Appendix B-16

Desert Tortoise Protection Plan (DTTP)

Desert Tortoise Protection Plan (DTPP)

Prepared for:

Environmental Protection Agency
and
US Ecology Nevada

Prepared by:
Knight and Leavitt Associates

September 23, 2015

Table of Contents

Introduction and Background 2
Site Preparation and Initial Construction.....2
Desert Tortoise Protection Measures.....2
Operational and Long Term Use.....10
References 13

Tables

Table 1. Desert Tortoise Fence, Guard and Gate Inspection Requirements.....4
Table 2. Amount or Extent of Take Exempted.....9

Appendices

Appendix A. Desert Tortoise Handling and Take Report From.....14

Introduction and Background

On November 12, 2012, the U.S. Environmental Protection Agency (EPA) issued an Approval (permit) under the Toxic Substances Control Act (TSCA) to US Ecology Nevada, Inc. (US Ecology) for operation of a commercial polychlorinated biphenyl (PCB) storage and chemical waste landfill facility (Facility) located 11 miles south of Beatty, Nevada. US Ecology is proposing to modify its TSCA Approval to expand PCB operations at the Facility. The proposed expansion includes a 400 acre land conveyance area and the construction/operation of a new landfill unit (Trench 13).

The purpose of this Desert Tortoise Protection Plan (DTPP) is to minimize the effects on the desert tortoise and its habitat from any modification or renewal of the TSCA Approval. The following sections describe the plan of development and the relevant desert tortoise protection measures that will be followed as stipulated by the Biological Opinion (U.S. Fish and Wildlife Service (USFWS) File No. 84320-2015-F-0132) and the *Requirements for Preparing a Plan to Protect the Desert Tortoise During Construction and Operations Taking Place within the 400 acre Conveyance Area at the US Ecology Facility Located Near Beatty, Nevada* (EPA, 2015).

Site Preparation and Initial Construction

Site preparation will involve the removal of vegetation to allow construction of landfill disposal cells and disposal operations including the necessary grading, construction, excavation, material treatment and disposal, burial and monitoring. The initial phase of new construction over the first 3-4 years will focus on placing Trench 13 into operation. Construction will include access roads, additional monitoring wells, and other improvements. Construction will involve use of typical heavy equipment, including machines such as bulldozers, scrapers, graders, dump trucks, water trucks, backhoes, loaders, track hoes, well drilling machines and similar. Site construction will also involve placement of numerous additional monitoring wells around new cells, and the destruction of existing wells located where new cells will be built.

Desert Tortoise Protection Measures

In order to minimize injury or mortality of desert tortoises due to site preparation and construction, the following desert tortoise protection measures will be in place:

1. Authorized Desert Tortoise Biologist and Biological Monitor Responsibilities: An Authorized desert tortoise biologist and/or monitor shall be present to ensure desert tortoise protection measures are implemented. Authorized desert tortoise biologists and biological monitors shall be responsible for the following: (1) enforcing the litter control program; (2) ensuring that desert tortoise habitat disturbance is restricted to authorized areas; (3) ensuring that all equipment and materials are stored within the boundaries of the construction zone or within the boundaries of previously-disturbed areas or designated areas; (4) ensuring that all vehicles associated with construction activities

remain within the proposed construction zones; (5) ensuring that no tortoises are underneath project vehicles and equipment prior to use or movement; and (6) ensuring that all biological monitors (including the authorized desert tortoise biologist) have a copy of the approved DTPP in their possession, have read the DTPP, and have a copy of it available when on the project site.

An authorized desert tortoise biologist will serve as a mentor to train desert tortoise biological monitors and will approve biological monitors if required. An authorized desert tortoise biologist is responsible for errors committed by the desert tortoise biological monitors.

An authorized desert tortoise biologist shall record each observation and handling of a desert tortoise using the Desert Tortoise Handling and Take Report From (Appendix A). Information will include the following: location (GPS), date and time of observation, whether the desert tortoise was handled, general health and whether it voided its bladder, location desert tortoise was move from and location moved to, unique physical characteristics of each tortoise and effectiveness and compliance with the desert tortoise protection measures. The completed Desert Tortoise and Handling and Take Report with this information shall be provided directly to the EPA and USFWS (see 17. Reporting, p. 9).

