

The background of the cover is a high-contrast, black and white graphic. It features a large, jagged mountain peak on the left side. In the foreground, there are several stylized evergreen trees of varying sizes. The central text is set against a dark, rectangular area that overlaps the mountain and trees. On the right side, there is a stylized waterfall and some clouds at the bottom right.

RECREATION AND PUBLIC PURPOSES



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Chapter 2 Chapter I. Preapplication Consultation. See 43 CFR 2741.3.

A. Discussion of Proposal. The District or Resource Area Office is the appropriate point for potential applicants seeking authorization for use of public lands under the R&PP Act. Contact at BLM State Offices may be made where travel to the District or Resource area would be unreasonable or difficult. Regardless of where the contact is made, BLM should inform the potential applicant of the requirements for securing an R&PP lease or patent. Cases shall not be serialized until a formal application is filed.

B. Discussion Topics. At a minimum, the following items should be discussed with the with the potential applicant to assure full awareness of R&PP processing requirements:

1. Lands subject to disposition under the Act (43 CFR 2741.1); applicant qualifications (43 CFR 2741.2); application filing requirements as set forth in 43 CFR 2741.4, including where the application should be filed (i.e., District or Resource Area office). Appendix 1 contains sample plans of development and management.

2. Brief outline of the steps necessary to process an application to its completion, e.g., classification for R&PP use, the environmental assessment, mineral potential report, Notice of Realty Action, appraisal, if applicable, at least one public meeting if proposal involves over 640 acres, etc., and the approximate timeframes for completing the process.

3. Proposals must be consistent with applicable Bureau policy, management objectives and land use planning decisions. Advise the potential applicant of any inconsistencies or unresolvable conflicts that are identified at this point and explain why the proposed use may not be authorized.

4. Management responsibilities of a lessee or patentee and terms and conditions which may be required in a lease or patent. Special emphasis should be given to informing the applicant of the reversionary clause and the terms under which it may be exercised. In addition, prior approval by BLM is required for transfer of title or change of use.

5. Explanation of R&PP pricing policy such that the potential applicant has an understanding of how rental and purchase costs are determined. If applicable, this should include a discussion of whether and when the appraisal will be reviewed and updated.

6. The proposed use must be legal and comply with applicable Federal State and local laws and ordinances, including land use plans. Where doubt exists as to the legality of the proposed use or applicability of other laws, advise the potential applicant to determine such prior to submitting an application. If written approvals or authorizations are necessary, these should be included as part of the application (e.g., lands are properly zoned for the proposed use, written notification of conveyances). Applicant should be informed that the regulations require a definitely proposed and funded project. A resolution from the governing board supporting the application and an outline of established funding must accompany the application. Future needs for roads and utilities should also be considered.

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Chapter I

C. Disclosure of Information. If the potential applicant requests confidential treatment of information furnished during preapplication activity or during use of the lands under separate authorization (see I.D.1), this information shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552). The Freedom of Information Officer/Coordinator should be consulted if any questions arise concerning disclosure of information.

D. Other Information Requirements. Depending on time the magnitude and/or public interest associated with the proposed interest associated with the proposed use, the potential applicant may be required to conduct various investigations, studies, analyses, public meetings and negotiations prior to submitting a formal application. If public meetings are held by the potential applicant and sufficiently documented, such may suffice to meet the requirements of 43 CFR 2741.5(d)(2). When a determination has been made by the authorized officer that such studies and analyses are required, the potential applicant shall be informed of these requirements, and advised that all or part of the data collected must be included as part of the application

1. Information Collection. The potential applicant may go upon the public lands to perform casual acts related to data collection in satisfaction of studies and analyses required by the authorized officer. Casual acts include, but are not limited to: (1) vehicle use on existing roads; (2) sampling; (3) surveys required for siting of structures or other improvements; and (4) any other activities which do not unduly disturb surface resources.

2. Need for Separate Authorization. Prior to data collection, the authorized officer shall discuss with the potential applicant the methods to be used in conducting the studies and determine if such methods are casual in nature. If the authorized officer determines that appreciable impacts may occur as a result of data collection, the potential applicant shall be advised that a land use authorization is required under the provisions of 43 CFR 2920 or other applicable authority, and proceed accordingly.

E. Preapplication Review of BLM Land Use Records. Prior to submittal of an application, the applicant should meet with the authorized officer to review current master title plats, land use planning documents, and other BLM records to determine if any existing land use or designation would conflict with the proposed action. Existing uses would include mining claims of record, rights-of-way, withdrawals, range projects, wilderness areas, significant cultural or historical sites, etc. If an existing land use is present, the potential applicant should be consulted to determine if it would interfere with the proposal. Substantial conflicts may result in consideration of alternative sites. If mining claims are present, the authorized officer may suggest that the potential applicant enter into negotiations with the claimant(s) for relinquishment of the mining claims. If negotiations are successful, the relinquishment should be held in abeyance and accepted on the date the lease or conveyance is issued.

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Chapter II

Chapter II. Land Classification. To be leased or conveyed under the R&PP Act, the lands involved must first be classified and opened for such purpose. The R&PP Act is the authority for classifications in Alaska while land classifications in the lower 48 are accomplished under the authority of Section 7 of the Taylor Grazing Act (43 U.S.C. 315f). Classification rules and procedures are found in 43 CFR 2400 and BLM Manual 2400. For R&PP's only, the public notification requirements for classification are incorporated into the Notice of Realty Action (see Appendix 2 for classification/NORA procedures). The classification is a separate legal process from case processing and involves separate administrative appeals procedures (see Appendix 4 for background and NORA wording).

A. Land Suitability Determination. To be classified for lease or conveyance under the Act, the proposed use must be in conformance with land use planning and the lands must be determined suitable for the proposed use. To be determined suitable, the following must be met:

1. Any criteria for R&PP use established in the land use plan.
2. Criteria for land classifications set forth in 43 CFR 2400.
3. Specific criteria established under the regulations contained in 43 CFR 2740 and/or 2912.

