESA to accommodate both.

Given its temporary nature, oil exploration activity is unlikely to contribute in any substantial way to cumulative impacts to wildlife. Construction of access roads and drill pads and increased vehicular traffic in the vicinity of an active drilling operation could temporarily impede the passage of a variety of wildlife that may pass through the area. However, the short duration of these activities, both past and proposed, and subsequent reclamation of disturbed areas would eliminate any long-term impact to wildlife.

5.0 TRIBES, PERSONS, ORGANIZATION, or AGENCIES CONSULTED

Duckwater Shoshone Tribe
Timbisha Shoshone Tribe
Yomba Shoshone Tribe
Brad Hardenbrook, Nevada Department of Wildlife

LIST OF PREPARERS

Nazila Hummer, Geologist, Tonopah Field Office, Lead Preparer
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Dustin Hollowell, Wildlife Biologist, Tonopah Field Office
Susan Rigby, Archaeologist, Tonopah Field Office
Wendy Seley, Realty Specialist, Tonopah Field Office
Bruce Andersen, Outdoor Recreation Planner, Tonopah Field Office

Appendix A

Mitigation Measures

Mitigation Measures

A cultural resource monitor will be on-site during the construction of the well pad.

The operator will notify the Bureau of Land Management (BLM) authorized officer and nearest Fish and Wildlife Service (FWS) Law Enforcement office within 24 hours, if the operator discovers a dead or injured federally protected species (i.e., migratory bird species, bald or golden eagle, or species listed by the FWS as threatened or endangered) in or adjacent to a pit, trench, tank, exhaust stack, or fence. (If the operator is unable to contact the FWS Law Enforcement office, the operator must contact the nearest FWS Ecological Services office.)

The operator will minimize or preclude releases of oil into open pits. Unless the authorized officer approves the release, no oil should go into a pit except in an emergency. The operator must remove any accumulation of oil or condensate in a pit within 48 hours of discovery.

The operator will design, construct, and maintain enclosure fencing for all open cellars and pits containing freestanding fluids to prevent access to livestock and large forms of wildlife such as deer, elk, and pronghorn. At a minimum, the operator will adequately fence all fluids pits and open cellars during and after drilling operations until the pit is free of fluids and the operator initiates backfilling. The operator will maintain the fence in order to protect public health and safety, wildlife, and livestock.

Adequate fencing includes all of the following:

- a. Construction materials will consist of steel and/or wood posts. Use a fence with five separate wires (smooth or barbed) or hog panel (16-foot length by 50-inch height) with connectors such as fence staples, quick-connect clips, hog rings, hose clamps, twisted wire, etc. Do not use electric fences.
- b. Set posts firmly in the ground. Stretch the wire, if used, tightly and space it evenly, from the ground level to the top wire, effectively keeping out animals. Tie hog panels securely into posts and to one another using fence staples, clamps, etc. Construct the fence at least 2 feet from the edge of the pit.
- c. For reserve pits, fence all four sides as soon as the pit is constructed. Reconstruct any damage to the rig side of the fence immediately following release of the drilling rig.
- d. Maintain the erect fences in adequate condition until the pit has been closed.

The operator will prevent wildlife and livestock access (including avian wildlife) to fluids pits that contain or have the potential of containing salinity sufficient to cause harm to wildlife or livestock, hydrocarbons, surfactants, or Resource Conservation and Recovery Act-exempt hazardous substances. At a minimum, the operator will install approved netting in these circumstances, in accordance with the requirements below, immediately following release of the drilling rig. **Note:** The BLM does not approve of the use of flagging, strobe lights, metal reflectors, or noisemakers as techniques for deterring wildlife.

