



Categorical Exclusion Form

Project: SUP-Chevron Mining, Inc, B. Pete Bergeron
PEPC Project Number: 28724

Project Description: B. Pete Bergeron, Chevron Mining, Inc., has requested a special use permit to remove a wastewater pipeline from the Molycorp right-of-way. A special use permit was issued to Mark Stella of Chevron in 2008 for this work, but the project has not yet started. Chevron's contractor, Arcadis Corporation, would now like to use some alternate dirt roads to access segments of the pipeline, rather than to be restricted solely to the existing ROW access road. They would like to perform minor repairs to these roads, to make them passable for Chevron's heavy equipment and crew vehicles. These roads can be viewed on the attached map. One of the roads is a right-of-way access road. Rights-of-way grants for this road are held by AT&T and Sprint. Neither ROW grant gives the grant holder exclusive access; the US Government retains continuing right of access and the right to issue additional use authorization to third parties for compatible uses on, over, under, or adjacent to the right-of-way lands.

Project Location:	County, State: San Bernardino, California District, Section: Nipton/Wheaton Wash area, Molycorp Right-of-Way
(1)	Geographic Marker: E 638498 N 3925190, NAD 83 (GIS Point) Other: westernmost point of ROW in MOJA
(2)	Geographic Marker: 644917 3925152, NAD 83 (GIS Point) Other: easternmost point of ROW in MOJA

Mitigation(s):

Desert Tortoise/Construction

- The project site must be surveyed to locate and remove desert tortoises prior the start of the project. The survey shall be conducted by an authorized biologist within 24 hours of the onset of surface disturbance (grading and other road repairs). The biologist must be authorized by the US Fish & Wildlife Service to survey and handle tortoises for this project.
- Staging area(s) must be identified in advance of the project, and surveyed for desert tortoise sign before the project begins.
- Operators of heavy equipment (e.g., road graders) shall be accompanied by a qualified biologist when working in desert tortoise habitat during desert tortoise active periods (March 1 to October 31). The qualified biologist shall walk in front of the equipment during its operation, and shall function as the field contact representative. S/he has the responsibility and authority to halt all project activity should danger to a desert tortoise arise. Work may proceed only after all hazards to the desert tortoise are removed, the desert tortoise is no longer at risk, or the desert tortoise has been moved from harm's way by a biologist authorized by the US Fish & Wildlife Service. During desert tortoise inactive periods (November 1 through February 28/29), an onsite monitor is not required but the equipment operator shall be a qualified biologist. Otherwise, the operator shall be accompanied by a qualified biologist.
- Equipment operator(s) shall watch for desert tortoise on the road whenever driving, transporting or operating equipment. Driving speeds shall not exceed 20 miles per hour and operating speeds shall not exceed five (5) miles per hour, to allow for adequate visibility.

Desert Tortoise/Road Grading

- To avoid building up of tall berms that may inhibit movement of desert tortoises, the equipment operator should minimize lowering of the road bed while grading. Berms higher than 12 inches or at a slope greater than 30 degrees shall be pulled back into the road bed.

Desert Tortoise/Underground Construction:

- Open trenches shall be regularly inspected by the authorized biologist at a minimum of once per day. Any desert tortoises encountered shall be safely removed. For small projects, escape ramps may be required. The length of the trench left open at any given time shall not exceed that distance which will remain open for one week or less in duration. A final inspection of the open trench segment shall be made by the authorized biologist immediately prior to backfilling. Arrangements shall be made prior to the onset of maintenance or construction to ensure that desert tortoises may be safely removed from the trench without violating any requirements of the Occupational Safety and Health Administration.
- The proponent shall be required to restore disturbed areas in a manner that will assist re-establishment of biological values within the disturbed right-of-way. Methods of restoration include but are not limited to: road closure, reduction of erosion, respreading of the top two to six (2-6) inches of soil, planting with appropriate native shrubs, and scattering any bladed vegetation and rocks, where appropriate, across the right-of-way.
- Construction rights-of-way shall be restricted to the narrowest possible width. All project construction and maintenance shall be restricted to the authorized right-of-way. If unforeseen circumstances require expansion beyond the right-of-way, the potential expanded work areas shall be surveyed for desert tortoise.

2001 Pipeline Reclamation Plan

- The permittee will follow the 2001 Pipeline Reclamation Plan with regard to confirmation samples and opportunistic sampling. "Historic" abandoned waste water steel pipelines will be removed at the same time as the more recent waste water HDPE pipeline.
- If any trenches need to remain open overnight, the permittee will ensure that tortoise ramps are constructed, as per the 2001 Pipeline Reclamation Plan.

Describe the category used to exclude action from further NEPA analysis and indicate the number of the category (see Section 3-4 of DO-12):

E.4 Removal of non-historic materials and structures in order to restore natural conditions.

Mojave National Preserve has completed an interdisciplinary review of the special park use request from Chevron Mining, Inc. Reviewers identified several issues with regard to Chevron's request to use roads other than Nipton road to access the Molycorp right-of-way road in Mojave National Preserve. Other dirt roads in the vicinity that lead to mid- and western points along the Molycorp ROW are in semi-primitive conditions following deeply carved washes and/or partially covered by native vegetation. While these roads may be visible in aerial photographs, a site visit by Ashe, Carlson, Nichols and Woo revealed they would be unsuitable for heavy equipment and that any work to make these roads passable would exceed the definition of "repair" as defined in NPS Reference Manual 12, Chapter 3-4, Categorical Exclusions for which a Record is Needed. The Molycorp ROW access road is passable with heavy equipment, Chevron Mining has permission to repair this road to the extent needed to remove the waste water pipeline, and the area in question is small enough that use of the Molycorp ROW will not incur more than negligible amounts of added travel time compared with use of these other, more primitive roads. Therefore, this categorical exclusion declines the use of any NPS roads other than Nipton Road to access the Molycorp right-of-way.

The mitigations listed above were identified during the environmental review process. Provisions to protect the desert tortoise derive from the biological opinion issued by the US Fish and Wildlife Service with regard to Mojave National Preserve's General Management Plan. The mitigations regarding the 2001 Pipeline Reclamation Plan have been included to clarify vagaries from this plan since it was approved eight years ago.

These mitigations must be included as special park conditions in any special use permit issued for the removal of Molycorp's waste water pipeline from Mojave National Preserve. Assuming these and all other special use permit conditions are strictly adhered to by the permittee and/or their agent, Mojave National Preserve staff does not anticipate any significant adverse impacts to the natural and cultural resources to occur during the removal of Molycorp's wastewater pipeline(s) from Mojave National Preserve. It is, therefore, concluded, that impairment will not result from the implementation of this project. A special use permit, as described herein, may be issued to B. Peter Bergeron, Chevron Mining, Inc. for the removal of Molycorp's waste water pipeline along the Molycorp right-of-way between Nipton Road and Wheaton Wash in Mojave National Preserve.

On the basis of the environmental impact information in the statutory compliance file, with which I am familiar, I am categorically excluding the described project from further NEPA analysis. No exceptional circumstances or conditions in Section 3-6 apply, and the action is fully described in Section 3-4 of DO-12.

ACTING Park Superintendent/ LARRY WHALON/ *Larry J. Whalon acting*
Date: 11/24/09

NPS Contact Person: DANETTE WOO/ *Danette Woo*

Title: Environmental Compliance Specialist

Telephone number: (760) 252-6107