

**SUPPLEMENTAL SHADOW REPORT TO  
UNITED NATIONS COMMITTEE ON THE ELIMINATION OF  
RACIAL DISCRIMINATION**

**IN RESPONSE TO**

**UNITED STATES PERIODIC REPORT  
EARLY WARNING AND URGENT ACTION PROCEDURE  
DECISION 1(68) (WESTERN SHOSHONE)**

**SUBMITTED BY THE TIMBISHA SHOSHONE TRIBE, THE YOMBA  
SHOSHONE TRIBE, THE TE-MOAK TRIBE OF WESTERN SHOSHONE  
AND THE WELLS BAND OF WESTERN SHOSHONE**

**PREPARED WITH THE ASSISTANCE OF  
THE UNIVERSITY OF ARIZONA  
INDIGENOUS PEOPLES LAW AND POLICY PROGRAM  
&  
WESTERN SHOSHONE DEFENSE PROJECT**

**February 2008**

## I. INTRODUCTION

1. This supplemental shadow report provides an update to and should be read in conjunction with the December 2007 Western Shoshone report contained within the U.S. Human Rights Network shadow report. The following information details the United States' actions and threats that have occurred in the last two months since the December report was submitted. As illustrated below, the United States has issued ongoing and new nuclear waste, energy, mining and confiscation actions against Western Shoshone peoples. These recent actions highlight the continued disregard of this Committee's recommendations and direct violation of the Western Shoshone people's rights to lands, health and culture.

## II. PLANS TO STORE NUCLEAR WASTE PROCEED

2. The United States has proceeded with its plans to store nuclear waste on Yucca Mountain, a site of spiritual significance to the Western Shoshone. Last month marked the deadline for the submission of public comments on the United States' latest round of environmental impact statements for its plans to store nuclear waste on Western Shoshone ancestral lands. This is one of the last steps the United States is required to take before filing its licensing application to the Nuclear Regulatory Commission ("NRC"), the federal agency in charge of approving the construction of the Yucca Mountain nuclear waste repository.
3. The two environmental impact statements issued by the United States Department of Energy ("DOE") re-evaluated the potential environmental impacts of constructing and operating the Yucca Mountain repository and addressed the transportation of spent nuclear fuel and high-level radioactive waste in Nevada. As the DOE noted in its press release announcing the environmental impact statements, "(t)hese documents represent two major milestones on the path to DOE's submittal of an application for construction authorization to the Nuclear Regulatory Commission by June 30, 2008."<sup>1</sup> The DOE is currently preparing that application to the NRC.<sup>2</sup> Once submitted in June 2008, the NRC will review the application and conduct technical and legal hearings.<sup>3</sup> If the NRC approves the application, construction of the repository can begin.
4. As noted in earlier filings with the Committee, the Yucca Mountain area is not only located on ancestral lands of the Western Shoshone, but is of great spiritual and religious significance to them.<sup>4</sup> Since the Committee issued its decision close to 2 years ago, the United States has moved ahead with this activity demonstrating its disregard of its obligations under the Convention.

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<sup>1</sup> Press Release, United States Department of Energy, Office of Public Affairs, U.S. Department of Energy Issues National Environmental Policy Act Documents for Public Comment (Oct. 4, 2007). (Appendix 1)

<sup>2</sup> See [http://www.ocrwm.doe.gov/ym\\_repository/license/index.shtml](http://www.ocrwm.doe.gov/ym_repository/license/index.shtml) (last visited Jan. 28, 2008).

<sup>3</sup> See <http://www.ocrwm.doe.gov/factsheets/doeymp0111.shtml>

<sup>4</sup> See Update to the Committee on the Elimination of Racial Discrimination on the Early Warning and Urgent Action Procedure Decision 1(68), para. 10, Aug. 8, 2006; Update to the Committee on the Elimination of Racial Discrimination on the Early Warning and Urgent Action Procedure Decision 1(68), para. 7 (Feb. 7, 2007).