Minimum Netting Requirements: The operator will:

- a. Construct a rigid structure made of steel tubing or wooden posts with cable strung across the pit at no more than 7-foot intervals along the X- and Y-axes to form a grid of 7-foot squares.
- b. Suspend netting a minimum of 4 to 5 feet above the pit surface.
- c. Use a maximum netting mesh size of 1½ inches to allow for snow loading while excluding most birds in accordance with Fish and Wildlife Service recommendations. Refer to: [This is the Fish and Wildlife link to describe contaminants.](#)
- d. Cover the top and sides of the netting support frame with netting and secure the netting at the ground surface around the entire pit to prevent wildlife entry at the netting edges. **Note:** Hog wire panels or other wire mesh panels or fencing used on the sides of the netting support frame is ineffective in excluding small wildlife and songbirds unless covered by smaller meshed netting.
- e. Monitor and maintain the netting sufficiently to ensure the netting is functioning as intended, has not entrapped wildlife, and is free of holes and gaps greater than 1½ inches.

The operator will construct and maintain pits, cellars, open-top tanks, and trenches, that are not otherwise fenced, screened, or netted, to exclude livestock, wildlife, and humans (for example, lined, clean water pits; well cellars; or utility trenches) to prevent livestock, wildlife, and humans from becoming entrapped. At a minimum, the operator will construct and maintain escape ramps, ladders, or other methods of avian and terrestrial wildlife escape in pits, cellars, open-top tanks, or at frequent intervals along trenches where entrapment hazards may exist.

Immediately following active drilling or completion operations, the operator will take actions necessary to prevent wildlife and livestock access, including avian wildlife, to all open-topped tanks that contain or have the potential to contain salinity sufficient to cause harm to wildlife or livestock, hydrocarbons, or Resource Conservation and Recovery Act of 1976-exempt hazardous substances. At a minimum, the operator will net, screen, or cover open-topped tanks to exclude wildlife and livestock and prevent mortality. If the operator uses netting, the operator will cover and secure the open portion of the tank to prevent wildlife entry. The operator will net, screen, or cover the tanks until the operator removes the tanks from the location or the tanks no longer contain substances that could be harmful to wildlife or livestock.

Any authorized construction and reclamation is to be consistent with the Gold Book (2007 ed.) and BLM Manual 9113 (Engineering Road Standards).

Any cultural or paleontological resource (historic or prehistoric site or object) or Native American human remains, funerary item, sacred object, or objects of cultural patrimony discovered by the permit holder, or any person working on their behalf, during the course of the road and pad construction, shall be immediately reported to the Authorized Officer by telephone, with written confirmation. The permit holder shall suspend all operations in the immediate area

of such discovery and protect it until an evaluation of the discovery is made by the Authorized Officer.

For cultural resources other than Native American human remains, funerary item, sacred object, or objects of cultural patrimony, this evaluation will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. The holder is responsible for the cost of evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the Authorized Officer after consulting with the permit holder. Operations may resume only upon written authorization to proceed from the Authorized Officer.

If the well is dry, the proponent will paint the dry hole marker with Covert Green Paint or install the marker below grade to mitigate the effects to visual resources.

Upon the proper plugging and abandonment of the well, the proponent would remove as much gravel as practicable from the proposed well pad and scarify the area and remove gravel to grade and scarify the access road.

If the gravel to construct the proposed road and drill pad is removed from a nearby abandoned well site and access road, the previously disturbed site would be scarified prior to vacating the site.

The impacts to sensitive and migratory bird species would be reduced or eliminated by one of the following mitigation measures:

1. Construction activities would be limited to August 1 through February 29, or
2. If construction or other ground disturbing activities would occur during March 1 to July 31, a survey for all migratory bird species, including the snowy plover and burrowing owl, would be required to be completed by a certified wildlife biologist (approved by the BLM) prior to ground disturbing activities. If active migratory bird nests were found, avoidance of the nest location with a 300-foot radius buffer during construction would be required.

Utilize consistent lighting mitigation measures that follow “Dark Sky” lighting practices.

Effective lighting should have screens that do not allow the bulb to shine up or out. All proposed lighting shall be located to avoid light pollution onto any adjacent lands as viewed from a distance. All lighting fixtures shall be hooded and shielded, face downward, located within soffits and directed on to the pertinent site only, and away from adjacent parcels or areas.

