

**MEMORANDUM OF AGREEMENT
BETWEEN
THE BUREAU OF LANDMANAGEMENT, WELLS FIELD OFFICE,
AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
REGARDING RESOLUTION OF ADVERSE EFFECTS TO HISTORIC PROPERTIES
RELATED TO THE WEST WENDOVER LAND CONVEYANCE,
ELKO COUNTY, NEVADA**

WHEREAS, Section 2843 of the Bob Stump National Defense Authorization Act (Act) for Fiscal Year 2003 (P.L. 107-314, the Act) gives the Secretary of the Interior, in cooperation with the Secretary of the Air Force, authority to directly convey, without consideration, certain lands in Nevada deemed excess by the United States Air Force (USAF) to the City of West Wendover, Nevada for the purpose of the development of an industrial park and related infrastructure as well as to Tooele County, Utah for runway protection zones in West Wendover, Nevada near an existing airport in Wendover, Utah; and

WHEREAS, the Act states that the Secretary of the Air Force and the Secretary of the Interior may jointly require terms and conditions in connection with the conveyances; and

WHEREAS, the Federal Land Policy and Management Act remains the general authority for the Bureau of Land Management (BLM) to accomplish public land conveyances; and

WHEREAS, the BLM Wells Field Office (WFO) has been tasked with administering the conveyance of lands in Nevada from the USAF to the City of West Wendover, Nevada and to Tooele County, Utah (Undertaking); and

WHEREAS, the USAF, in a letter dated October 13, 2021, notified the BLM WFO that approximately 6,251 acres of land in Nevada were no longer needed by the USAF and were ready for conveyance to the City of West Wendover, Nevada and to Tooele County, Utah for lands in Nevada (Attachment 1); and

WHEREAS, the BLM WFO has determined that the approval of this Undertaking is an undertaking subject to review under Title 54 U.S.C. § 300101, et. seq., commonly known as the National Historic Preservation Act of 1966, as amended (NHPA), and Title 54 U.S.C. § 306108, commonly known as Section 106 of the National Historic Preservation Act and has consulted with the Nevada State Historic Preservation Officer (SHPO), who is a Signatory to this Memorandum of Agreement (MOA) pursuant to the *State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada State Historic Preservation Officer for Implementing the National Historic Preservation Act* (Protocol), as amended; and

WHEREAS, the BLM WFO has defined the Undertaking's area of potential effects (APE) as the 6,251 acres of land in Nevada to be conveyed; and

WHEREAS, the BLM WFO, in consultation with the SHPO, has determined that historic property 26EK3489 is eligible for listing in the National Register of Historic Places (NRHP) under the Secretary of Interior's Significance Criterion D and that historic properties 26EK7887,

26EK7888, and 26EK8039 are eligible for listing in the NRHP under the Secretary of Interior's Significance Criterion A. Cultural resource 26EK6392 will remain unevaluated for the NRHP and will be treated as if it is eligible under the Secretary of Interior's Significance Criterion D (Attachment 2; site forms); and

WHEREAS, the BLM WFO, in consultation with the SHPO, has determined that the Undertaking will adversely affect the above historic properties and thus are the subject of this MOA to resolve the adverse effects of the Undertaking; and

WHEREAS, the BLM WFO has notified the following Federally Recognized Native American Tribes in the area about the Undertaking: the Confederated Tribes of the Goshute Reservation, the Duckwater Shoshone Tribe, the Ely Shoshone Tribe, the Northwestern Band of the Shoshone Nation, the Shoshone-Bannock Tribes of the Fort Hall Reservation, the Shoshone-Paiute Tribes of the Duck Valley Reservation, the Te-Moak Tribe of Western Shoshone Indians of Nevada and the four constituent Bands (Battle Mountain, Elko, South Fork, and Wells) and were invited to be Concurring Parties (collectively the Tribes or individually by name); and

WHEREAS, of the Tribes who have been notified of the Undertaking, the Confederated Tribes of the Goshute Reservation have opted to participate in this MOA and are a Concurring Party; and

WHEREAS, the BLM WFO has notified the Advisory Council on Historic Preservation (ACHP) of this determination of adverse effect pursuant to 36 CFR § 800.6(a)(1) and the ACHP has notified the BLM WFO by a letter dated February 24, 2022, that it has declined to participate; and

