

OFFICE OF THE NEVADA ENVIRONMENTAL RESPONSE TRUST TRUSTEE

Le Petomane XXVII, Inc., Not Individually, But Solely as the Nevada Environmental Response Trust Trustee
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November 3, 2020

Dr. Weiquan Dong, P.E.
Bureau of Industrial Site Cleanup
Nevada Division of Environmental Protection
375 E. Warm Springs Road, Suite 200
Las Vegas, Nevada 89119

RE: Nevada Division of Environmental Protection (NDEP) July 31, 2020 Response to: *Transmittal of RI/FS Work Plan Addendum: Phase 3 Remedial Investigation, Revision 1; Response to July 11, 2017 Letter and Comments from the Lower Colorado River Water Quality Partnership and Response to August 29, 2017 Comments from NDEP on the May 5, 2017 RI/FS Work Plan Addendum; Phase 3 Remedial Investigation Dated October 27, 2017*

Dear Dr. Dong:

The Nevada Environmental Response Trust (NERT) is providing this letter in response to the Nevada Division of Environmental Protection's (NDEP) July 31, 2020 letter (NDEP Letter) wherein NDEP modified its previous approval of the NERT RI/FS Work Plan Addendum: Phase 3 Remedial Investigation, Revision 1 dated October 27, 2017 (Phase 3 RI Work Plan).

The NDEP Letter asserted that NDEP's February 2006 Settlement Agreement and Administrative Order on Consent for the BMI Common Areas, Phase 3 (AOC) did not transfer responsibility for any BMI Companies' (inclusive of NERT) contaminants migrating in groundwater from the BMI Complex (including the NERT site). NERT's interpretation of the AOC, as presented in the approved Phase 3 RI Work Plan, specifically limited NERT's RI in the Eastside Sub-Area component of Operable Unit (OU) 2 (i.e. OU-2 east of Pabco Road) and OU-3 east of Pabco Road to chlorate and perchlorate¹ (Administratively Limited COPCs). Application of NDEP's July 2020 interpretation of the AOC would greatly expand the scope of NERT's Remedial Investigation (RI) to include an additional 109 chemical analyses per sample and would require the recollection of groundwater samples across the Eastside Sub-Area. It is the continued opinion of the NERT that the AOC definitively limits NERT's obligation within the Eastside Sub-Area and OU-3 east of Pabco Road to investigation of the Administratively Limited COPCs, as presented in the approved Phase 3 RI Work Plan.

Notwithstanding the terms of the AOC, NDEP requested that NERT complete a particle tracking evaluation to determine the pathway of groundwater contaminant transport from the upgradient portion of the NERT RI Study Area. The particle tracking simulations developed using the NERT Phase 6 Groundwater Model (built using all NERT RI and applicable Treatability/Pilot Study data collected through 2019) indicates that groundwater originating in OU-1 (i.e., the NERT site) migrates northward towards the Las Vegas Wash and is ultimately captured by the Seep Well Field, to the extent not captured by the NERT Interceptor Well Field or the NERT

¹ In OU-3, in addition to perchlorate and chlorate, NERT is also delineating the nature and extent of chromium and hexavalent chromium. For the RI investigations in the Eastside Sub-Area of OU-2 and in OU-3, the Phase 3 RI Work Plan included analysis of groundwater for general chemistry parameters, including calcium, magnesium, sodium, potassium, total dissolved solids, sulfate, nitrate, chloride, bicarbonate/carbonate/hydroxide alkalinity, and pH, and the measurement of water quality parameters in the field, including temperature, pH, dissolved oxygen, oxygen reduction potential, turbidity, and electrical conductivity.

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Athens Road Well Field (**Figure 1** Alluvium and **Figure 2** Upper Muddy Creek formation). As depicted in the figures, groundwater flow originating from the NERT site is represented by green particle track lines, whereas groundwater originating west of Pabco Road but east of the NERT site is indicated by purple particle track lines. Groundwater originating east of Pabco Road is represented by blue particle track lines. As shown in the figures, groundwater originating from the NERT site (green particle tracks) is entirely contained west of Pabco Road as it migrates northward to the Las Vegas Wash, thus providing no technical basis, regardless of contrary interpretations of the AOC, that NERT should investigate anything beyond the Administratively Limited COPCs in the Eastside Sub-Area or in OU-3 east of Pabco Road as previously presented in the approved Phase 3 RI Work Plan.