A lighting plan should be submitted indicating the types of lighting and fixtures, the locations of fixtures, lumens of lighting, and the areas illuminated by the lighting plan.

Any required FAA lighting should be consolidated and minimized wherever possible.

Utilize consistent mitigation measures that address logical placement of improvements and use of appropriate screening and structure colors. Existing utility corridors, roads and areas of

disturbed land should be utilized wherever possible. Proliferation of new roads should be avoided. For example, the use of compatible paint colors on structures reduces the visual impacts of the built environment. Using screening, careful site placement, and cognitive use of earth-tone colors/materials that match the environment improve the user experience for others who might have different values than what is fostered by built environment activities.

Appendix B

Standard Operating Procedures and Conditions of Approval

Standard Operating Procedures (SOP's) associated with the Proposed Action

The operator shall obtain and maintain all necessary State of Nevada permits as well as local permits applicable to drilling the well.

The operator shall stockpile a volume equivalent to at least 8 inches of topsoil from the access road, pad and reserve pit for use in reclamation.

Maximum width of any road, including drainage ditches and berms, is 30 feet. Culverts and turnouts may be installed if deemed necessary by the Field Manager, Tonopah Field Office.

A 15-mph speed limit shall be required for all project vehicles on the project site and unposted access roads. Water shall be the exclusive means to control dust, no dust pallatives shall be used.

The mud pit shall be fenced on three sides during drilling. Upon completion of the well, when the site is not occupied, the fourth side of the pit shall be fenced. The pit shall remain fenced until reclaimed (see Appendix A).

Trash shall be contained on-site and hauled to an approved landfill. Burial of trash on-site is not permitted.

Portable toilets shall be used for human waste. The latter may not be chemically treated or buried on site.

Any additives to the drilling mud that are considered hazardous substances will be stored in appropriate containment to prevent site contamination.

Upon abandonment, the operator shall:

Remove all trash and debris from the site and dispose of it properly.

Recontour the mud pit to as near original grade as possible, and spread stockpiled topsoil over the covered pit.

If installed, all culverts shall be removed.

The operator shall rehabilitate the drill pad and new access road by stripping as much gravel as possible from the pad and travel surface of the road and re-contour. The operator shall also reduce the berm and cover any remaining gravel with the soil from the access road, pad, and mud pit excavation. The access road and the drill pad will be scarified and re-seeded with the BLM recommended seed mix.

Existing roads that are improved shall be reclaimed to their original condition. Berms shall be reduced and all widths in excess of the original width shall be scarified and revegetated.

Interim reclamation of the drill pad and mud pit, reducing the surface disturbance to the minimum area required to place a workover rig on the site, will be required within 1 year if the

well is a producer.

All reclamation of the disturbed areas shall be completed within one (1) year from the date of the proper plugging and abandonment of the well.

The Authorized Officer of the Bureau of Land Management shall be notified in writing when reclamation operations commence and when reclamation is completed and shall accept the reclamation in writing.

Conditions of Approval (COA's)

A Tonopah Field Office representative shall be contacted for a verbal approval prior to commencing remedial work, plugging operations on newly drilled boreholes, changes within the drilling plan, changes or variances to the BOPE, deviating from conditions of approval, and conducting other operations not specified within the APD. Please contact Tim Coward at 775-482-7801 for verbal approvals. The secondary contact is Mark Ennes who may be reached at 775-482-7835.

If a well control issue arises (e.g. kick, blowout, or water flow), the Authorized Officer (AO) shall be notified within 24 hours from the time of the event.

The BOPE shall be installed, tested and operated in conformance with (to) Order #2 for a 2M system.