B. Other Agency Jurisdiction. Lands that are subject to disposition under the Act and which are under which are under the jurisdiction of another Federal agency shall not be classified suitable for lease or conveyance without that agency's approval. The Act is not applicable to lands administered by the U.S. Forest Service, National Park Service, or the U.S. Fish and Wildlife Service. When interest is expressed in land administered by another Federal Agency, the agency shall be contacted by letter and briefed as to the proposed project and the requirements of the Act. Every effort shall be made to include the agency in all administrative procedures in processing the application. No classification action or case processing shall be initiated until approval from the other agency has been obtained in writing. BLM Manual 2740.12 provides additional information and guidance for other agency lands.

C. Notice of Realty Action. The Notice of Realty Action (NORA) required to be published in the Federal Register in accordance with 43 CFR 2741.5(h)(1) may serve a dual purpose. It may serve only as a notification of the Authorized Officer's land suitability determination and opportunity for public comment and, if the lands are determined suitable for lease or conveyance, establishes the segregative effect on the lands and constitutes the classification decision which may become effective no sooner than 60 days from the date of publication. In addition, if the lands are determined suitable for R&PP use, the NORA may also be used for a decision to issue the lease or patent. If the NORA is used for both actions, public comments must be requested on both actions in the proper format. Appendix 2 outlines the procedures for completing the land public comments in the NORA publication. A NORA publication must be prepared in accordance with the requirements outlined in the Document Drafting Handbook (1991 edition) published by the Office of the Federal Register, or other specific guidance. A copy of the NORA should be provided to all existing users of the land (grazing permit and lease holders, right-of-way holders, FLPMA 302 permits, etc.).

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D. Segregation. Segregation of the land shall become effective upon the date of publication of the NORA in the Federal Register. The segregation shall automatically terminate: (1) 18 months from the effective date of a Bureau-motion classification if no application has been filed on the lands so classified (see D.1 below); or (2) upon publication in the Federal Register of an opening order; or (3) upon issuance of a patent, whichever occurs first.

1. Bureau-Motion Classification. The authorized officer may, on their own motion as a result of the land use planning process described in 43 CFR 1600, determine that public lands are suitable for lease or conveyance under the Act 43 CFR 2741.5(f). Publication of a NORA is required to effect a Bureau-motion classification. If an application is filed within the 18-month period following the effective date of the classification, the segregative effect does not automatically terminate at the end of 18 months regardless of when and whether the application is denied, voluntarily relinquished, or approved for issuance of a lease.

2. Effect of Classification and Segregation. Where the lands are classified as suitable for lease or conveyance as a result of the filing of an application, but the application is not allowed, the classification and segregation remain on the lands until terminated as set for in II.D.5.

3. Effect of Lease. Issuance of a lease or lease with option to purchase does not terminate the classification and segregative effect established by publication of the NORA. The lands remain segregated to the extent specified in the NORA.

4. Effect of Patent. Although issuance of a patent terminates the segregative effect established by publication of the NORA, lands conveyed under the R&PP Act are not subject to the operation of the mining laws pending the issuance of such regulations as the Secretary of the Interior may prescribe. Lands classified and segregated but not included in the patent remain segregated until terminated as per II D. 5.

5. Termination. Where an opening order is required to terminate the segregative effect of a classification, and the authorized officer determines that the classification is no longer justified, the order shall be prepared in accordance with the requirements outlined in the Document Drafting Handbook published by the Office of the Federal Register, or other specific guidance and published in the Federal Register.

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Chapter III

Chapter III. Applications for Land.

A. Case Processing. R&PP applications for lease or conveyance are processed in the following manner. The processing steps outlined in this section are based on the District Manager having the delegated decision-making authority for all R&PP actions, except patent issuance. Some States have redelegated decision-making authority for certain R&PP actions to the Area Manager and, as such, the Responsible Office/Official assigned each step will differ accordingly.

| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
|------------------------------------|-------------|--|
| District or Area Manager | 1. | Immediately upon receipt in the District determine if the proposal is in conformance with land use planning (see 43 CFR 1610.5-3(a) or 1610.8 (a) (3). (Note: If the proposal is in conformance with the criteria in the land use plan, it is considered suitable for classification. |
| | 1a. | If in conformance, proceed to step 2. |
| | 1b. | If the proposal is not in conformance, or if conformance is unclear (requires interpretation), and the proposal warrants further consideration, prepares an amendment in accordance with 43 CFR 1610.5-5 or 1610.8 (a) (3) (ii). |
| | 1c. | If the proposal is not in conformance, and does not warrant further consideration, return application with letter of explanation. This is not an appealable action (see Illustration 38). |
| | 2. | Application is date and time-stamped, serialized, and assembled in a case folder. Filing fees accompanying the application are placed under accounting control (see Manual Section 1372; Account 142419.1), and the case under docket control (see Manual Section 1274). Also, the case shall be immediately entered into the Case Recordation system, and all subsequent major actions on the case shall be entered into the computer record using, as a minimum, mandatory action codes. |
| | 3. | After initial recording review land status and determine whether lands are subject to application (43 CFR 2741.1). If the lands are not subject to application, seek voluntary withdrawal of the application, failing in which, issue a decision rejecting the application with right of appeal under 43 CFR Part 4 (see Illustration 1.). |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
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| | 4. | Review application to determine if the filing is regular on its face and completely meets all requirements. A complete application must include: |
| | 4a. | Form 2740-1 properly completed (see Illustration 2). |
| | 4b. | \$100 nonrefundable filing fee. |
| | 4c. | Adequate legal description. If the application includes unsurveyed lands, a determination must be made as to whether the metes and bounds description closes, whether it is tied to a monument or other point of reference which will permit identification of the lands on the ground, and, where feasible, a description of the land on an "if and when surveyed" basis. Except for islands conveyed under Section 211(a) of FLPMA (43 CFR 2741.7(c)), unsurveyed lands may be leased but not conveyed until such time as the lands have been officially surveyed under the public land survey system of the United States. |
| | 4d. | Accurate acreage figures. If the application requests immediate purchase of the lands, and such is contemplated (see Manual Section 2740.06A), a determination must be made that conveyance is within acreage limitations set forth in 43 CFR 2741.7. Acreage limitations do not apply to leases or to those conveyances pursuant to FLPMA, Section 211(a) and (b) (43 CFR 2742.4(c)). |
| | 4e | If applicant is a governmental entity, the application must include a copy of the authority to hold or acquire land for the specified proposed use (e.g., copy or citation of appropriate State law); a copy of the authority for filing the application (e.g., copy of a resolution by the commissioners or governing board); evidence of signing officer's authority to execute the application (e.g., copy of a resolution to this effect); and a copy of the authority and approved funding to construct the proposed project. |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
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| | 4f. | If applicant is a nonprofit entity, the application must include a certified copy of Articles of Incorporation or Association showing authority to hold or acquire land for the specified proposed use; evidence that the entity is nonprofit and registered to do business in the State (e.g., certificate from the State and/or an IRS tax-exempt number); and evidence of signing officer's authority to execute the application (e.g., copy of resolution). |
| | 4g. | <p>Statement in three copies (43 CFR 2741.4) (b) containing:</p> <p>(1) A plan of development which includes, as a minimum, a conceptual drawing showing planned land use and facility layout (location of all structures) <u>and</u> a narrative fully describing the proposed use of the lands, including need for the project, practicality and feasibility of the site meeting that need, physical suitability of the site for the proposed use, timetable for development, financial capability and resources, and disposition of any revenues (see Appendix 1).</p> <p>(2) A plan of management (narrative) which, as a minimum, details how the project will be operated once completed or in operation (see Appendix 1).</p> |
| | 5. | <p>5a. If the application is regular on its face, proceed to step 6.</p> <p>5b. If the review reveals defects in the application, notify the applicant in writing, requesting deficiencies be corrected within a specified period of time commensurate with the type of information requested (see Illustration 3). If applicant does not correct the defects, reject the application with right of appeal under 43 CFR Part 4 (see Illustration 4).</p> |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
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| | 6. | Conducts preliminary review of the application to determine if: (1) the application is for an established or definitely proposed project, the development and management plans are adequate and lands are not excess to project needs; (2) the land is not of national significance; (3) land use planning and zoning regulations have been adopted by the appropriate State or local authority if the proposal is over 460 acres; and (4) the proposal is consistent with existing land classifications or previous land suitability determinations, and Federal, State and local laws and programs. If the review reveals conflicts that cannot be resolved or corrected, document finding in the environmental assessment and proceed to Step 13. |
| | 7. | If lands are under the jurisdiction of another Federal agency and are subject to appropriation under the R&PP Act (see Manual Section 2740.12), requests report from that agency which must contain statements as to whether the agency concurs with the allowance of the application and, if so, any special terms and conditions it wishes to have included in the lease or patent. If the agency does not concur, document findings and proceed to Step 13. |
| | 8. | If the BLM mining claim records reveal the existence of mining claims on the public lands, consistent with the policy set forth in 43 CFR 2740.0-6(f), consider: |
| | 8a. | Seeking voluntary relinquishment of the application by the applicant.. |
| | 8b. | Having the applicant seek alternative sites for the proposed use that are free of mining claims. |
| | 8c. | Suggesting the applicant initiate preliminary negotiations with the mining claimant(s) for relinquishment of the mining claims. If successful, relinquishment should be timed such that it coincides with lease/patent issuance and/or segregation of the lands. |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
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| | 8d. | Denying the application if it is clear that the classification would interfere with the rights of the mining claimant or the proposed use would severely impacted by mining activities. |
| | 9. | If no unresolvable conflicts exist as a result of actions taken in Steps 1, 6, 7, and 8, conducts field examination of the lands and obtains: |
| | 9a. | Mineral report concerning the land's potential for leasable, locatable and salable minerals (see Manual Section 3060). |
| | 9b. | For FLPMA Section 211 conveyances, written notification from the relevant State, local, or area-wide planning agency that the proposal is consistent with applicable State and local land use plans and programs. |
| | 9c. | Reports from other agencies as appropriate. |
| | | (1) If application is for historic-monument purposes, request comments from the State Historic Preservation Office. Sites formally designated as national historic landmarks shall not be conveyed under the Act. |
| | | (2) If application is for a correctional facility (jail, prison, prison honor camp, etc.), request comments from appropriate State or Federal regulatory body, e.g., the U.S. Department of Justice, Bureau of Prisons. |
| | 10. | Prepares environmental assessment. |
| | 11. | For proposals over 640 acres, conducts at least one public meeting to solicit public comments and to allow participation by affected citizens (see I.D). |
| | 12. | Determines from the environmental assessment and public input if the proposed lease or conveyance is in the public interest. |

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| | 13. | If the proposal is determined not to be in the public interest, issue a decision denying the application (see Illustration 39). |
| | 14. | If the proposal is in the public interest, publishes NORA in accordance with 43 CFR 2741.5(h) (see Illustration 5). Refer to 43 CFR 2742.4(b) for FLPMA Section 211 conveyance notification requirements. |
| | 14a. | The NORA <u>musts</u> specify that the public lands are classified as suitable for lease or conveyance under the Act, as required by law (see II.). |
| | 14b. | The NORA must allow for comments to both the classification decision and the decision to issue the lease and/or patent (See Appendix 4.) All comments should be sent to the issuing office. |
| | 14c. | Appendix 2 outlines the procedures for completing the land classification process. |
| | 15. | Upon the effective date of the classification, forwards a copy of the NORA to the State Office to be noted to the records. |
| | 16. | Prepares request for appraisal (Form 9300-8), where required (see V. for exceptions). Initiates appropriate action to resolve any remaining conflicts in the application. If the application is for purchase, and immediate issuance of patent is contemplated (see Manual Section 2740.06A), send case file to State Office for patent issuance and proceed to Sept 21. |
| | 17. | Evaluate need for a bond. If determined necessary, bond must be in place before lease is issued or patent is signed. |
| | 18. | If application is for a lease (see Illustration 6), issues a decision offering the applicant a lease (see Illustration 7). If application is for purchase, but immediate conveyance is not justified in accordance with policy, issues a decision offering a lease with option to purchase and denying the request for immediate conveyance (see Illustration 8). In either case, the decision is subject to right of appeal under 43 CFR Part 4. |