US Ecology shall hire only those desert tortoise biologists meeting the USFWS qualifications. Potential authorized desert tortoise biologists must submit their statement of qualification to the USFWS's Southern Nevada Fish and Wildlife Office in Las Vegas for approval, allowing a minimum of 30 days for USFWS response. The statement form is available on the internet at:

http://www.fws.gov/ventura/docs/species/protocols/dt/DT%20authorized%20biologist%20request%20form.pdf.

2. Desert Tortoise Education Program: Prior to any construction related activities, a desert tortoise education program will be presented by an authorized desert tortoise biologist. A desert tortoise education program shall be developed and presented by an agency or authorized desert tortoise biologist to all personnel on site during construction activities. The USFWS and appropriate state agencies shall approve the program. At a minimum, the program shall cover desert-specific Leave-No-Trace guidelines, the distribution of desert tortoises, general behavior and ecology of the desert tortoise, sensitivity to human activities, threats including introduction of exotic plants and animals, legal protection, penalties for violation of State and Federal laws, and reporting requirements. All field workers shall be instructed that activities must be confined to locations within the approved areas and their obligation to walk around and check underneath vehicles and equipment before moving them (unless cleared by an authorized desert tortoise biologist).

In addition, the program shall include fire prevention measures to be implemented by employees during project activities. The program shall instruct participants to report all observations of desert tortoise and their sign during construction activities to the authorized desert tortoise biologist.

3. Construction of Desert Tortoise Proof Fencing: Prior to land clearing and construction, tortoise-proof fencing shall be installed around the perimeter of the 400-acre land conveyance area. Fencing will require regular monitoring and maintenance as directed by the EPA or the USFWS. Tortoise guards shall be placed at all road access points where desert tortoise-proof fencing is interrupted, to exclude desert tortoises from the facility. Gates shall provide minimal ground clearance and deter ingress by desert tortoises. Permanent tortoise-proof fencing along the project perimeter shall be appropriately constructed, monitored and maintained (see Chapter 8, Desert Tortoise Mojave Population) Field Manual, USFWS, 2009). Fencing shall be inspected in accordance with Table 1 and reports prepared in accordance with the USFWS Biological Opinion, unless modified by EPA and/or USFWS. Monitoring and maintenance shall include regular removal of trash and sediment accumulation and restoration of zero ground clearance between the ground and the bottom of the fence, including recovering the bent portion of the fence if not buried.

Table 1. Desert Tortoise Fence, Guard and Gate Inspection Requirements.

Condition	Minimum Inspection/Maintenance Requirements
Regular inspection, normal conditions	Inspect fence, tortoise guards, and gates at a minimum monthly
Following major storm event	Inspect fence perimeter, tortoise guards, and gates within 72 hours
Breach in fence, tortoise guard or gate requires maintenance	Repair within 1 week of breach occurrence

4. Monitoring Construction of the Desert Tortoise Proof Fencing: An authorized desert tortoise biologist shall monitor the construction and installation of permanent desert tortoise-proof fencing and tortoise guards along the perimeter of the 400-acre land conveyance area. The authorized desert tortoise biologist and any additional biological monitors used to assist the authorized desert tortoise biologist shall have a copy of this DTPP and will be responsible for overseeing compliance with its terms and conditions. The authorized desert tortoise biologist shall ensure that all instances of incidental take or

non-compliance with the terms and conditions of this DTPP are reported. All incidences of incidental take or non-compliance shall be reported to the EPA and USFWS within 24 hours of occurrence.

5. Project Speed Limits: Project personnel shall exercise vigilance when commuting to the project area to minimize risk for inadvertent injury or mortality of all wildlife species encountered on paved and unpaved roads leading to and from the project site. Vehicle speed limits on project-related access roads will not exceed 25mph. Speed limits will be clearly marked, and all workers will be made aware of these limits. On-site personnel shall carpool to the greatest extent.

6. Dust Control Applications: Water applied to roads or construction sites for dust control shall not be allowed to pool outside desert tortoise fenced areas, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks shall be repaired to prevent pooling water.

7. Designated Construction Zone: In order to minimize loss and long term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, and crushed vegetation, all cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and construction materials shall be restricted to the designated area and new disturbance shall be restricted to the fenced 400-acre land conveyance area. All work area boundaries for fence construction shall be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities.