Onshore Order No. 2, Drilling Operations, requires that all formations containing usable quality water (less than 10,000 ppm) be protected via cement. If encountered while drilling below the surface casing shoe yet above the anticipated cement top for the usable quality water would require protection by bringing the cement at least $\pm 200'$ above the usable quality water zone. Results (cementing reports, CBL, depth of flow, rate of flow, water quality, if available, etc.) will be reported to the BLM. Any necessary remedial operations will be conducted prior to drilling out that casing shoe.

Prior approval will be required if the operator drills beyond the depth indicated in the APD.

Due to the proximity to aquatic wildlife habitat, no hydraulic fracturing (i.e., fracing) shall be permitted.

If the well is productive and it is determined that the reservoir extends beyond the lease boundary a Communization Agreement will be set up.

A CBL shall be run (from TD to 200' above the TOC) and an electronic copy submitted to the AO. If the TOC is lower than required or the cement sheath is of poor quality, then, within 48 hours from running the CBL, a BLM petroleum engineer shall be notified for further instruction.

After running and cementing the production casing and in order to determine cement top and quality a cement bond log, cement evaluation tool, or equivalent shall be run. Results will be

reported to BLM, Attn: Tonopah Field Office. Any necessary remedial operations will be conducted prior to drilling out of the casing shoe.

Submit the (a) mud/drilling log (e.g. Pason disc), (b) driller's event log/operations summary report, (c) production test volumes, (d) directional survey, and (e) Formation Integrity Test results with the well completion report. Please contact the AO for clarification.

In accordance with 43 CFR 3162.4(b), the operator shall submit a complete set of electrical/mechanical logs in .LAS format or hard copies with standard Form 3160-4, Form 3260-4 Well Completion or Recompletion Report and Log. Please contact John Menghini at 775-861-6573 if there are any questions.

Two copies of all logs, and a single copy of core descriptions, core analyses, drill stem tests, well-test data, geologic summaries, sample descriptions, and all other surveys or data obtained and compiled during the drilling and/or completion operations shall be submitted to the BLM, Tonopah Field Office.

Daily drilling and completion progress reports shall be submitted to the BLM, Nevada State Office and Tonopah Field Office on a daily basis, and shall include daily mud reports, details of casing that has been run and its cementing, water flows, lost circulation zones, hydrocarbon shows and other information that describes drilling conditions.

A formation integrity test shall be performed at the surface casing shoe. Prior to drilling more than 20 feet below the shoe, the test shall expose the shoe to the minimum mud weight equivalent necessary to control anticipated pressure at the next casing point or total depth.

Gamma Ray Log shall be run from total depth to surface.

All cement bond logs shall be run by the logging company at zero pressure. Logs determined to be run under pressure shall be re-run.

Nevada State Office personnel shall be contacted for approval prior to running non-API Standard casing downhole. Please contact John Menghini at 775-861-6573 with the specifications and manufacturer of the pipe, and a decision will be made whether the pipe can be used.

Prior to running used or reconditioned API-grade casing downhole, a petroleum engineer in the Nevada State Office shall be contacted to obtain approval. Approval will be granted if the pipe has been tested and shown to have retained 87½ (or greater) of its original wall thickness.

Appendix C

Lease-specific Stipulations

Form 206-11
October 1995

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
OFFER TO LEASE AND LEASE FOR OIL AND GAS

Serial No.
N-77572

The undersigned (applicant) offers to lease all or any of the lands in Item 2 that are available for lease pursuant to the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Attorney General's Order of April 2, 1961 (40 Fed. Reg. 411); or the

READ INSTRUCTIONS ON REVERSE SIDE OF THIS FORM

1. Name: Yates Petroleum Corp.
State: NM
City, State, Zip Code: Artesia, NM 88210

2. This application/lease is for (check only one): PUBLIC DOMAIN LANDS ACQUIRED LANDS (purch. U.S. interest _____)
Surface ownership (specify if other than BLM): _____
Legal description of land requested: Parcel No.: NV-03-09-0097 Section _____
*SEE ITEM 2 IN INSTRUCTIONS BELOW PRIOR TO COMPLETING PARCEL NUMBER AND RAIL RATE. *Side Rate (per acre) 00, 09, 03
T. _____ R. _____ Section _____ State _____ County _____