WHEREAS, the BLM WFO pursued public notification for the Undertaking as is required in the Protocol (Purpose, Section A, page 2) via the publication of legal notices in relevant county and city newspapers and through social media that will notify the public of the potential effects to historic properties and invite them to provide comments; and

WHEREAS, the Signatories and the Concurring Party to this MOA will hereinafter be referred to as the Consulting Parties; and

WHEREAS, the Signatories may accept Electronic Signatures as an indication of execution of this MOA, if feasible. The MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all the Signatories had signed the same document; and

NOW, THEREFORE, the BLM WFO and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

The BLM WFO shall ensure that the following measures are conducted:

1. PREPARATION OF A HISTORIC PROPERTIES TREATMENT PLAN (HPTP)

- a. The BLM WFO will contract with an archaeological firm meeting BLM Manual Section 8150 professional qualifications standards for archaeology and that is permitted, or is qualified to obtain a permit, to work on BLM managed lands in the Nevada prior to conveying the lands from the USAF to the City of West Wendover, Nevada and Tooele County, Utah. This firm will prepare a HPTP to address adverse effects to the historic properties and the unevaluated resource described above.
- b. The BLM WFO shall ensure that its contractor obtains, or shows proof of having, a permit to work on BLM managed lands in Nevada and submits a Fieldwork Authorization for approval by the WFO Manager prior to beginning work on the HPTP.
- c. The BLM WFO's contractor will develop this HPTP consistent with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-44742), and ACHP document Section 106 Archaeology Guidance Section III.E "Reaching Agreement on Appropriate Treatment" available online at <https://www.achp.gov/sites/default/files/guidance/2017-02/ACHP%20ARCHAEOLOGY%20GUIDANCE.pdf>
- d. The HPTP will include, but is not limited to:
 - i. Description of the historic properties and unevaluated resource, or portions of historic properties or unevaluated resource, that will be adversely affected by this Undertaking; and
 - ii. The results of previous research relevant to the Undertaking and any previous efforts associated with other Undertakings to resolve adverse effects to the same or similar historic property(ies); and
 - iii. The method(s) to resolve the adverse effects identified; and
 - iv. An explanation of how the method(s) chosen will resolve the identified adverse effects; and
 - v. An outline to document the actions taken to resolve adverse effects, including identification of those actions considered fieldwork to be completed prior to conveyance. This outline should be consistent with contemporary professional standards related to the activities being done. Reports on any data recovery efforts will be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-44737); and
 - vi. The methods to be used in data management and dissemination of appropriate data to the professional community and the public; and
 - vii. A proposed schedule for all identified tasks, and a schedule for the submission of draft and final reports to the Consulting Parties; and
 - viii. The proposed disposition and curation of any recovered materials and records in accordance with 36 CFR Part 79; and

ix. A plan for the conclusion of mitigation that stipulates the procedures to be followed if the BLM suspends or terminates the Undertaking.

- e. The BLM WFO shall ensure that the contractor is funded to draft, finalize, and carry out the HPTP and to provide BLM WFO with a draft and final report of all treatments, which shall discuss how the HPTP was carried out, and the results of any treatments conducted.

2. REVIEW AND EXECUTION OF THE HPTP

- a. The contractor shall provide a draft HPTP to BLM WFO prepared according to the requirements outlined in Stipulation 1 within sixty-seven (67) calendar days of the BLM awarding the mitigation contract.
- b. BLM WFO shall provide the draft HPTP to the Consulting Parties for a thirty (30) calendar day review and comment period from their receipt in both electronic and hard copy within fifteen (15) calendar days of BLM WFO's receipt of the draft HPTP. Consulting Parties may request that BLM WFO hold a consultation meeting on the draft HPTP at any point either prior to or during the review and comment period.
- c. BLM WFO shall provide the Consulting Parties with all comments received from the other Consulting Parties on the draft HPTP within five (5) calendar days of receipt.
- d. If BLM WFO does not receive comments from a Consulting Party within the thirty (30) calendar day review and comment period, BLM WFO will proceed with finalizing the plan by addressing the remainder of the comments.
- e. BLM WFO shall provide all timely comments from the Consulting Parties to the contractor to address and prepare a Final HPTP.
- f. BLM WFO shall provide the Final HPTP to each of the Consulting Parties, except for sensitive or confidential information obtained from tribal consultation, via Certified U.S. Mail. The BLM WFO will also include a response to comments document that will explain how BLM WFO addressed each comment received within the Final HPTP.