8. Noxious Weed Control: In order to minimize loss and long term degradation and fragmentation of desert tortoise habitat due to introduction of weeds, vehicles and equipment used for fence construction shall be cleaned with a high pressure washer prior to arrival in desert tortoise habitat and prior to departure from areas of known invasive weed and non-native grass infestations to prevent or at least minimize the introduction or spread of these species.

9. Hazardous Waste and Toxic Materials: In order to minimize loss and long term degradation and fragmentation of desert tortoise habitat due to contaminants, hazardous and toxic materials such as fuels, solvents, lubricants and acids used during construction shall be controlled to prevent accidental spills. Any leak or accidental release of hazardous and toxic material shall be stopped immediately and cleaned up at the time of occurrence.

10. Litter Control: In order to minimize injury to desert tortoises as a result of predators attracted to the project area from construction, operation, and minor maintenance

activities, a litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit foxes, coyotes and common ravens. Trash and food items shall be disposed of properly in predator-proof containers with predator proof lids. Trash containers shall be emptied and construction waste shall be removed regularly from the project area and disposed of in an approved landfill.

11. Desert Tortoise Clearance Survey: Upon completion of fence construction, a desert tortoise clearance survey will be conducted to locate and remove all desert tortoises from the 400 acres. Authorized desert tortoise biologists, potentially assisted by desert tortoise biological monitors, shall conduct a clearance survey to locate and remove all desert tortoises from harm's way within the 400-acre land conveyance area, including any area to be disturbed using techniques that provide full coverage of all areas (Desert Tortoise Mojave Population) Field Manual, USFWS, 2009). The clearance survey shall be conducted after construction and installation of the desert tortoise-proof fencing and tortoise guards, but prior to surface-disturbing activities within the fenced area. During the more-active seasons (April through May and September through October), clearance surveys shall be conducted either the day prior to, or the day of, any surface disturbing activity. During the less-active season, clearance surveys shall be conducted within 7 days prior to any surface-disturbing activity. No surface-disturbing activities shall begin until two consecutive surveys yield no individuals.

    An authorized biologist shall excavate all burrows that have characteristics of desert tortoises in the area to be disturbed with the goal of locating and removing all desert tortoises and desert tortoise eggs. If any tortoise active nests are encountered, the USFWS must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action. During clearance surveys, all handling of desert tortoises and their eggs and excavation of burrows shall be conducted solely by an authorized desert tortoise biologist in accordance with the most current USFWS-approved guidance (currently Desert Tortoise (Mojave Population) Field Manual, USFWS, 2009). Unoccupied burrows shall be collapsed or blocked to prevent desert tortoise entry. Outside construction work areas, all potential desert tortoise burrows and pallets within 50 feet of the edge of the construction work area shall be flagged. If the burrow is occupied by a desert tortoise during the less-active season, the tortoise shall be temporarily penned (see 15. Penning, p. 8). No stakes or flagging shall be placed on the berm or in the opening of a desert tortoise burrow. Desert tortoise burrows shall not be marked in a manner that facilitates poaching. Avoidance flagging shall be designed to be easily distinguished from access route or other flagging, and shall be designed in consultation with experienced construction personnel and authorized biologists. All flagging shall be removed following construction activities.

An authorized desert tortoise biologist shall inspect areas to be backfilled immediately prior to backfilling.

12. Handling Desert Tortoises: Desert tortoises shall only be moved by an authorized desert tortoise biologist or desert tortoise biological monitor solely for the purpose of moving the tortoises out of harm's way. During construction of the fence and clearance survey activities, an authorized desert tortoise biologist shall pen, capture, handle, and relocate desert tortoises from harm's way as appropriate and in accordance with the more current USFWS approved guidance. No tortoise shall be handled by more than one person. Each tortoise handled shall be given a unique number, photographed, and the biologist shall record all relevant data on the Desert Tortoise Handling and Take Report (Appendix A) to be provided to EPA and USFWS in accordance with project reporting requirements.

    Desert tortoises that occur aboveground and need to be moved from harm's way shall be placed in the shade of a shrub, 150 to 1,640 feet from the point of encounter.

    If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40°F or greater than 95°F), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of an authorized desert tortoise biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be discarded after one use and never hold more than one tortoise. If any tortoise active nests are encountered, the USFWS must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action.

    Desert tortoises located in the project area sheltering in a burrow during the less-active season may be temporarily penned (see 15. Penning, p. 8) at the discretion of an authorized desert tortoise biologist. Desert tortoises should not be penned in areas of moderate to heavy public use; rather, they should be moved from harm's way in accordance with the most current USFWS approved guidance (currently Desert Tortoise (Mojave Population) Field Manual, USFWS, 2009).