Actual amount of filing fee \$ 75.00 Rental fee \$ 1921.50 Total acres applied for 1280.60
Total \$ 1996.50

DO NOT WRITE BELOW THIS LINE

3. Land included in offer:

T. 08 N., R. 57 E., Meridian ND, State NV, County Nye
sec. 04, lots 1-4, S2N2, S2;
sec. 09, all.

Total acres in lease 1280.60
Rental received \$ 1921.50

This lease is granted granting the exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas (except helium) in the lands described in Item 2 together with the right to build and maintain necessary improvements thereon for the term indicated below, subject to removal or cessation in accordance with the appropriate leasing authority. Rights granted are subject to orders hereafter promulgated when not inconsistent with lease rights granted or specific provisions of this lease.

NOTE: This lease is issued as the high bidder pursuant to the duly executed bid or nomination form submitted under 43 CFR 3120 and is subject to the provisions of that bid or nomination and those specified on this lease.

Type and (lease) term of lease:

Noncompetitive lease (ten years)

Competitive lease (ten years)

Other _____

THE UNITED STATES OF AMERICA

by Wayne M. Lowman

(Signing Officer)

Supervisor, Branch of Minerals Adjudication SEP 10 2003

EFFECTIVE DATE OF LEASE OCT 01 2003

NOTICE TO LESSEE

Provisions of the Mineral Leasing Act (MLA) of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, affect an entity's qualifications to obtain an oil and gas lease. Section 2(a)(2)(A) of the MLA, 30 U.S.C. 201(a)(2)(A), requires that any entity that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such lease, cannot qualify for the issuance of any other lease granted under the MLA. Compliance by coal lessees with Section 2(a)(2)(A) is explained in 43 CFR 3472.

In accordance with the terms of this oil and gas lease with respect to compliance by the initial lessee with qualifications concerning Federal coal lease holdings, all assignees and transferees are hereby notified that this oil and gas lease is subject to cancellation if: (1) the initial lessee as assignor or as transferor has falsely certified compliance with Section 2(a)(2)(A) or (2) because of a denial or disapproval by a State Office of a pending coal action, i.e., arms-length assignment, relinquishment, or logical razing unit, the initial lessee as assignor or as transferor is no longer in compliance with Section 2(a)(2)(A). The assignee or transferee does not qualify as a bona fide purchaser and, thus, has no rights to bona fide purchaser protection in the event of cancellation of this lease due to noncompliance with Section 2(a)(2)(A).

TIMING LIMITATION STIPULATION

No surface use is allowed the land described below (legal land description or other description):

Description of Lands:

PARCEL NV-03-09-0097

T. 08 N., R. 57 E., MDM, Nevada
Sec. 04, lots 1-4, S2N2, S2 (with in).

For the purpose of:

ii. Protect the Railroad Valley Wildlife Management Area Hole Eagle Pond Complex impoundments with a buffer zone for resident and migratory waterfowl and shorebirds.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of the stipulation, see BLM Manual 1624 and 3401).

NSO-065-118

26

Nonconforming stipulation (see *Land Use Plan Conformance*)

ARCHAEOLOGICAL SITUATION

Lands fall within the Tonopah RMP and the Archeological Predictive Model, Management Plan and Treatment Plans for Northern Railroad Valley, Nevada. Operations must follow all applicable management prescriptions and laws. NEPA analysis, potential cultural resource mitigation and Native American consultation may delay timeliness of permit approvals