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| | 19. | Upon receipt of signed lease and advance rental payment (if applicable), executes lease in the name of the United States, deposits rental fees into Account 14X3220, and forwards accounting data to the Denver Service Center for automated billing purposes. |
| District or Area Manager | 20. | Sends copy of executed lease to State Office for notation to the land office records, and retains case file in records storage. Updates ALMRS record. |
| | 21. | Makes a complete copy of the file (called a patent compliance file) and then sends original case file to the State Office with recommendation for issuance of patent. |
| State Director | 22. | If request for immediate conveyance is denied, returns case file to District Office for further processing. If request is approved, checks patentee record (see Illustration 9) to determine whether the applicant has received the statutory acreage limit under the Act during the current calendar year. |
| | 22a. | If the applicant has received the limit under the Act during the current calendar year, notifies applicant in writing that the application is being suspended until the beginning of the next calendar year. However, if the applicant desires to lease the lands in the interim, returns case file to District Office for further processing in accordance with Steps 17-19. |
| | 22b. | If the applicant has received less than the statutory limit during the year, but issuance of patent would exceed the acreage limitations, notifies the applicant in writing asking the applicant if it wishes to divide the application into two parts: one part (lease) to be processed in accordance with Steps 17-19, the remainder (patent) to be processed in accordance with Steps 20-23. At the end of the current calendar year, lifts suspension and resumes processing of the lease portion of the case in accordance with Steps 20-23. |

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| | 22c. | If the applicant does not wish to split the application, but desires to lease the lands in the interim, returns case file to the District Office for processing of the entire application in accordance with Steps 17-19. |
| | 23. | Issues decision offering issuance of patent (see Illustration 10), listing all reservations and conditions to be included in the patent, and calling for payment of purchase money if required. A lump sum payment shall ordinarily be required. This decision may be used in lieu of the final certificate. |
| | 23a. | If large sums are involved, installment payments may be allowed under the following conditions: <ul style="list-style-type: none"> (1) Final certificate (or patent) shall be withheld until all payments have been made. (2) An interim lease with option to purchase is in effect during the installment period; rental payments shall be assessed during the lease period, which are separate from installment payments, and are not applicable towards the purchase price. (3) Applicant agrees to pay interest on the purchase price at a rate based upon analysis of current interest rates in the marketplace. |
| | 23b. | Failure to pay all installments on time shall result in prompt rejection of the conveyance proposal. All payments previously made are to be retained by the United States. |
| | 24. | Upon receipt of purchase money, if required, deposits monies in Account 14X5881 and issues patent subject to any appropriate reservations or terms and conditions recommended by the District Office and other mandatory provisions (see Handbook H-1860-1). |

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| | 25. | Prepares (updates) patentee record (see Illustration 8), updates ALMRS record, and notifies District Office of patent issuance. If conveyance is for historic-monument purposes, notifies State Historic Preservation Office of action. |
| | 26. | Makes copy of patent and any other correspondence generated at the State Office and sends to the District Office for inclusion in the patent compliance file. Disposition of the original file and the compliance file is in accordance with BLM Manual 1272, Schedule 4, Item 7c. |

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Chapter IV

Chapter IV. Minerals, Forest Products, and Grazing Permit or Lease Cancellations.

A. Minerals. A mineral resource potential report (see Manual Section 3060), including potential for the development of leasable, locatable and salable minerals, must be included in the case file (only one report is necessary). Should lands be classified suitable for conveyance, all minerals are reserved to the United States, together with the right to mine and remove same under applicable laws and regulations as prescribed by the Secretary of Interior. If “known mineral values” exist, the compatibility of their possible development with the proposed land use shall be analyzed.

B. Forest Products. Forest products on lands classified for lease or conveyance should be disposed of at market value with the land. If disposal of forest products with the land is desirable, and where removal of forest products does not interfere with the purposes for which the land is being sought, the authorized officer may dispose of the forest products in accordance with forest product disposal practices. the following alternatives may be considered if disposal of forest products with the land is undesirable.

1. Long-Term Leases. Prepare the lease to show reservation of the merchantable forest products to the United States. Enter into a Memorandum of Agreement with the lessee to selectively harvest the merchantable forest products in consonance with the lessee’s plan of development and management. If appropriate, the Agreement should address aspects of forest product resource management such as disease control and fire suppression. Rental charges shall not include merchantable forest product values.

2. Lease with Option to Purchase. Proceed as in IV.B.1 above, except that all merchantable forest products should be harvested prior to exercise of purchase option and issuance of patent. Rental charges and purchase price shall not include merchantable forest product values.

3. Patents. For requests for immediate conveyance approved by the State Director, all merchantable forest products should be harvested prior to issuance of patent. Purchase price shall not include merchantable forest product values.

4. Special Situations. In O&C Districts in Oregon, timber values may place the value of the land beyond the financial capability of the applicant. When this situation occurs, prepare the usual reports and offer specific recommendations to the District Manager for handling the case.

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Chapter IV

C. Grazing Permit or Lease Cancellations.

Section 402 (h) of FLPMA and the regulations contained in 43 CFR 4110 require a 2-year notification prior to canceling a grazing permit or lease, in whole or in part, if the land is to be devoted to another public purpose, including disposal. Should lands be classified as suitable for conveyance or lease under the R&PP Act, the required 2-year notice period must expire before the date on which livestock use is precluded. Grazing permit or lease cancellations, including compensation for range improvements, must conform with 43 CFR 4110.4-2. A 2-year notification is required by relinquishments or waivers may be obtained from the grazing permittee or lessee that would shorten the waiting period before development can commence under a lease (Illustrations 11 and 12). The publication (and distribution) of a NORA shall constitute notice to the grazing permittee or lessee if notice has not been previously given. In the event the grazing permittee or lessee does not wish to waive the grazing rights, and such use shall continue on the lands subsequent to the R&PP authorization, the following language protecting the grazing rights must be included in the lease or patent:

1. Leases. “The lessee agrees that it takes the herein described lands subject to the existing grazing use of _____, holder of grazing authorization No. _____. The rights _____ to graze domestic livestock on the herein described lands according to the conditions and terms of grazing Authorization No. _____ shall cease on _____.”