### **III. THREATS TO HOT SPRINGS AND DEVELOPMENT OF TRANSMISSION LINES INCREASE**

5. In December 2007, the United States' Bureau of Land Management ("BLM") completed the first step to private leasing of hot springs within an 11 million acre area entirely within Western Shoshone ancestral lands.<sup>5</sup> The hot springs the United States seeks to lease are of particular spiritual and cultural significance to the Western Shoshone. The Western Shoshone people continue to use these hot waters for bathing, spiritual, healing and ceremonial purposes. The exploitation of these areas through geothermal energy development directly implicates the Western Shoshone's rights to culture, health and self-determination as acknowledged by the Committee in its Decision 1(68). Additionally, the State of Nevada last week announced plans to construction even more transmission lines to ship and sell this geothermal energy to cities located in southern Nevada.<sup>6</sup>

### **IV. DESIGNATION OF ENERGY CORRIDORS ON SHOSHONE LANDS**

6. Also last week, the U.S. released its initiation of plans to designate expansive energy corridors crossing directly through Shoshone lands.<sup>7</sup> The Energy Policy Act of 2005<sup>8</sup> directs various federal departments to designate energy corridors on federal land in 11 Western States for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities. To the knowledge of the Shoshone petitioners, there has been no consultation with Western Shoshone on these energy corridors.

### **V. EXPANSION OF GOLD MINING ACTIVITIES**

7. Previous filings submitted by Western Shoshone petitioners to the Committee highlight the ongoing expansion of mining on Western Shoshone ancestral lands and the massive amounts of mercury, arsenic and other toxics being released into the land, air and water in and near Shoshone peoples and their use areas.<sup>9</sup> This update, unfortunately, is no different. The latest round of proposed mining expansion would be located on the slopes of Mt. Tenabo, a mountain sacred to the Western Shoshone. The Cortez Hills Expansion Project, as outlined in a draft environmental impact statement issued by the BLM in October 2007, would include the development of new facilities and expansion of an existing open-pit gold mining and processing operations at the Cortez Gold Mines Operations Area in Crescent Valley, Nevada.<sup>10</sup> In addition to the fact that the proposed mining would be conducted on Western

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<sup>5</sup> BLM – Elko Field Office, 2008 Pre-Leasing Geothermal EA, Scoping Information (Nov. 2007) (Appendix 2)

<sup>6</sup> John G. Edwards, Lines for transmitting alternative energy used, Las Vegas Review Journal (Jan. 25, 2008) found at <http://www.lvrj.com/business/14309572.html> (last visited Feb. 1, 2008).

<sup>7</sup> See [http://corridoreis.anl.gov/documents/dpeis/maps/part\\_5/WWEC\\_Draft\\_PEIS\\_FedAdmUnit\\_State\\_BMS.pdf](http://corridoreis.anl.gov/documents/dpeis/maps/part_5/WWEC_Draft_PEIS_FedAdmUnit_State_BMS.pdf) (last visited Jan. 30, 2008) (Appendix 3).

<sup>8</sup> Public Law 109-58 (H.R. 6) enacted Aug. 8, 2005.

<sup>9</sup> See Western Shoshone Update to CERD, 70<sup>th</sup> Session, (March 2006) paras 9-11 describing health impacts of mining.

<sup>10</sup> See Cortez Hills Expansion Project, Draft Environmental Impact Statement, Vol. 1, found at [http://www.blm.gov/content/etc/medialib/blm/nv/field\\_offices/battle\\_mountain\\_field/blm\\_information/nepa/cortez\\_deis.Par.94164.File.dat/a\\_Cover%20through%20Chapter%201\\_Vol%201.pdf](http://www.blm.gov/content/etc/medialib/blm/nv/field_offices/battle_mountain_field/blm_information/nepa/cortez_deis.Par.94164.File.dat/a_Cover%20through%20Chapter%201_Vol%201.pdf) (last visited Feb. 1, 2008).

Shoshone ancestral lands, this in effect “new” mine would disturb 6,792 acres of land, be located within a few hundred feet of the White Cliffs at the base of Mt. Tenabo and result in a significant drop in the area’s water table thereby impacting sacred Western Shoshone springs and streams.