    Desert tortoises shall be handled in accordance with the Desert Tortoise (Mojave Population) Field Manual, USFWS, 2009). Equipment or materials that contact desert tortoises (including shirts and pants) shall be sterilized, disposed of, or changed before contacting another tortoise to prevent the spread of disease. All tortoises shall be handled using disposable surgical gloves and the gloves shall be disposed of after handling each tortoise. An authorized desert tortoise biologist shall document each tortoise handling by completing the Desert Tortoise Handling and Take Report (Appendix A).

13. Responsibilities of Desert Tortoise Monitors: Desert tortoise biological monitors may be used to assist an authorized desert tortoise biologist during construction activities and surveys and serve as apprentices to acquire experience. Desert tortoise biological

monitors ensure proper implementation of protective measures, record and report desert tortoise contacts and sign observations in accordance with the reporting requirements (see 17. Reporting, p. 9). They will report incidents of non-compliance or incidental take to the authorized desert tortoise biologist. No biological monitors shall be on the project site unless supervised by an authorized desert tortoise biologist.

If a desert tortoise is immediately in harm's way (e.g. certain to immediately be crushed by equipment), desert tortoise biological monitors may move the desert tortoise and place it in a designated safe area until an authorized desert tortoise biologist assumes care of the animal.

Desert tortoise biological monitors may not conduct field or clearance surveys or other specialized duties of an authorized desert tortoise biologist unless directly supervised by an authorized desert tortoise biologist or approved to do so by the USFWS; "directly supervised" means an authorized desert tortoise biologist has direct sight and voice contract with the desert tortoise biological monitor (i.e., within approximately 200 feet of each other).

Within 3 days of employment or assignment, US Ecology shall provide the USFWS with the names of desert tortoise biological monitors who would assist an authorized desert tortoise biologist.

14. Desert Tortoise Encounters: Any project related activity that may endanger a desert tortoise shall cease if a desert tortoise is found on the project site. Project activities may resume after an authorized desert tortoise biologist or desert tortoise biological monitor removes the desert tortoise from danger or after the desert tortoise has moved to a safe area on its own.

15. Penning: Penning shall be accomplished by installing a circular fence, approximately 20 feet in diameter to enclose and surround the tortoise burrow. The pen should be constructed with 1-inch horizontal by 2-inch vertical, galvanized welded wire. Steel T-posts or rebar should be placed every 5 to 6 feet to support the pen material. Pen material shall extend 18-24 inches aboveground. The bottom of the enclosure shall be buried 6 to 12 inches or bent towards the burrow, have soil mounded along the base, and other measures implemented to ensure zero ground clearance. Care shall be taken to minimize visibility of the pen by the public. An authorized desert tortoise biologist or desert tortoise biological monitor shall check the pen at a frequency to ensure that the desert tortoise is secure and not stressed. No desert tortoise shall be penned for more than 48 hours without written approval by the USFWS. Because this is a new technique, all instances of penning or issues associated with penning shall be reported to the USFWS within 3 days using the Desert Tortoise Handling and Take Report (Appendix A).

16. Incidental Take Statement: Implementation of the proposed project is anticipated to result in the following take of desert tortoise:

Table 2. Amount or Extent of Take Exempted

Exempted Mortality, Injury and Destruction (eggs)			**Exempted Non-injury - Capture**		**Anticipated Habitat Loss (acres)**	
Adult/subadult	Juvenile	Eggs	Adult/subadult	Juvenile	Critical	Non-critical
0	1	unknown	5	0	0	299.3