2. Patents “The patentee agrees that it takes the herein described lands subject to the existing grazing use of _____, holder of grazing authorization No. _____. The rights of _____ to graze domestic livestock on the herein described lands according to the conditions and terms of grazing authorization No. _____ shall cease on _____. The patentee is entitled to receive annual grazing fees from _____ in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the Federal Register.”

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Chapter V

Chapter V. Price. Sale prices and rental charges under the R&PP Act are determined in accordance with 43 U.S.C. 869-1, as well as, the respective regulations in 43 CFR 2741.8 and 2912.1-1(d). Applicant qualifications (i.e., governmental v. nonprofit) and the ultimate land use and user are the determining factors in selecting the pricing program to be applied (see Illustration 13).

A. Leases. Except for leases to governmental entities for recreation purposes, or

where the proposed land use would meet Special Pricing Program provisions, appraisals are required. To determine pricing for a multi-purpose proposal, consider first the primary end use. Then consider collateral uses and whether they would remain in the proposal absent the primary use. Also, consider whether the uses proposed are consistent with the applicant's creating authority. Merchantable forest products are handled in accordance with Chapter IV. Except for recreation purposes, lands will not be leased for less than \$2 per acre per year, with a minimum annual rental payment of \$25 per transaction.

1. Government Entities. Charges are determined on the basis of the land use(s) specified in the applicant's development and management plans. If the use(s) proposed does not qualify under a. or b. below, the rental is computed in accordance with c.

a. Recreation Purposes. Leases shall be made at no cost.

b. Special Pricing Program. For the programs listed in V.B.1.b for government-entity conveyances, and historic-monument purposes, land will be leased at an annual rental of \$2.00 per acre, with a minimum annual payment of \$25 per transaction.

c. Regular Pricing Program. Under this program, lands may be leased at appraisal fair market rental value less 50 percent; except that only a 10 percent discount may be applied if the use is to be limited or restricted to present or past members of a particular group, service, sect, organization, license holder, affiliation, age, or nationality, i.e., not open to all. Uses subject to regular pricing generally are those that are publicly supported and operated, but not essential or customary to government administration and services. Representative uses under this program are those listed in V.B.1.c.

2. Nonprofit Association, Organizations, Foundations and Corporations. This part shall apply to all leases to nonprofit entities. For proposals consistent with an entity's articles of incorporation or creating authority, the rental charge shall be the appraised fair market rental value of the land less 50 percent; except that only a 10 percent discount may be applied if the use is to be limited or restricted to present or past members of an organization, license holder, association, sect, service, affiliation, age, religious, ethnic or fraternal group, i.e., not open to all.

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B. Conveyances. Except for conveyances to governmental entities for recreation and historic-monument purposes, or where the proposed land use would meet Special Pricing Program provisions, appraisals are required. To determine pricing for a multi-purpose proposal, consider first the primary purpose for the conveyance, end use and management control of use. Then consider collateral uses and whether they would remain in the proposal absent the primary use. Also, consider whether the uses proposed are consistent with the applicant's creating authority. Merchantable forest products are handled in accordance with Chapter IV. Partial conveyances resulting from calendar-year acreage limitations will be considered separate transactions. Except for recreation and historic-monument purposes, lands will not be sold for less than \$10 per acre, with a minimum purchase payment of \$50 per transaction.

1. Government Entities. Charges are determined on the basis of the land use(s) specified in the applicant's development and management plans. If the use(s) proposed does not qualify under a. or b. below, the price shall be established in accordance with the provisions of c.

- a. Recreation and Historic-Monument Purposes. Conveyance shall be made at no cost.
- b. Special Pricing Program. This program applies solely to those proposals where the lands are to be government-controlled, used in furtherance of a governmental purpose or function, and shall continue to serve the general public. Representatives of special pricing include:
 - (1) Public schools, colleges and universities, and associated libraries, physical education and sports facilities, vocational training and special education centers, dormitories and dining facilities, etc., as well as research facilities directly developed and operated by and for such institutions.
 - (2) Public health-related facilities such as county and community hospitals, clinics and counseling centers, rescue services, therapeutic facilities, sewage treatment plants, sanitary landfills, transfer stations, and environmental services.
 - (3) State, county and community law enforcement and fire protection stations, as well as, associated training academies, administrative facilities, quarters, lookouts, and equipment storage and maintenance. Includes prisons, courthouses, and detention, jail and correctional facilities.
 - (4) State wildlife projects approved by the U.S. Fish and Wildlife Service to receive funding support under the Pittman-Robertson Act (the Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended; 16 U.S.C. 669-669j) and Dingell-Johnson Act (the Federal Aid in Sport Fish Restoration Act of August 9, 1950; 16 U.S.C. 777-777k), and involving substantial capital improvements such as hatcheries, research facilities, and the purchase of isolated tracts of public land where a compelling need has been shown to complement an existing wildlife program, and provided there is a definitive plan to develop and manage the land.
 - (5) State, county and community administrative service facilities for licensing, social services, storage and maintenance, extension services, and public works.

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c. Regular Pricing Program. Under this program, lands may be conveyed at the current appraised fair market value, less 50 percent; except that only a 10 percent discount may be applied if use is to be limited or restricted to present or past members of a particular group, service, sect, organization, license holder, affiliation, age, or nationality, i.e., not open to all. Uses subject to regular pricing generally are those that are publicly supported and operated, but not essential or customary to government administration and services. They include, but are not limited to: cemeteries, museums, community centers, tourist information facilities, and fairgrounds.

2. Nonprofit Associations, Organizations, Foundations and Corporations. This part shall apply to all conveyances to nonprofit entities. For proposals consistent with the nonprofit entity's articles of incorporation or creating authority, the purchase price shall be the current appraised fair market value of the land, less 50 percent; except that the discount will be only 10 percent if the use is to be limited or restricted to present or past members of an organization, license holder, association, sect, service, affiliation, age, religious, ethnic or fraternal group, i.e., not open to all.

C. Exceptions. The pricing guidelines contained in this section were instituted on February 15, 1993. Accordingly, the guidelines shall apply to all R&PP actions, except for requests for lease renewal or exercise of a purchase option associated with: (1) R&PP leases in effect prior to February 15, 1993, and (2) pending applications for which a NORA had been published prior to February 15, 1993.