## **VI. GRAZING FEES**

8. On February 1, 2008 the former Chief of the Western Shoshone National Council received a notice from the US Department of the Treasury advising that money would be deducted from his federal retirement benefits (and any other federal monies he receives) to offset a debt owed to the US Bureau of Land Management for overdue grazing and “trespass” fees.<sup>11</sup> The United States government is claiming this debt is owed for failure to pay fees for grazing cattle, an activity that the Western Shoshone consider to be a traditional and customary use of their ancestral lands.

## **VII. REQUEST**

9. The Western Shoshone petitioners reiterate their request for the Committee to make the following comments and recommendations in its concluding observations to the United States:
  - A reference that the United States’ actions are not compatible with Decision 1(68) under the early warning and urgent action procedures and the International Convention on the Elimination of All Forms of Racial Discrimination (“Convention”);
  - A request that the United States report back to the Committee on measures it has taken to comply with Decision 1(68); and
  - A request that the United States follow Decision 1(68).

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<sup>11</sup> Ltr from Department of the Treasury, Financial Management Service to Raymond D. Yowell (Feb. 1, 2008) (Appendix 4)

# APPENDIX 1



United States Department of Energy

## Office of Public Affairs

Washington, D.C. 20585

**News Media Contact:**  
Allen Benson, (702) 794-1322

**FOR IMMEDIATE RELEASE**  
Thursday, October 4, 2007

### **U. S. Department of Energy Issues National Environmental Policy Act Documents for Public Comment**

**Las Vegas, NV** – The U. S. Department of Energy (DOE) this week is issuing for public comment two Draft National Environmental Policy Act documents related to the Yucca Mountain Project. The 90-day comment period begins October 12, 2007 and ends January 10, 2008.

- *Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada* (Draft Repository SEIS)
- *Draft Supplemental Environmental Impact Statement for a Geologic Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada – Nevada Rail Transportation Corridor* (Draft Nevada Rail Corridor SEIS) and *Draft Environmental Impact Statement for a Rail Alignment for the Construction and Operation of a Railroad in Nevada to a Geologic Repository at Yucca Mountain, Nye County, Nevada* (Draft Rail Alignment EIS)

The first document, the Draft Repository SEIS, is a supplement to the Yucca Mountain Final EIS that DOE issued in 2002. The Draft Repository SEIS evaluates the potential environmental impacts of constructing and operating the Yucca Mountain repository under the repository design and operational plans that have been developed since the Yucca Mountain Final EIS was issued.

The second document relates to the transportation of spent nuclear fuel and high-level radioactive waste in Nevada and contains two parts. The first part, the Draft Nevada Rail Corridor SEIS, considers the potential environmental impacts of transport along the Mina corridor, which was analyzed in response to public comments. It also updates the information and analysis for other Nevada rail corridors evaluated in the Yucca Mountain Final EIS. The second part, the Draft Rail Alignment EIS, evaluates the potential environmental impacts of constructing and operating a railroad along specific alignments for both the Mina and Caliente corridors, although Caliente is the Department's preferred corridor.

DOE has scheduled eight public hearings for interested parties to comment on the two draft documents. The meetings are scheduled as follows:

- Hawthorne, Nevada. Hawthorne Convention Center, 932 E. Street, November 13, 2007, from 4 to 7 p.m.
- Caliente, Nevada. Caliente Youth Center, U.S. Highway 93, November 15, 2007, from 5:30 to 8 p.m.
- Reno/Sparks, Nevada. Reno-Sparks Convention Center, 4590 S. Virginia Street, November 19, 2007, from 4 to 7 p.m.
- Town of Amargosa Valley, Nevada. Longstreet Inn & Casino, Highway 373, November 26, 2007, from 4 to 7 p.m.
- Goldfield, Nevada. Goldfield School Gymnasium, Hall & Euclid, November 27, 2007, from 4 to 7 p.m.
- Lone Pine, California. Statham Hall, 138 N. Jackson Street, November 29, 2007, from 4 to 7 p.m.
- Las Vegas, Nevada. Cashman Center, 850 Las Vegas Blvd., December 3, 2007, from 4 to 7 p.m.
- Washington, D.C. Marriott at Metro Center, 775 12<sup>th</sup> Street, N.W., December 5, 2007, from 2 to 5 p.m.