Acknowledging the above, and with the exception of the Phase 3 RI Modifications 8, 10 and 11, which will be implemented once access matters are resolved, based on a review of all the data, it is the conclusion of NERT that no additional RI modifications are necessary to expand or otherwise modify the current RI investigation in response to the NDEP Letter.

The Trust would like to note that nothing in this response affects NERT's primary and continued obligation to investigate the presence of perchlorate and chlorate consistent with the NERT RI/FS Work Plan, Revision 2 as amended by the Technical Memorandum, Remedial Investigation (aka Phase 1 Technical Memorandum/Phase 2 RI Work Plan), the Phase 3 RI Work Plan, and the 26 Phase 2 and 3 RI modifications approved by NDEP to date.

If you have any questions or concerns regarding this matter, feel to contact me at (702) 960-4309 or at steve.clough@nert-trust.com.

Office of the Nevada Environmental Response Trust



Stephen R. Clough, P.G., CEM
Remediation Director
CEM Certification Number: 2399, exp. 3/24/21

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James Dotchin, NDEP, Chief, Bureau of Industrial Site Cleanup
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Steven Linder, U.S. Environmental Protection Agency, Region 9
Mark Duffy, U.S. Environmental Protection Agency, Region 9
Jay Steinberg, as President of the Nevada Environmental Response Trust Trustee and not individually
Andrew Steinberg, as Vice President of the Nevada Environmental Response Trust Trustee and not individually
Brian Loffman, Le Petomane, Inc.
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John Pekala, Ramboll
Kim Kuwabara, Ramboll
Dan Pastor, Tetra Tech
David Bohmann, Tetra Tech

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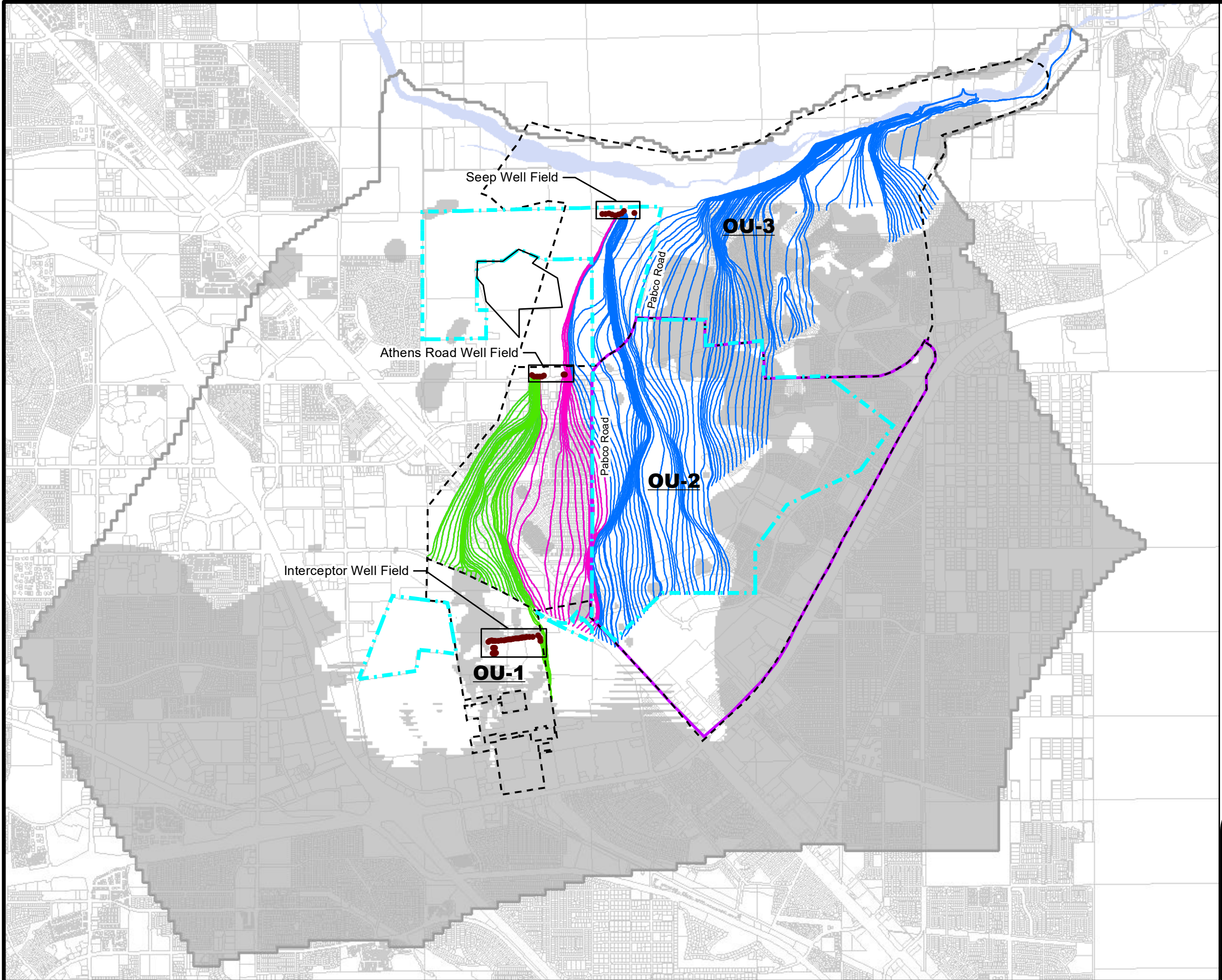
Cc (via NERT Stakeholder Sharefile Distribution):