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Chapter VI

Chapter VI. Lease Terms and Conditions.

A. Commitments. Applicants must obligate themselves to the following commitments to obtain benefits of the Act:

1. Nondiscrimination. Nondiscrimination as to access or use of the land and facilities based on race, color, sex, national origin, or handicap (43 CFR 17, Subparts A and B) must be guaranteed.

2. Development and Management Plans. Leases must be conditioned on adherence to these plans.

3. Use charges. Lessee may make no more than a reasonable charge for the use of facilities on the land (whether by concession or otherwise) and may charge no more for entrance to or use of the area than is charged at other comparable installations managed by State and local agencies. All charges are subject to review by the authorized officer as part of the compliance check process. If, upon review, the authorized officer determines that use charges being assessed are unreasonable, consult with the Field Solicitor and follow the procedures in VIII.

B. Lease Periods. Terms of leases shall be fixed at the discretion of the authorized officer, but shall not exceed 20 years for nonprofit entities and 25 years for governmental entities. Generally, where the applicant requests purchase of the lands but immediate issuance of patent is not justified, and where the lands have been classified as suitable for lease or conveyance, a short-term lease up to 5 years is offered to assure development of the lands in accordance with the approved plan of development. To determine the term of the lease to be offered, the authorized officer shall consider whether the applicant requests eventual authorized to assure development of the lands in accordance with the approved plan of development. the authorized officer shall consider whether the applicant request eventual purchase of the lands, the proposed use of the lands, the applicant's plans for early utilization of the lands and payment of purchase price within a reasonable period, the appropriation process of governmental entities to obtain development and purchase monies, the potential for typing up lands for long periods without development, the desires of the applicant if a short-term lease is sought, and any other factors pertinent to the case.

C. Terms and Conditions. Leases shall contain terms and conditions required by law and public policy, and which the authorized officer considers necessary for the proper development of the land, and for the protection of Federal property and the public interest.

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Chapter VI

1. Standard Terms and Conditions. Most of the standard terms and conditions applicable to leases are contained in Form 2912-1 (see Illustration 6). Special emphasis should be given to the non-use termination clause contained in Section 4(e) of Form 2912-1. In accordance with 43 CFR 2912-1. In accordance with 43 CFR 2912.1-(c), the authorized officer shall consider the items identified in VI. B. in establishing the appropriate nonuse period applicable to the lease. In addition, the terms and conditions contained in Form 1860-25 (see Illustration 14) shall be included in all leases, substituting the appropriate language (e.g., “lease” for “patent”) to reflect issuance of a lease.

2. Other Provisions. Based on information contained in the application, and needs identified in The Environmental Analysis, additional terms and conditions may need to be incorporated in the lease. These may include, but are not limited to, the following.

a. Leases issued in lieu of immediate conveyance, where the applicant requests purchase in the application, shall contain a provision giving the lessee an option to purchase the lands upon a determination by authorized officer that the lands have been developed in accordance with the approved development and management plans. This provision may be provided for by typing in the following phrase after the words “following-described lands” in the first sentence of Section 1 of Form 2912-1: “together with an option to purchase during the term of the lease upon a showing of substantial compliance with the approved plan of development designated in Section 4(a).

b. If adjustment of rental charges and/or purchase price during the term of the lease, at time of renewal, or at exercise of the purchase option, is deemed appropriate by the authorized officer based on a periodic review of the appraisal, such an adjustment must be specifically provided for as a condition of the lease.

c. Cultural and paleontological resources protection, and pesticide requirements (see Illustration 15).

d. Site restoration and rehabilitation requirements.

e. Site specific requirements for the use, storage, disposal, or production of hazardous materials or hazardous substances as required by Federal and State statutes. Generally, the use, storage, disposal, or production of hazardous materials or substances is not permitted on R&PP leases. However, when these materials are an integral part of a lease operation (i.e., radioactive materials, biologic material, chemicals, etc. at hospitals), stipulations as are necessary to protect human health and the environment and ensure that the materials or substances are used and disposed of in accordance with Federal and State guidelines shall be included in the lease.

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Chapter VI

D. Lease Renewals. The renewal of an existing lease, as provided in Section 1 of Form 2912-1, is discretionary and is subject to adjustment of terms and conditions that the authorized officer deems appropriate at the time of renewal. Requests to exercise a privilege of renewal must be received at least 180 days prior to expiration of the lease (43 CFR 2912.2). Such requests shall be handled in accordance with the appropriate procedures in III.A., except that the original serial number will be assigned to the renewal application. The \$100 nonrefundable filing fee is not required for lease renewal applications. Upon a determination that the lease shall be renewed, and authorized officer has reviewed the terms and conditions of the lease to determine their adequacy, a decision shall be issued offering a lease renewal (see Illustration 16). The lease (including all terms and conditions) will be sent to the lessee for review and signature.

E. Exercise of Purchase Option. Requests to exercise a purchase option shall be handled in accordance with II.A., Steps 19-24, upon a determination by the authorized officer that the lessee has either (1) successfully completed the project in accordance with the approved plan of development and management, or (2) substantially developed the lands in accordance with the approved plan of development and management to indicate, in the opinion of the authorized officer, that the project will be completed in the foreseeable future. The patentee record (either manual or automated) shall be checked prior to taking any action to assure that issuance of patent does not result in the lessee exceeding its statutory acreage limit. If adjustment of purchase price based on review of the appraisal (if required) is provided for, the lessee shall be notified in writing. If the request to exercise the purchase option is denied, the authorized officer shall issue a decision to that effect with the right of appeal under 43 CFR Part 4 (see Illustration 17).

F. Lease Relinquishment/Termination. Upon voluntary relinquishment of a lease or lease termination due to noncompliance, the authorized officer shall ensure that all lease terms and conditions pertaining to site restoration and/or rehabilitation are complied with prior to issuing such a decision (see Illustration 18) and relieving the lessee of all obligations stemming from the lease. The return of any rental payments, if applicable, shall be in accordance with 43 CFR 2912.1-1(d). Unless there is continued interest in the use of the lands under the R&PP Act, the authorized officer shall publish an opening order in the Federal Register removing the classification upon relinquishment or termination of the lease, and the order shall be noted on the official land records.