Requests for additional information on the Draft Repository SEIS and the Draft Nevada Rail Corridor SEIS and Draft Rail Alignment EIS may be submitted to the EIS Office, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1551 Hillshire Drive, Las Vegas, NV 89134 or by calling 1-800-967-3477 or faxing a request to 1-800-967-0739.

Written comments may be submitted to the EIS Office at the above address, or by facsimile to 1-800-967-0739, or via the Internet at: <http://www.ocrwm.doe.gov>.

These documents represent two major milestones on the path to DOE's submittal of an application for construction authorization to the Nuclear Regulatory Commission by June 30, 2008. Yucca Mountain was approved by the Congress and the President as the site for the nation's first permanent spent nuclear fuel and high-level radioactive waste geologic repository in 2002.

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YMP-07-09

## APPENDIX 2



BLM - Elko Field Office  
**2008 Pre-leasing Geothermal EA**  
Scoping Information – November 2007

**Background**

The Bureau of Land Management (BLM) is conducting an Environmental Assessment (EA) addressing the impacts of Geothermal Leasing within the area administered by the Elko Field Office in northeastern Nevada. The Elko Field Office encompasses about 11 million acres, of which approximately 7.2 million acres are public lands. Maps showing the boundaries of the Elko District are attached

The BLM, Elko Field Office, is preparing an environmental assessment (EA) to comply with the National Environmental Policy Act of 1969 (NEPA). At this time, we are inviting public participation in the scoping process to determine the actions, alternatives, and environmental impacts to be considered. The EA will tier to environmental impact statements for the 1987 Elko Resource Management Plan and the 1985 Wells Resource Management Plan (RMPs).

**Need for and Purpose of Action**

The need for the leasing of public mineral estate (geothermal leasing) is to provide for timely exploration and development of energy resources on public lands, thus reducing U.S. dependence on imported energy supplies. Parcels of public and split estate lands (mineral estate) are offered for lease to encourage development of federal geothermal resources.

The purpose of competitive and non-competitive geothermal lease sales is to enhance BLM's ability to protect the environment and other resources, as well as facilitate energy development where appropriate. As public mineral estate is leased for development of geothermal resources, BLM determines which stipulations are attached to the lease for a given parcel to avoid or minimize adverse impacts on resources such as wildlife, wilderness, and cultural resources. Lease stipulations are written to conform to resource management plans governing the area to be leased, and to be consistent with current policies and other federal, state and local laws, regulations, policies and plans to the maximum extent possible.

**Description of the Proposed Action**

The proposed action is to examine resource issue and possible conflicts in the Elko district for future quarterly competitive geothermal lease sales. The future parcels will be located in the Elko and Wells resource areas, in Elko County, and parts of Lander and Eureka Counties. Any approved leases would be issued for a 10-year period, and would include the right to explore for and develop geothermal resources during that time.

**Resource Protection Measures**

Once a parcel is leased, the lessee has the right to explore for and develop the geothermal resources, subject to standard lease terms and special stipulations pertaining to the conduct of operations. Also as part of the scoping process, BLM will determine stipulations required to meet BLM's obligation to protect natural and cultural resources and avoid conflicts with other authorized uses of the parcels to be leased. The following stipulations would be attached to all leases:

- Threatened & Endangered Species (w/ Endangered Species Act consultation)
- Native American/Cultural Resources (w/ National Historic Preservation Act consultation)
- Raptor nesting and foraging sites

Special Stipulations would be applied to parcels where necessary, based on screening to answer the following:

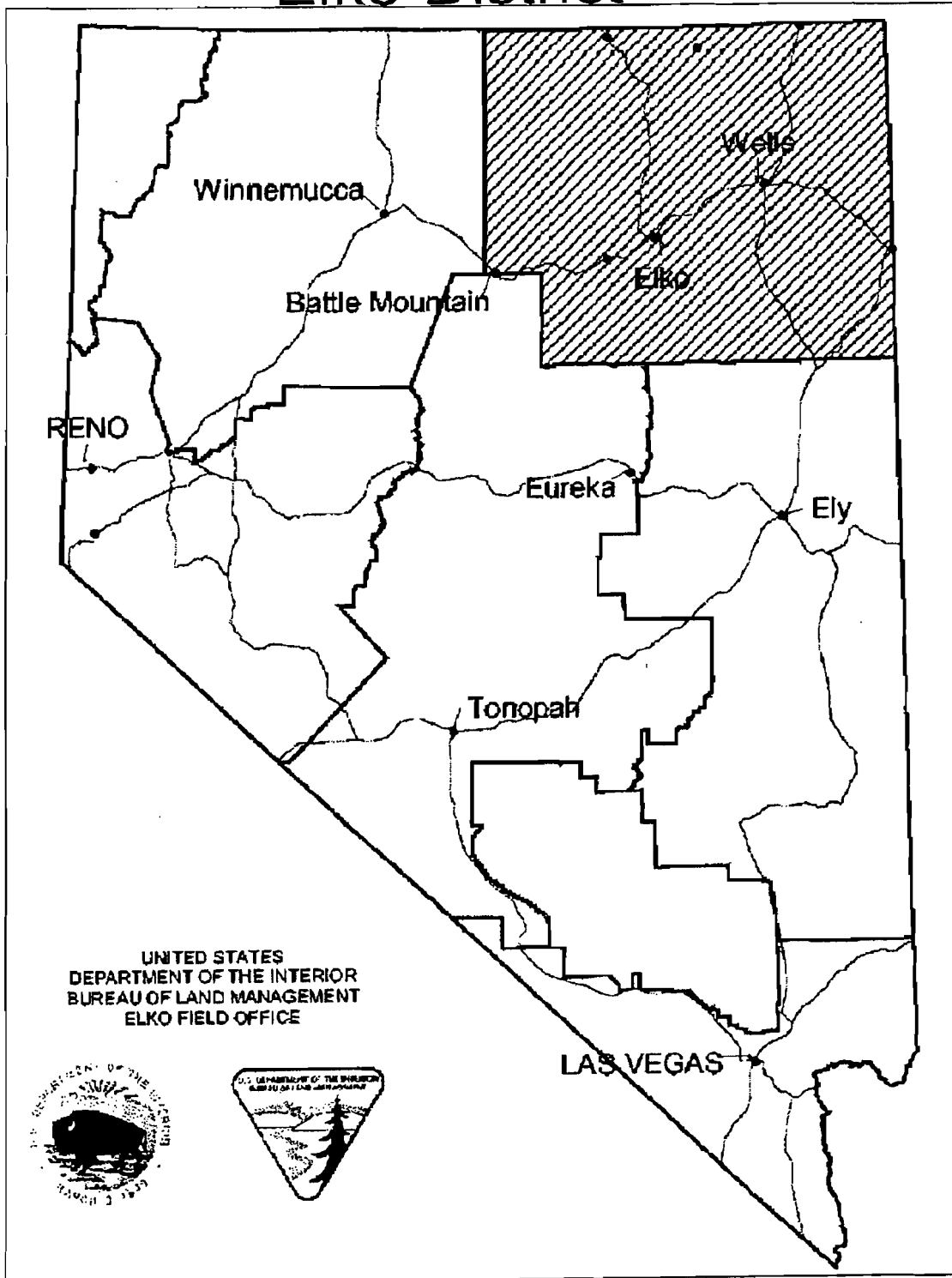
1. Does the parcel include any of the following that would require limitations be placed on the conduct of leasing operation?
  - Sage grouse strutting grounds, brood rearing and wintering areas
  - Crucial mule deer seasonal ranges (winter, summer and yearlong)
  - Crucial pronghorn antelope winter range
2. Is a parcel located in a Special Recreation Management Area, such that surface occupancy restrictions would be applied to the lease?
3. Are any parcels within the Interstate-80 Low Visibility Corridor?
4. Are historic trails, including the California National Historic Trail, in or near any parcels?