	<u>Description of Lands</u>
PARCEL NV-03-09-0097	T. 08 N., R. 57 E., MDM, Nevada sec. 04, lots 1-4, S2N2, S2 (within); sec. 09, all (within).
PARCEL NV-03-09-0098	T. 08 N., R. 57 E., MDM, Nevada sec. 14, N2SW (within).
PARCEL NV-03-09-0099	T. 09 N., R. 57 E., MDM, Nevada sec. 02, SWNW, W2SW, SESW (within); sec. 11, W2NW (within).
PARCEL NV-03-09-0100	T. 09 N., R. 57 E., MDM, Nevada sec. 08, N2N2, SWNE, SWSW, SE (within); sec. 16, NW (within); sec. 17, N2NE, SENE, E2SW, NESE (within).
PARCEL NV-03-09-0101	ALL LANDS
PARCEL NV-03-09-0102	T. 09 N., R. 57 E., MDM, Nevada sec. 10, W2 (within); sec. 15, W2NW (within).
PARCEL NV-03-09-0103	T. 09 N., R. 57 E., MDM, Nevada sec. 20, SWSW, W2SE, SESE (within); sec. 29, W2NW, SENW, NWSW, SESW, SWSE (within).
PARCEL NV-03-09-0104	ALL LANDS
PARCEL NV-03-09-0105	T. 09 N., R. 57 E., MDM, Nevada sec. 24, SESW, W2SE, SESE (within); sec. 25, E2, E2W2 (within).
PARCEL NV-03-09-0106	ALL LANDS
PARCEL NV-03-09-0107	ALL LANDS

ARCH-ZONE 1

ARCHAEOLOGICAL STIPULATION

Lands fall within the Tonopah RMP and the Archaeological Predictive Model, Management Plan and Treatment Plans for Northern Railroad Valley, Nevada. Operations must follow all applicable management prescriptions and laws. NEPA analysis, potential cultural resource mitigation and Native American consultation may delay timeliness of permit approvals.

Description of Lands

PARCEL NV-03-09-0097	T. 08 N., R. 57 E., MDM, Nevada sec. 04, lots 1-4, S2N2, S2 (within); sec. 09, all (within).
PARCEL NV-03-09-0098	T. 08 N., R. 57 E., MDM, Nevada sec. 14, S2SW (within)
PARCEL NV-03-09-0099	T. 09 N., R. 57 E., MDM, Nevada sec. 02, SWNW, W2SW, SESW (within), sec. 11, W2NW (within).
PARCEL NV-03-06-0100	T. 09 N., R. 57 E., MDM, Nevada sec. 08, N2NW, SWSW (within); sec. 17, E2SW (within).
PARCEL NV-03-06-0102	T. 09 N., R. 57 E., MDM, Nevada sec. 10, W2 (within); sec. 15, N2SE (within);
PARCEL NV-03-09-0103	T. 09 N., R. 57 E., MDM, Nevada sec. 20, SWSW, W2SE, SESE (within); sec. 29, W2NW, SENW, NWSW, SESW, SWSE (within).
PARCEL NV-03-06-0104	T. 10 N., R. 56 E., MDM, Nevada sec. 24, S2NE (within).

ARCH-ZONE 2

Appendix D

Right-of-way Stipulations

RIGHT-OF-WAY STIPULATIONS

General

In case of change of address, the Holder shall immediately notify the BLM Authorized Officer.

The ROW grant is subject to all valid rights existing on the effective date of this grant.

The Holder shall conduct all activities associated with the construction, operation, and termination of the ROW within the authorized limits of the ROW.

The Holder shall furnish and apply water or other means satisfactory to the Authorized Officer for dust control on disturbed areas and unpaved access roads.

The Holder shall comply with all applicable Federal, State, and local laws and regulations, existing or thereafter enacted or promulgated.

Cultural

Any cultural or paleontological resource (historic or prehistoric site or object) or Native American human remains, funerary item, sacred object, or objects of cultural patrimony discovered by the permit holder, or any person working on their behalf, during the course of activities on Federal land, shall be immediately reported by telephone to the Authorized Officer; Field Manager, TFO, 775-482-7800, and to be followed with written confirmation to 1553 S. Main Street, P.O. Box 911, Tonopah, NV 89049. The permit holder shall suspend all operations in the immediate area of such discovery and protect it until an evaluation of the discovery is made by the Authorized Officer.