G. Landfill Lease Renewals. Leases issued for sanitary landfills may be renewed in no more than 1 year increments, and then only if the lessee is making a diligent effort to close or patent the existing site (see X.C.2).

H. Assignments or Change of Use. Leases may be transferred to another party or the use may be changed only with the consent of the authorized officer. Transferees shall have all the qualifications of applicants under the act.

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Chapter VII

Chapter VII. Patent Provisions.

A. Commitments. Refer to VI.A.

B. Provisions Applicable to All Patents. All patents issued under the Act must contain a reversionary clause (except patents as outlined in Chapter X), a reservation of all mineral deposits, and provisions regarding nondiscrimination (see Illustration 41 for nondiscrimination language to be used in patents for landfills or other uses which may result in the disposal, placement, or release of a hazardous substance). Examples of these provisions can be found in BLM Handbook H-1862-1, Chapter 1, Illustration 13.

C. 1988 Amendment Act Patents. New applications that may be subject to “disposal, placement, or release of any hazardous substance: should be processed under the guidance in 43 CFR 2743.2 and patented with a limited reverter provision. Facilities that were leased prior to November 9, 1988, and are subject to the same criteria should be patented with no reverter following the guidance in 43 CFR 2743.3. The processing steps in H-2740-1, Chapter X, should be followed when working on any proposal that is subject to the 1988 R&PP Amendment Act and meets the disposal, placement, release of any hazardous substance criteria. The R&PP facilities going to patent which were leased after November 9, 1988, must contain standard reverter language.

D. Other Provisions. Depending upon the location of the land for which patent will issue, the existence of valid existing rights, or other circumstances involving the case, other reservations, terms, and conditions may be required to be included in the patent. (BLM Handbook H-1860-1 shall be consulted to determine the provisions other than those in Chapter VII.B. that must be incorporated in the patent.)

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Chapter VIII

Chapter VIII. Compliance. To determine whether lessee or patentee has complied with the terms of the lease or patent, the land must be periodically examined.

A. Noncompliance Leading to Lease Termination or Reversion of Title. In order to apply the law consistently, each lease and patent must periodically receive a thorough examination as to terms, plan of development, timetable for construction, plan of management, etc. Most R&PP leases and patents are in noncompliance if the grantee has transferred or is attempting to transfer title to or control over the lands to another, or if the lands have been devoted to a use other than for which the lands were leased or conveyed. However, there are some special circumstances that apply separately to either leases or patents.

1. Leases. Unlike patents, leases may be terminated for nonuse, i.e., failure to use the leased lands for the purposes specified in the lease. The period of nonuse must be specified in the lease, and shall not be less than 2 years nor more than 5 years.

2. Patents. Due to the fact that patents for recreation and other public purposes have been made under a multiplicity of special acts, successive acts amending the original 1926 R&PP Act, and differing policy interpretations, care must be taken to determine the terms and conditions under which title may revert. In considering whether a reverter may be exercised, examine the date of the patent and the legislative authority under which it was issued to determine whether there is an existing reverter which may be exercised, or whether the reverter expired by operation of law. If there is a reverter to be exercised, it may be exercised only for violation of the provisions of the specific law under which the patent was issued. Reversion (divestiture of title) is discussed in depth in *Sky Pilots of Alaska, Inc.*, 40 IBLA 355, May 14, 1979. Additionally, mere nonuse of lands patented under the R&PP Act is not equivalent to a devotion of the land to an unauthorized use, and, of itself, will not cause the title to revert to the United States (County of Clark v. Kleppe, No. CIV LV 77-13, RDF (D. Nev. Jan. 20, 1978)).

B. Noncompliance Involving Discrimination. Such cases should be referred to the Regional Solicitor for a determination of legal sufficiency of findings and an opinion as to the specific course of action to be followed.

C. Frequency. Compliance checks should be scheduled, at a minimum, at intervals of 5 years after a lease or patent is issued. Additional checks may be required where circumstances dictate, e.g., where the plan of development shows completion or substantial development of the proposed project in less than 5 years, the lease specifies a nonuse period shorter than 5 years, or upon receipt of a complaint alleging lands are being used for a purpose not authorized in the lease or patent. Existing leases authorizing ongoing sanitary landfill operations shall be inspected at least once each quarter. Compliance checks should be scheduled by using ALMRS action code 853, Compliance Due Date.

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Chapter VIII

D. Report. A report is prepared upon completion of each compliance check and placed in the official case file folder.

1. Content. The report must include sufficient documentation to support the recommendation(s) made. Documentation may include photographs, written testimony of witnesses, copies of legal documents, maps or plats, and pricing rationale. Document the compliance check in ALMRS using action code 950, Compliance Approved.

2. Action Recommendations. A statement of compliance or noncompliance with the terms of the grant must be made and further appropriate action recommended.

a. Grant in Compliance. Lease or patent terms have been complied with and no further action is required until next compliance check.

b. Grant Not in Compliance. If lease or patent terms have not been complied with, proceed as follows. Process noncompliance with the discrimination provision in accordance VIII.B.

(1) Leases. The authorized officer shall make all reasonable efforts to have the lessee comply with the terms and conditions of the lease. Depending on the situation, this may involve informal contacts with the lessee, letters, meetings, and/or issuance of a show-cause notice. If the lessee agrees to comply, the authorized officer shall obtain a commitment in writing from the lessee to a definitive timetable for compliance. If such efforts fail to achieve compliance, action shall be undertaken to terminate the lease (see VIII.E.1, Step 5).

(2) Patents.

(a) If clear and convincing evidence of violation of grant terms and conditions is documented in the compliance report, i.e., a “prima facie case,” title to the lands must be considered to have reverted to the United States. Examples of prima facie violations are: (1) transfer of title or control over the lands to another entity without Bureau concurrence, and (2) obvious use of lands for purposes other than those specified in the grant, such as a patent for a park facility that is developed for administrative service facilities.