17. Reporting: The following reporting measures will take place concerning desert tortoises:

- The deaths and injuries of desert tortoises shall be investigated as thoroughly as possible to determine the cause. The USFWS and appropriate state wildlife agency must be verbally informed immediately and within 5 business days in writing (electronic mail is sufficient). The authorized desert tortoise biologist shall complete the Desert Tortoise Handling and Take Report (Appendix A).
- Any incident occurring during project activities that was considered by the authorized biologist or biological monitor to be in non-compliance with this DTPP shall be immediately documented by an authorized desert tortoise biologist. Documentation shall include photos, GPS coordinates, and details on the circumstances of the event. The incident shall be included in the annual report and post-project report.
- Annual reports for inspection and repair of tortoise-proof fencing, tortoise guards, and gates shall be submitted to EPA and to the USFWS Southern Nevada Fish and Wildlife Office in Las Vegas (see below).
- Annual fence monitoring reports and final comprehensive project reports for completion of fence construction and desert tortoise clearance surveys shall be submitted to EPA and the USFWS's Southern Nevada Fish and Wildlife Office in Las Vegas. All annual reports shall cover the calendar year and are due April 1st of the following year (e.g., the annual report for calendar year 2015 is due April 1, 2016). Final project reports (e.g., when perimeter fencing and desert tortoise clearance survey are completed) are due within 60 days following the completion of the project or each phase of the project.
- All report submissions (including correspondence, reports, and notifications) required shall be sent to the following addresses:

Manager, Permits Office (LND-4-2)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105

U.S. Fish and Wildlife Service
Attn: Field Supervisor
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130

All documents sent to the USFWS shall include the USFWS File No. 84320-2015-F-0132.

Operational and Long Term Use

After Trench 13 has been constructed and becomes operational, waste will be deposited in the Trench and managed pursuant to (1) Nevada Division of Environmental Protection (NDEP) hazardous waste permit requirements, and (2) EPA's TSCA Approval for PCBs. Operations will center around the acceptance of waste materials delivered to the site by truck via US-95. Treatment, disposal and landfill operations are anticipated to continue on the site for 30 years or more, depending on waste stream inflow.

After the initial 3-5 year development and use period, development of the disposal cells or "trenches" will continue as waste inflow demands. Long-term future development options include relocation of the administrative areas and other non-disposal activities to the portion of the site east of US-95. This would allow additional disposal trenches to be placed on the area west of the highway. Post closure of the site, the area east of the highway may provide an advantageous base of operations for continued on-site monitoring and security operations.

Normal general operations at the site will include continuous dust, trash, and weed control. In addition, the complete fencing of operational areas of the site should preclude the entrance of desert tortoises and prevent any potential for take. An active education and information program to raise employee awareness, ensure employees take reasonable precautions to inspect around equipment and vehicles prior to movement, and follow desert tortoise protocols should a stray individual wander into the site will be provided. The education program will also include information to employees, transporters, and the public to avoid harassment of tortoises, and prevent access and discourage activities on adjoining public lands.

During operational and long term use of the site, the following desert tortoise protection measures as outlined in the Biological Opinion (U.S. Fish and Wildlife Service (USFWS) File No. 84320-2015-F-0132) and the *Requirements for Preparing a Plan to Protect the Desert Tortoise During Construction and Operations Taking Place within the 400 acre Conveyance Area at the US Ecology Facility Located Near Beatty, Nevada* (EPA Region 9, 2015) will be adhered to:

- Desert Tortoise Education Program: Prior to any construction related activities, a desert tortoise education program will be presented by an authorized desert tortoise biologist. A desert tortoise education program shall be developed and presented by an agency or authorized desert tortoise biologist to all personnel on site during construction activities. The USFWS and appropriate state agencies shall approve the program. At a minimum, the program shall cover desert-specific Leave-No-Trace guidelines, the distribution of desert tortoises, general behavior and ecology of the desert tortoise, sensitivity to human activities, threats including introduction of exotic plants and animals, legal protection, penalties for violation of State and Federal laws, and reporting requirements. All field workers shall be instructed that activities must be confined to locations within the approved areas and their obligation to walk around and check underneath vehicles and equipment before moving them (unless cleared by an authorized desert tortoise biologist). In addition, the program shall include fire prevention measures to be implemented by employees during project activities. The program shall instruct participants to report all observations of desert tortoise and their sign during construction activities to the authorized desert tortoise biologist.

- Desert Tortoise Proof Fencing: Desert tortoise proof fencing will continue to be inspected and maintained for the life of the project to prevent tortoises from accessing the site and result in potential injury or mortality. Fencing shall be inspected in accordance with Table 1 outlined above (p. 4) and reports prepared in accordance with the USFWS Biological Opinion, unless modified by EPA and/or USFWS. Monitoring and maintenance shall include regular removal of trash and sediment accumulation and restoration of zero ground clearance between the ground and the bottom of the fence, including recovering the bent portion of the fence if not buried.