For cultural resources other than Native American human remains, funerary item, sacred object, or objects of cultural patrimony, this evaluation will determine the significance of the discovery and what mitigation measures are necessary to allow activities to proceed. The holder is responsible for the cost of evaluation and mitigation. Any decision on treatment and/or mitigation will be made by the Authorized Officer after consulting with the permit holder. Operations may resume only upon written authorization to proceed from the Authorized Officer.

Vegetation/Invasive Weeds

The Holder shall be responsible for weed control on disturbed areas within the limits of the ROW. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).

Hazardous Waste

The Holder shall comply with all applicable Federal, State, and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous material, as defined in this paragraph, that will be used, produced, transported or stored on or within the ROW or any of the ROW facilities, or used in the construction, operation, maintenance or termination of the

ROW or any of its facilities. “Hazardous material” means any substance, pollutant, or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 43 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any “hazardous waste” as defined in the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101 (14), 42 U.S.C. 9601 (14), nor does the term include natural gas.

The Holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et. seq. or the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW Holder’s activity on the ROW). This agreement applies without regard to whether a release is caused by the Holder, its agent, or unrelated third parties.

Fire Management

During the period of May 1 through October 1 of each year, Holder should consider using spark arresters on vehicles and equipment in the project area, due to the potential for fire ignition from project related activities. This includes emission of hot carbon particles from diesel powered equipment, improperly equipped or poorly operating exhaust systems on gas powered vehicles and direct contact of wildland fuels with catalytic converters. Individuals, groups, businesses or corporations found responsible for the ignition of a wild fire may be held liable for the costs associated with the suppression of that fire.

Migratory Birds

Prior to any planned disturbance in potential migratory bird nesting habitat from March 1 to July 31 (the approximate nesting season), a field survey for migratory birds, their nests, eggs, or young should be performed, in order to prevent violation of the Migratory Bird Treaty Act (MBTA). If any nests, eggs, or young are found, either the project should be delayed until the birds have completed their nesting and brood rearing activities, or the project should be re-designed so as to not harm the migratory birds, their nests, eggs, or young. A migratory bird is any species of bird except upland game species, feral pigeons, European starlings, and English house sparrows.

Potential migratory bird nesting habitat is any habitat that may provide nesting opportunity for any species of migratory bird. Any violation of the MBTA can incur penalties up to \$15,000 or 6 months imprisonment, both per individual offense. Any questions about the Migratory Bird Treaty Act should be referred to the Reno Office of the U.S. Fish and Wildlife Service at (775) 861-6300, or e-mail at asknevada@fws.gov.

Roads/Surfacing

Widening, realignment, or altering the character of the pre-existing access road ROW is not authorized without consultation and review by the Authorized Officer.

Future modifications, construction of improvements, or major maintenance operations involving disturbance of the land, shall not occur until plans for such actions have been submitted and approved in writing by the Authorized Officer. Any proposals involving new surface disturbance shall require a cultural inventory and may require completion of an environmental assessment.

Roads shall be maintained in good sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to: human waste, trash, garbage, vegetation, refuse, oil drums, petroleum products, ashes, and equipment.

The Holder shall prevent any activities which may cause erosion. Where erosion has resulted, the Holder shall revegetate and rehabilitate the location. The Holder is responsible for consultation with the Authorized Officer for an acceptable proposal.

The Holder shall permit free and unrestricted public access to and upon the ROW for all lawful purposes, except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the ROW.

The holder shall protect all survey monuments found within the ROW. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority, if known. Where General Land Office or Bureau of Land Management ROW monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for all associated costs.

All design, material, and construction, operation, maintenance, and termination practices shall be in accordance with safe and proven engineering practices. Holder shall maintain the ROW in a safe, usable condition, as directed by the Authorized Officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation and surfacing).

The road proposed as part of this authorization shall be constructed and maintained in accordance with the BLM standards prescribed for a gravel type road.