3. REPORTING

- a. The BLM WFO's contractor shall submit a draft fieldwork summary of all fieldwork activities associated with the HPTP to BLM WFO within fifteen (15) calendar days after the completion of the fieldwork tasks identified in the HPTP.

- b. The BLM WFO shall have five (5) calendar days from receipt to review and comment on the draft fieldwork summary. BLM WFO shall provide comments on the draft fieldwork summary to the contractor.
- c. The contractor shall revise the draft fieldwork summary to address the BLM WFO comments, edits, and requested revisions.
- d. Upon BLM WFO approval of the draft fieldwork summary, the BLM WFO shall submit the draft fieldwork summary to the Consulting Parties to review and provide comments. The Consulting Parties shall have fifteen (15) working days from receipt to review and comment on the draft fieldwork summary.
- e. The BLM WFO shall provide the Consulting Parties with all comments received from the other Consulting Parties on the draft fieldwork summary within five (5) calendar days of receipt.
- f. If a Consulting Party does not respond within the fifteen (15) working day review and comment period, then BLM WFO will proceed with finalizing the fieldwork summary by addressing the remainder of the comments.
- g. The BLM WFO shall provide all comments received from the Consulting Parties to the contractor to address and prepare a final fieldwork summary within five (5) calendar days of contractor receipt.
- h. The BLM WFO shall provide the final fieldwork summary document to the Consulting Parties, except for sensitive or confidential information obtained from tribal consultation, via Certified U.S. Mail. The BLM WFO will also provide a response to comments document in the package that will explain how BLM WFO addressed each comment received.
- i. Any Consulting Party may request a conference call with BLM WFO to discuss the BLM WFO's response to comments upon receipt of the final fieldwork summary.
- j. The BLM WFO's contractor shall submit a draft mitigation report to the BLM WFO within sixty (60) calendar days after the finalization of the fieldwork summary in accordance with Stipulation 3.g above.
- k. The BLM WFO's and the Consulting Parties review and comment on the draft mitigation report will follow the process previously established for the fieldwork summary found in Stipulation 3.b through Stipulation 3.i above.
- l. The BLM WFO's contractor shall ensure that all records and materials resulting from identification and treatment efforts are curated in accordance with 36 CFR Part 79 in a BLM-approved facility in Nevada. The contractor will maintain all

materials collected in accordance with 36 CFR Part 79, until the final report is complete, and collections are curated. The contractor shall provide proof of curation to BLM from the curatorial facility within fourteen (14) calendar days of BLM WFO's acceptance of the final report.

4. RELATIONSHIP WITH NATIVE AMERICAN TRIBES

The BLM WFO shall afford the Tribes with the same opportunities as the Consulting Parties regardless of whether they choose to sign this MOA.

5. CONVEYANCE

The BLM WFO will not convey the lands identified in Attachment 1 until the contractor has completed the fieldwork portion of the HPTP and the BLM WFO, in consultation with the Consulting Parties, has determined that final fieldwork summary is adequate in accordance with the process found in Stipulation 3.a through Stipulation 3.i above.

6. DURATION

This MOA will expire if its terms are not conducted within five (5) years from the date of its execution. Prior to such time, the BLM WFO may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation 8 below.

7. DISPUTE RESOLUTION

- a. Should any Consulting Party to this MOA object at any time to the way the terms of this MOA are implemented, the BLM WFO shall consult with the disputing party to resolve the objection. If the BLM WFO determines that such objection cannot be resolved, the BLM WFO will:
 - i. Forward all documentation relevant to the dispute, including the BLM WFO's proposed resolution, to the ACHP. The ACHP shall provide BLM WFO with its advice on the resolution of the objection within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM WFO shall prepare a written response that takes into account any timely advice or comments regarding the dispute provided by the ACHP or Consulting Parties and provide them with a copy of this written response. The BLM WFO will then proceed according to its final decision.
 - ii. If the ACHP does not provide its advice regarding the dispute within thirty (30) calendar days, the BLM WFO may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM WFO shall prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the MOA and provide them and the ACHP with a copy of such written response.