#### **Preliminary Issues for Resource Impacts**

The EA will include an analysis of impacts on affected resources and uses of concern.

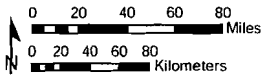
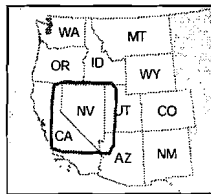
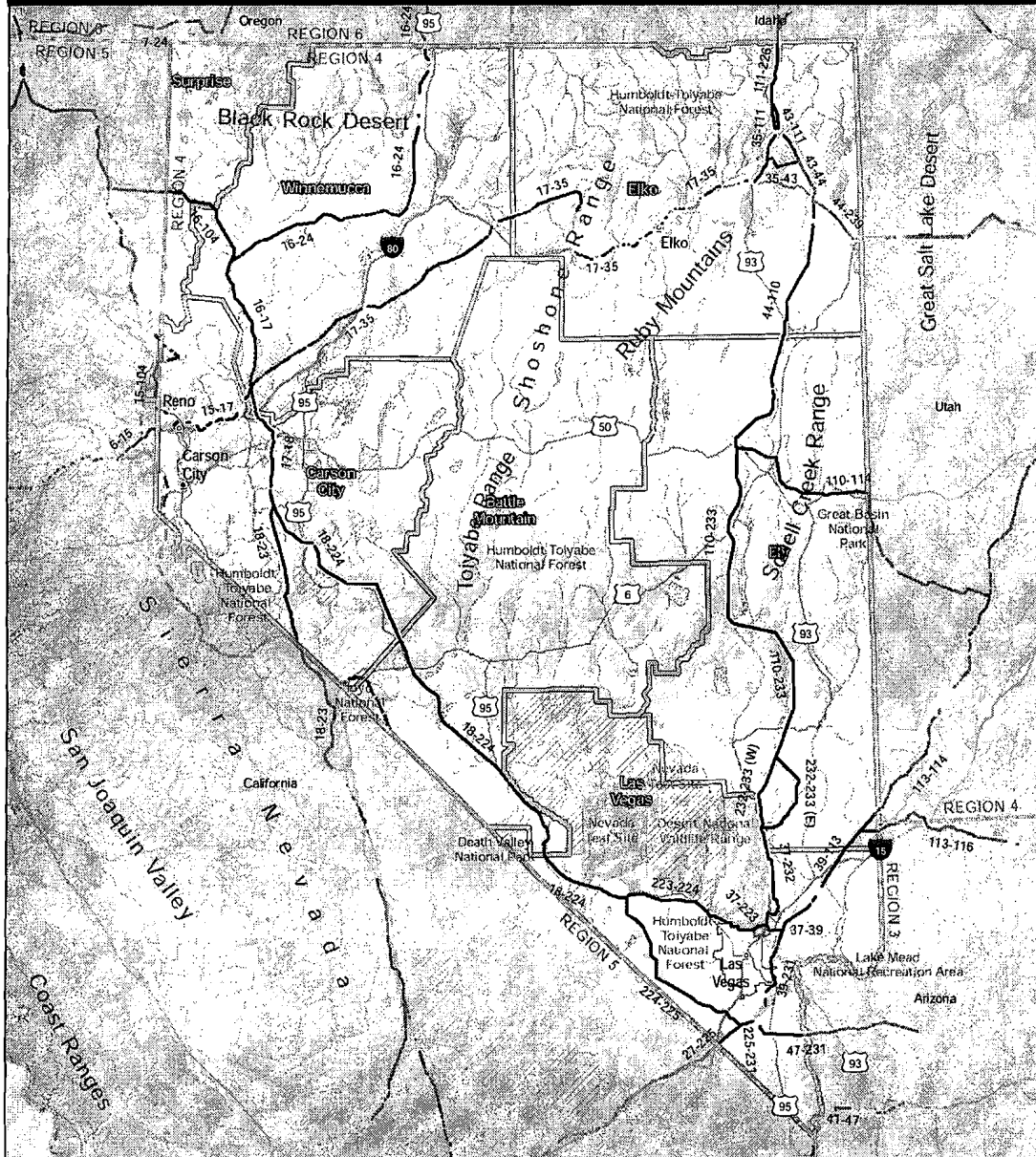
Cumulative impacts will be assessed, including consideration of current conditions as a result of other actions and projections for a "reasonably foreseeable development" (RFD) scenario on the leased lands. The analysis will identify mitigation measures that could be required as a "condition of approval" when BLM is considering a permit to explore or develop leased lands.