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Brenda Pohlmann, City of Henderson
Carol Nagai, Metropolitan Water District of Southern California
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David Parker, Central Arizona Project
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Jill Teraoka, Metropolitan Water District of Southern California
Kevin Fisher, LV Valley Water District
Marcia Scully, Metropolitan Water District of Southern California
Maria Lopez, Metropolitan Water District of Southern California
Mauricio Santos, Metropolitan Water District of Southern California
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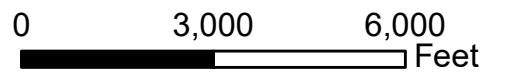
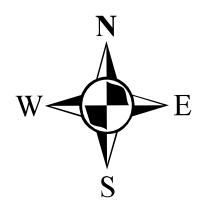
Anna Springsteen, Neptune Inc.
Kirk Stowers, Broadbent Inc.
Kristen Lockhart, Neptune Inc.
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Joe Leedy, Clark County Water Quality
John Solvie, Clark County Water Quality
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Lee C. Farris, Landwell
Mark Paris, Landwell
Nick Pogoncheff, PES Environmental, Inc.
Ranajit Sahu, BRC
Richard Pfarrer, TIMET
John Holmstrom, EMD

Path: H:\LePermana\NERT\Modelling\M22A Particle Tracks\Deliverable_Nov2\Fig 1- Particle Tracks_AOC3_alluvium.mxd