- iii. BLM WFO's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

8. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all the Signatories is filed with the ACHP.

9. TERMINATION

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatory to attempt to develop an amendment per Stipulation 8 above. If within thirty (30) calendar days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatory.

Once the MOA is terminated, and prior to work continuing on the Undertaking, the BLM WFO must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, consider, and respond to the comments of the ACHP under 36 CFR § 800.7. The BLM WFO shall notify the Consulting Parties as to the course of action it will pursue.

EXECUTION of this MOA by the BLM WFO and the SHPO evidence that BLM WFO has taken into account the effects of this Undertaking on historic properties and afforded the ACHP a reasonable opportunity to comment.

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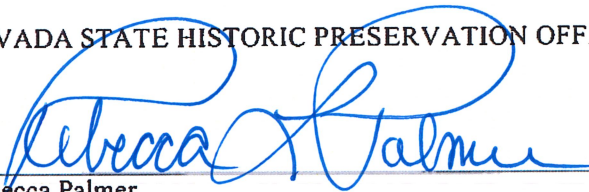
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REGARDING RESOLUTION OF ADVERSE EFFECTS TO HISTORIC PROPERTIES
RELATED TO THE WEST WENDOVER LAND CONVEYANCE,
ELKO COUNTY, NEVADA**

SIGNATORY PARTIES:

BUREAU OF LAND MANAGEMENT, WELLS FIELD OFFICE

By:  Date: 8/10/2022
Melanie Mitchell, Field Manager
Bureau of Land Management, Wells Field Office

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 8/10/22
Rebecca Palmer
State Historic Preservation Officer

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ELKO COUNTY, NEVADA**

CONCURRING PARTIES:

CONFEDERATED TRIBES OF THE GOSHUTE RESERVATION

By: _____ Date:

Rupert Steele
Chairman

DUCKWATER SHOSHONE TRIBE

By: _____ Date:

Chairperson
Warren Graham

ELY SHOSHONE TRIBE

By: _____ Date:

Chairwoman
Diana Buckner

NORTHWESTERN BAND OF THE SHOSHONE NATION

By: _____ Date:

Chairman
Denis Alex

SHOSHONE-BANNOCK TRIBES OF THE FORT HALL RESERVATION

By: _____ Date:

Chairman
Devon Boyer

SHOSHONE-PAIUTE TRIBES OF THE DUCK VALLEY RESERVATION

By: _____ Date:

Brian Thomas
Chairman

TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA AND THE FOUR
CONSTITUENT BANDS (BATTLE MOUNTAIN, ELKO, SOUTH FORK, AND WELLS)

By: _____ Date:

Chairman
Joseph Holley

TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA - BATTLE
MOUNTAIN BAND

By: _____ Date:

Chairman
David Carrera

TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA - ELKO BAND

By: _____ Date:

Chairman
Davis Gonzales

TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA - SOUTH FORK
BAND

By:_____ Date:

Chairman
Duane Garcia

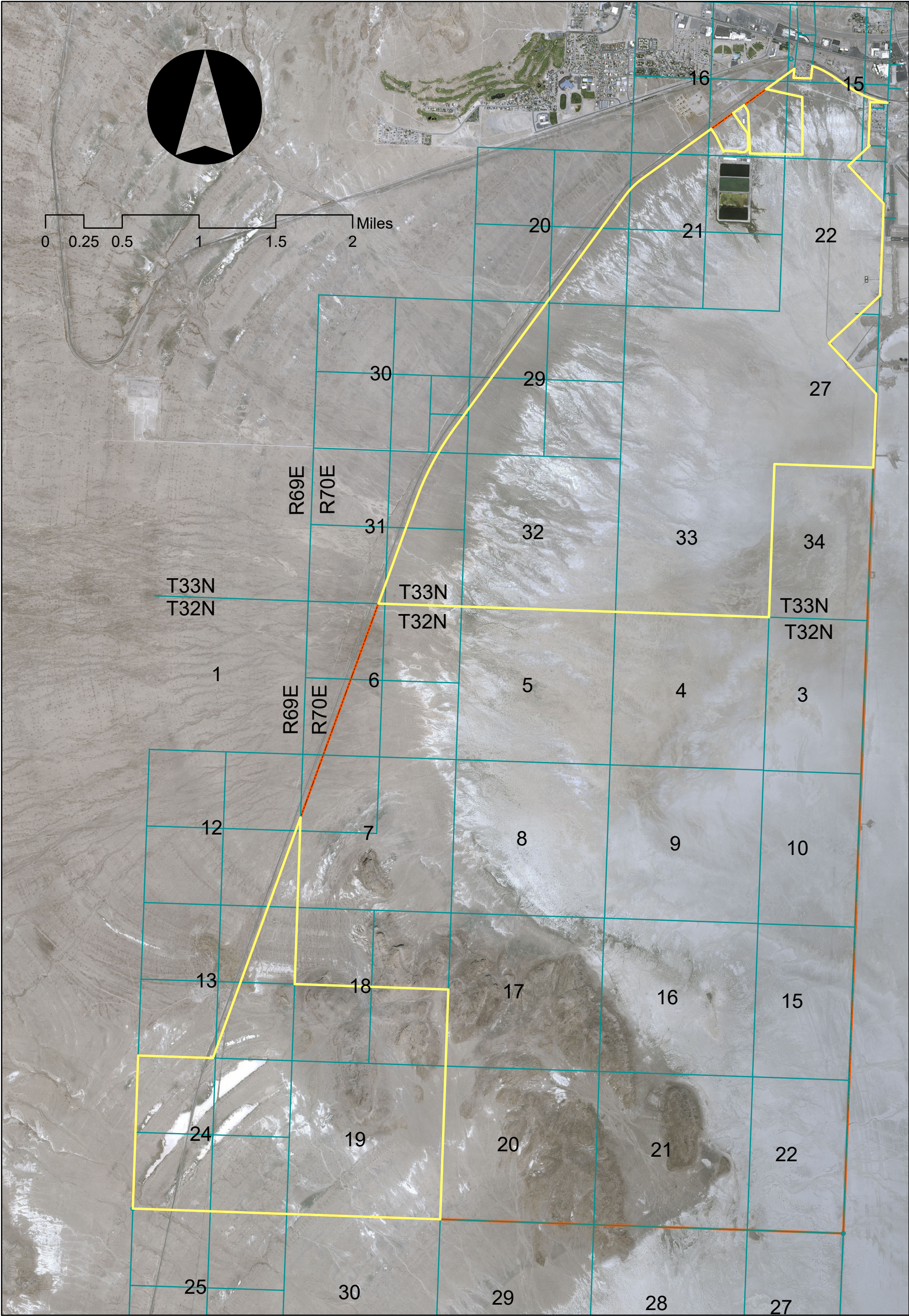
TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS OF NEVADA - WELLS BAND

By:_____ Date:

Chairwoman
Andrea Woods

Attachment 1

Maps of Lands to be Conveyed
from the USAF to the
City of West Wendover, Nevada,
and Tooele County, Utah



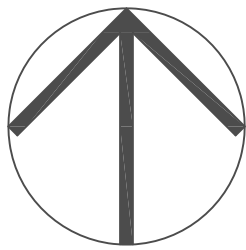
LAND RETRANSFER
WENDOVER, NV
HILL AFB, UT