# Elko District



# APPENDIX 3

# Proposed Section 368 Energy Corridors - NEVADA -



Transmission Designation	
	Multi-model
	Electric-only, Upgrade-only
	Electric-only
	Underground-only
	Locally Designated

	US Forest Service Region
	Bureau of Land Management Field Office

	State Owned
	Tribal Lands
	DDD Installations and Ranges
<b>Federal Ownership</b>	
	Bureau of Land Management
	Bureau of Reclamation
	Department of Defense
	Department of Energy
	Fish and Wildlife Service
	National Park Service
	Other
	US Forest Service

# APPENDIX 4



DEPARTMENT OF THE TREASURY  
FINANCIAL MANAGEMENT SERVICE  
P.O. BOX 1686  
BIRMINGHAM, AL 35201-1686

**THIS IS NOT A BILL**

**ATTENTION: YOUR SOCIAL SECURITY BENEFIT PAYMENTS MAY BE REDUCED**  
02/01/08

RAYMOND D YOWELL  
HC BOX 272  
SPRING CREEK, NV 89815

Dear RAYMOND D YOWELL:

The Federal agency named below notified the U.S. Department of the Treasury, Financial Management Service (Treasury) that you owe that agency a delinquent debt. Federal law (31 U.S.C. § 3716) requires Treasury to reduce the amount of your Social Security benefit payments to pay the debt, a process known as "offset." Beginning no sooner than 04/2008, Treasury will offset up to 15% of each of your monthly Social Security benefit payments until your debt is paid or otherwise resolved. Treasury will not reduce any of your payments to less than \$750 for a non-tax debt. Your Social Security benefit payments will be reduced each month unless you contact the following agency and meet their requirements to stop the monthly reductions:

Debt Management Servicing Center  
Financial Management Service  
DMSC - Birmingham Office  
P. O. Box 830794  
Birmingham AL 35283-0794

888-826-3127  
(888) 826-3127  
Acct Num: 20029204A  
TIN Num: 530180656

The agency has previously sent notice to you at the last address known to the agency. The notice(s) included information on the amount and type of debt you owe, the rights available to you and a statement of the agency's intent to collect the debt by reducing any Federal payments made to you. The agency submitted your debt to Treasury for collection because you failed to pay or otherwise resolve the debt. The Social Security Administration and Treasury cannot answer your questions about a debt you owe to another Federal agency. Only the agency to which you owe the debt can assist you in resolving the debt.

Please note that Treasury may reduce your Social Security benefit payments to collect more than one debt. If you owe debts to more than one Federal agency, Treasury will apply the amounts deducted from your Social Security benefit payments to each debt in the order required by law. **IF YOU RECEIVE OTHER FEDERAL PAYMENTS, THEY MAY BE REDUCED TO PAY YOUR DELINQUENT DEBT WITHOUT ADDITIONAL NOTICE.**

U.S. Department of the Treasury  
Financial Management Service  
(800) 304-3107  
Telecommunications Device for the Deaf (TDD) (866) 297-0517

PAYEE NAME: RAYMOND D YOWELL  
PAYING FEDERAL AGENCY: Social Security Administration  
PAYMENT TYPE: EFT  
CLAIM ACCT NUM: 530180656 A

PAYEE TIN: 530180656  
PAYMENT DATE: 04/2008  
BENEFICIARY ID: 530180656

For Official Use Only: 0000009187 000000005301806560000007001AWRN-SSARAYM 87  
SW0506