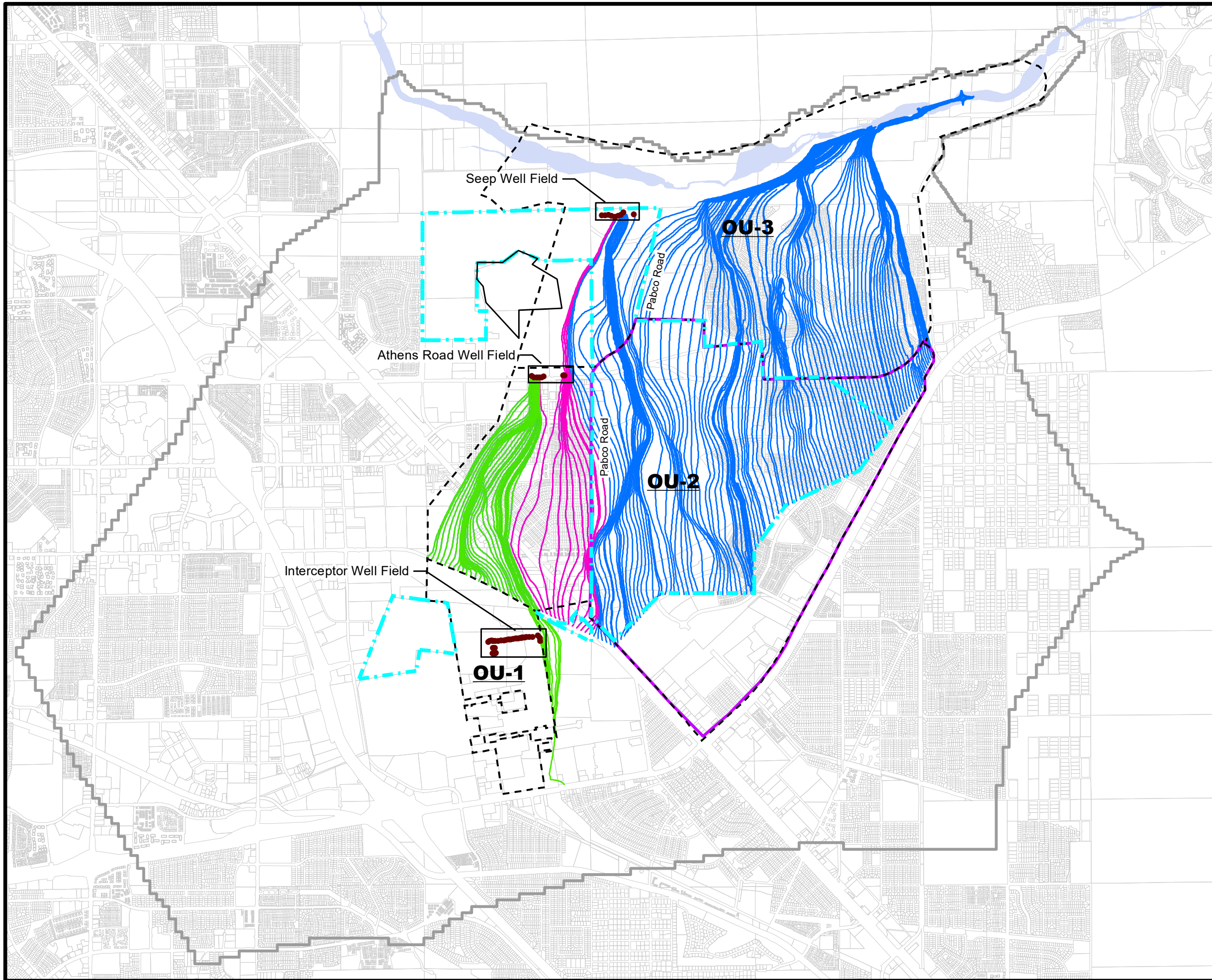
Legend

- Extraction Wells
- BMI AOC3 Boundary
- Eastside Sub-Area
- Particle Tracks Starting from the NERT Boundary
- Particle Tracks Starting West of Pabco Rd
- Particle Tracks Starting East of Pabco Rd
- Unsaturated Alluvium
- - - Operable Unit Boundaries
- ▭ Phase 6 Model Boundary
- Las Vegas Wash



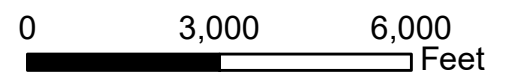
Tracking of Particles Released in Alluvium
 Nevada Environmental Response Trust Site
 Henderson, Nevada

Date: 11/4/2020	Contract Number: 1690011198-031	Figure 1
Drafter: AS	Approved:	Revised:



Legend

- Extraction Wells
- BMI AOC3 Boundary
- Eastside Sub-Area
- Particle Tracks Starting from the NERT Boundary
- Particle Tracks Starting West of Pabco Rd
- Particle Tracks Starting East of Pabco Rd
- Operable Unit Boundaries
- Phase 6 Model Boundary
- Las Vegas Wash



Tracking of Particles Released in UMCf
Nevada Environmental Response Trust Site
Henderson, Nevada

Date: 11/4/2020	Contract Number: 1690011198-031	Figure
Drafter: AS	Approved:	Revised:
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