Legend

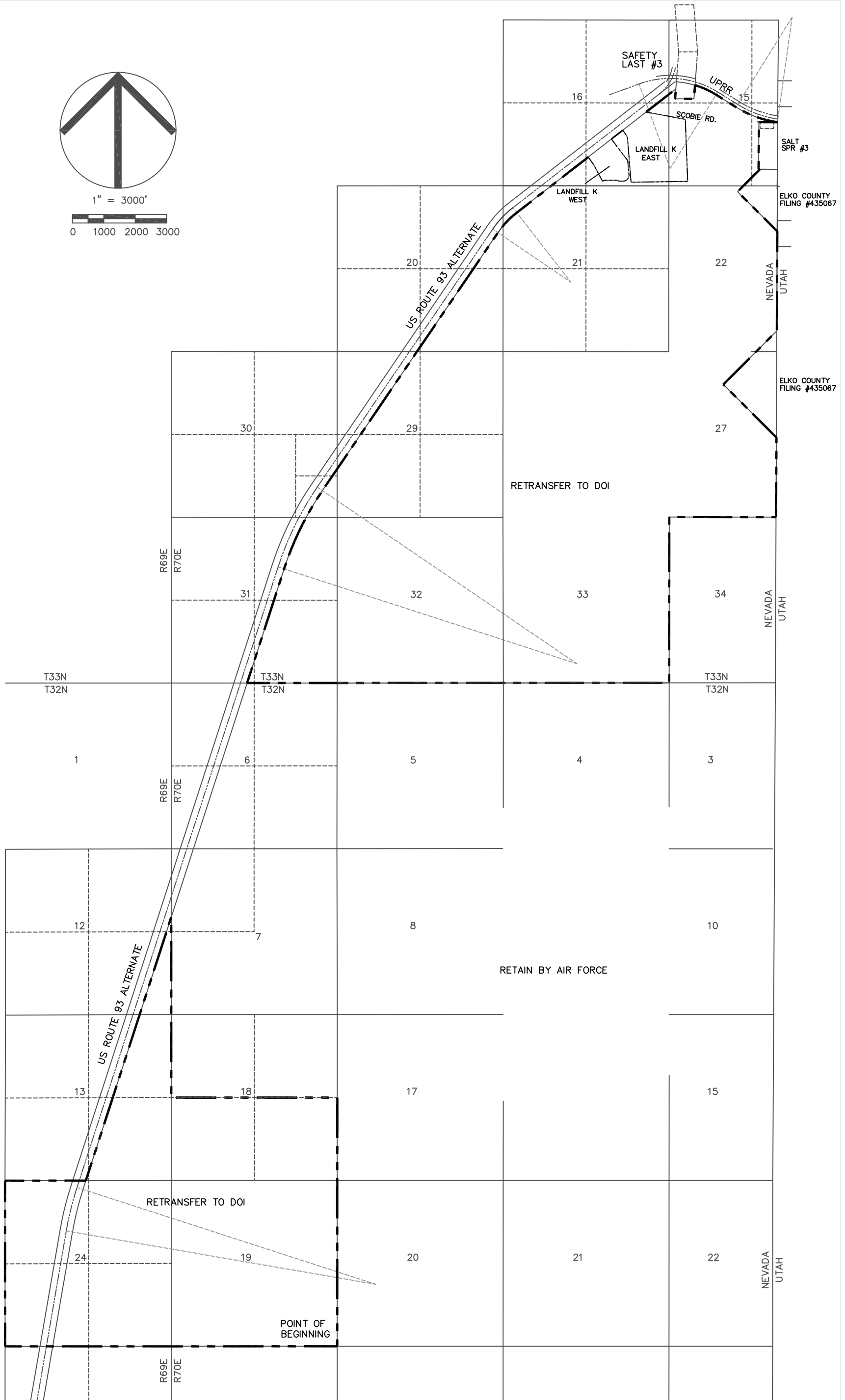
Proposed Retransfer

Current_2021_Boundary

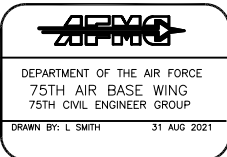


1" = 3000'

0 1000 2000 3000



PROPOSED RETRANSFER
WENDOVER, NV
HILL AFB, UT



DESCRIPTION	DATE	APPR	MARK
PER 2014 SAF APP	20SEP21		

BOUNDARY DESCRIPTION
SKETCH MAP

Attachment 2

IMACS forms for Historic Properties that will be Adversely Affected

WEST WENDOVER CONVEYANCE CLASS III CULTURAL RESOURCES INVENTORY, ELKO COUNTY, NEVADA

Submitted to

Bureau of Land Management, Elko District, Wells Field Office

Prepared by

Mary Ann Vicari, M.A., RPA, Ashlee Younie, M.A., RPA, Sean McMurry, Ph.D., RPA,
Victor Villagran, Jennifer Durk, and Sara Rickett

SWCA Environmental Consultants

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Las Vegas, Nevada 89119
(702) 248-3880
www.swca.com

BLM Report Number 1-3307

SWCA Project No. 29849.12

SWCA Cultural Resources Report No. 19-762

February 2020

Project Effect:	NR Eligibility only
NR Eligible:	4
NR Ineligible:	102
Unevaluated:	
Undertaking:	2020-10309
Reviewer:	AV
Date:	4/23/2020
Report #:	210033

This attachment contains privileged information that may be exempt from Freedom of Information Act (FOIA) requests.

Please consult the appropriate federal agency concerning this attachment for further information.