- Handling Desert Tortoises: Should any desert tortoises be found during construction and operations, desert tortoises shall only be moved by an authorized desert tortoise biologist or desert tortoise biological monitor solely for the purpose of moving the tortoises out of harm's way. During construction of the fence and clearance survey activities, an authorized desert tortoise biologist shall pen, capture, handle, and relocate desert tortoises from harm's way as appropriate and in accordance with the more current USFWS approved guidance. No tortoise shall be handled by more than one person. Each tortoise handled shall be given a unique number, photographed, and the biologist shall record all relevant data on the Desert Tortoise Handling and Take Report (Appendix A) to be provided to EPA and USFWS in accordance with project reporting requirements.

Desert tortoises that occur aboveground and need to be moved from harm's way shall be placed in the shade of a shrub, 150 to 1,640 feet from the point of encounter.

If desert tortoises need to be moved at a time of day when ambient temperatures could harm them (less than 40°F or greater than 95°F), they shall be held overnight in a clean cardboard box. These desert tortoises shall be kept in the care of an authorized desert tortoise biologist under appropriate controlled temperatures and released the following day when temperatures are favorable. All cardboard boxes shall be discarded after one use and never hold more than one tortoise. If any tortoise active nests are encountered, the USFWS must be contacted immediately, prior to removal of any tortoises or eggs from those burrows, to determine the most appropriate course of action.

Desert tortoises located in the project area sheltering in a burrow during the less-active season may be temporarily penned (see 15. Penning, p. 8) at the discretion of an authorized desert tortoise biologist. Desert tortoises should not be penned in areas of moderate to heavy public use; rather, they should be moved from harm's way in accordance with the most current USFWS approved guidance (currently Desert Tortoise (Mojave Population) Field Manual, USFWS, 2009).

Desert tortoises shall be handled in accordance with the Desert Tortoise (Mojave Population) Field Manual, USFWS, 2009). Equipment or materials that contact desert tortoises (including shirts and pants) shall be sterilized, disposed of, or changed before contacting another tortoise to prevent the spread of disease. All tortoises shall be handled using disposable surgical gloves and the gloves shall be disposed of after handling each tortoise. An authorized desert tortoise biologist shall document each tortoise handling by completing the Desert Tortoise Handling and Take Report (Appendix A).

- Desert Tortoise Encounters: Any project related activity that may endanger a desert tortoise shall cease if a desert tortoise is found on the project site. Project activities may resume after an authorized desert tortoise biologist or desert tortoise biological monitor removes the desert tortoise from danger or after the desert tortoise has moved to a safe area on its own.

- Project Speed Limits: Project personnel shall exercise vigilance when commuting to the project area to minimize risk for inadvertent injury or mortality of all wildlife species encountered on paved and unpaved roads leading to and from the project site. Vehicle speed limits on project-related access roads will not exceed 25mph. Speed limits will be clearly marked, and all workers will be made aware of these limits. On-site personnel shall carpool to the greatest extent.

- Dust Control Applications: Water applied to roads or construction sites for dust control shall not be allowed to pool outside desert tortoise fenced areas, as this can attract desert tortoises. Similarly, leaks on water trucks and water tanks shall be repaired to prevent pooling water.

- Designated Construction Zone: In order to minimize loss and long term degradation and fragmentation of desert tortoise habitat, such as soil compaction, erosion, and crushed vegetation, all cross-country travel outside designated areas shall be prohibited. All equipment, vehicles, and construction materials shall be restricted to the designated area and new disturbance shall be restricted to the fenced 400-acre land conveyance area. All work area boundaries for fence construction shall be conspicuously staked, flagged, or otherwise marked to minimize surface disturbance activities.

- Hazardous Waste and Toxic Materials: In order to minimize loss and long term degradation and fragmentation of desert tortoise habitat due to contaminants, hazardous and toxic materials such as fuels, solvents, lubricants and acids used during construction shall be controlled to prevent accidental spills. Any leak or accidental release of hazardous and toxic material shall be stopped immediately and cleaned up at the time of occurrence.

- Litter Control: In order to minimize injury to desert tortoises as a result of predators attracted to the project area from construction, operation, and minor maintenance activities, a litter control program shall be implemented to reduce the attractiveness of the area to opportunistic predators such as desert kit foxes, coyotes and common ravens. Trash and food items shall be disposed of properly in predator-proof containers with predator proof lids. Trash containers shall be emptied and construction waste shall be removed regularly from the project area and disposed of in an approved landfill.

References

U.S. Fish and Wildlife Service (USFWS). 2009. Desert Tortoise (Mojave Population) Field Manual (*Gopherus agassizii*). December.

U.S. Environmental Protection Agency (EPA), Region 9. 2015. *Requirements for Preparing a Plan to Protect the Desert Tortoise During Construction and Operations Taking Place within the 400-Acre Conveyance Area at the US Ecology Facility Located Near Beatty, Nevada.* 11 pp. on file at EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Appendix A:

Desert Tortoise Handling and Take Report

ATTACHMENT A. DESERT TORTOISE HANDLING AND TAKE REPORT

If a desert tortoise is killed or injured, immediately contact the U.S. Fish and Wildlife Service and EPA, by phone at the numbers below and complete Section 1 of the form.

Completed forms should be submitted to the EPA and Fish and Wildlife Service:

Manager, Permits Office (LND-4-2)
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105
415-972-3972

U.S. Fish and Wildlife Service
Att: Field Supervisor
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130
702-515-5230

Project Name:	Report Date:
Fish and Wildlife Service File No. 84320-2015-F-0132	
Authorized Desert Tortoise Biologist: _____ Employed by:	
Section 1: Complete all information below if a desert tortoise is injured or killed in addition to initial contact described above.	
If tortoise was injured ☐ or killed ☐ (check appropriate box):	
Date and time found: _____ Found by: _____ GPS location (NAD 83): easting: _____ northing: _____ No. of photos taken: _____ Disposition: _____ _____ _____ Attach report with photos that describe in detail, the circumstances and potential cause of injury or mortality. For injuries include name of veterinarian and detailed assessment of injuries.	

Section 2: Complete all information below for each desert tortoise handled.

All instances of desert tortoise handling must be reported in this section and be included in the quarterly, annual, and final project reports.

Desert tortoise number: _____

Date and time found. _____ Sex of tortoise: _____

Air temperature when found: _____ Air temperature when released: _____

Tortoise activity when found: _____

Handled by: _____ Approx. carapace length _____

GPS location (NAD 83) found: easting: _____ northing: _____

GPS location released: easting: _____ northing: _____

Approximate distance moved: _____

Did tortoise void bladder; if so state approximate volume and actions taken:

_____

_____

Post handling or movement monitoring and observations:

_____

_____

_____

Section 3: Complete for each tortoise burrow penned.

All instances of desert tortoise penning must be reported in this section and be included in the quarterly, annual, and final project reports.

Date and time of pen construction.

Began: _____ Completed _____

Date and time pen removed: _____

Pen constructed by: _____

Why was tortoise penned? _____

How frequently was pen monitored? _____

Observations of desert tortoise behavior including time and date of observation

_____

_____

_____

_____

_____

Include photos of pen and burrow with report.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

In Reply Refer To: LND-4-2
US Ecology
EPA ID NVT330010000

September 29, 2015

Mr. Robert L. Marchand, General Manager
US Ecology Nevada
P.O. Box 578
Beatty, Nevada 89003

Re: US Ecology - Approval of Desert Tortoise Protection Plan

Dear Mr. Marchand,

The U.S. Environmental Protection Agency (EPA) is approving the "Desert Tortoise Protection Plan", prepared by Knight and Leavitt Associates, dated September 23, 2015.

On November 12, 2012, EPA issued an Approval (Permit) under the Toxic Substances Control Act (TSCA) to US Ecology for operation of a commercial polychlorinated biphenyl (PCB) storage and chemical waste landfill facility near Beatty, Nevada. US Ecology is considering requesting a modification of the TSCA Approval for construction and operation of a new 47.3 acre landfill (Trench 13).

The purpose of the DTPP is to minimize the effects on the desert tortoise and its habitat from any proposed modification of the TSCA Approval to (1) expand PCB operations at the facility which now includes a 400 - acre land conveyance area, and (2) construct and operate the Trench 13 Landfill.

The EPA approved DTPP should be included in US Ecology's application/notification to modify the TSCA Approval for construction and operation of Trench 13. The DTPP will ultimately be incorporated by reference into the TSCA Approval and be included as a new attachment.

If you have any questions, please contact me at (415) 972-3362. Thank you for your continued cooperation.

Sincerely,

Ronald Leach

Ronald Leach, Project Manager
Permits Office

cc: Mike Leigh, NDEP