(b) If violation of grant terms and conditions is indicated in the compliance report, but is not prima facie in nature, title should not be considered to have reverted in the United States without affording the grantee an opportunity to explain the apparent violation.

(c) In either instance, confer with the Regional Solicitor as to legal sufficiency of case, as a prerequisite to issuance of a show-cause notice or decision of divestiture.

E. Compliance Check Procedures. Depending on whether a lease or patent is involved, a compliance check is conducted as follows to determine whether the terms and conditions of the grant have been met.

Responsible

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Chapter VIII

| <u>Office/Official</u> | <u>Step</u> | <u>Action</u> |
|------------------------|-------------|--|
| District Manager | 1. | Forwards official case file containing copy of lease and other pertinent data, with request for compliance check to the Area Manager at least 60 days prior to date of compliance check. |
| Area Manager | 2. | Checks land for compliance with lease terms and conditions. For landfills, determines compliance with Federal and State regulations pertaining to landfill management. Prepares report with appropriate recommendations. Appendix 5, Landfill Inspection Report, should be completed for all leased landfill compliance checks. |
| | 3. | If no violation exists, forwards completed compliance report with appropriate recommendations, and next call-up date for compliance, to District Manager for further action. Updates ALMRS record. |
| | 4. | If violation exists, takes all reasonable steps to obtain compliance by the lessee. |
| | 4a. | If the lessee agrees to comply, obtains a written commitment to a definitive timetable for compliance, and forwards completed compliance report with appropriate recommendations, and call-up date to check for compliance, to District Manager for further action. |
| | 4b. | If the lessee fails to comply, forwards completed compliance report with appropriate recommendations for issuance of a show-cause notice for District Manager for further action. |
| | 5. | Prepares show-cause notice (see Illustration 19) as recommended, allowing at least 30 days for presentation of evidence as to why the lease should not be canceled, and providing opportunity for a hearing before an Administrative Law Judge in accordance with 43 CFR Part 4.420 (a copy of the notice shall be forwarded to the Regional Solicitor). Prior to issuance, the case file must include complete reports of preliminary contacts made with lessee concerning attempts to secure adequate data to support a show-cause notice. |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
|--|-------------|---|
| District Manager | 6. | If lessee voluntarily relinquishes the lease, acknowledges the relinquishment in writing (see Illustration 18), notifies the State Office to note the records accordingly, closes the lease portion of the case file, and proceed to Step 11. |
| | 7. | If no answer to the notice is timely filed, prepares and issues a decision terminating the lease with right of appeal in accordance with 43 CFR Part 4 (see Illustration 20), and proceed to Step 9 or 10. |
| | 8. | If an answer is timely filed to the show-cause notice and: <ul style="list-style-type: none"> 8a. The lessee submits satisfactory evidence as to why the lease should not be terminated, obtains written commitment from the lessee to achieve compliance, and schedules call-up date to check for compliance; or 8b. The lessee submits unsatisfactory evidence to support retention of the lease, prepares and issues a decision terminating the lease with right of appeal; or 8c. The lessee requests a hearing before an Administrative Law Judge, proceeds in accordance with 43 CFR Part 4.420. |
| | 9. | When no appeal to a decision terminating the lease is timely filed, closes the lease portion of the case file and proceed to Step 11. |
| | 10. | When an appeal to a decision terminating the lease is timely filed, transmits case file to State Office for forwarding to IBLA for decision, and suspends further action. |
| | 11. | Requests Area Manager's report as to whether classification of the land is still proper. If the determination is made that the classification is no longer appropriate, initiates action to terminate classification and closes the remaining portion of the case file. |

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Chapter IX

2. Patents.

| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
|--|-------------|--|
| District Manager | 1. | Forwards patent compliance case file containing copy of patent and other pertinent data, with request for compliance check to the Area Manager at least 60 days prior to date of compliance check. |
| Area Manager | 2. | Checks land for compliance with patent terms and conditions. Prepares report with appropriate recommendations. |
| | 3. | Forwards completed compliance report with appropriate recommendations to District Manager for further action. |
| District Manager | 4. | Reviews recommendations by Area Manager and takes appropriate action. |
| | 5. | If no violation exists, retains file in records storage, and notes next call-up date to check for compliance. Updates ALMRS record. |
| | 6. | If violation exists, prepares report as to the nature of the violation, e.g., prima facie or non-prima facie, and recommends next course of action. Forwards case file to Regional Solicitor for review of legal sufficiency and opinion as to appropriate action. The case file must include complete documentation to support recommended action. Proceed to Step 7 or 10. |
| | 7. | If the Regional Solicitor determines that a non-prima facie violation exists and directs issuance of a show-cause notice, prepares and issues the notice (see Illustration 19), allowing at least 30 days for presentation of evidence as to why title should not revert, and providing an opportunity for a hearing before an Administrative Law Judge in accordance with 43 CFR Part 4.420. A copy of the notice shall be forwarded to the Regional Solicitor. |
| | 7a. | If patentee agrees to voluntary relinquishment, a Quitclaim Deed of Reconveyance (see Illustration 21), and Authorizing Resolution (see Illustration 22) are used to document the relinquishment. Patentee must also furnish title evidence (see VIII.F) and return the original patent. |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
|--|-------------|--|
| | 7b. | Upon receipt of documents in Step 7a, transmits file to Regional Solicitor for title opinion. |
| | 7c. | If title is acceptable, a decision accepting title shall be issued (Illustration 23), the title recorded with the County Recorder, notification made to the County Recorder, notification made to County Assessor that reversion has occurred (see Illustration 24), and proceed to Step 13. |
| → | 8. | If no answer to the notice is timely filed, notifies Regional Solicitor. Sends file to the State Director who prepares and issues a decision of divestiture with right of appeal under 43 CFR Part 4 (see Illustration 25), and proceed to Step 11 or 12. |
| State Director | 9. | If an answer is timely filed to the show-cause notice and: <ul style="list-style-type: none"> 9a. The patentee submits satisfactory evidence as to why title should not revert, obtains written commitment from the patentee to achieve compliance, and schedules next call-up date to check for compliance; or 9b. The patentee submits unsatisfactory evidence to support retention of title, notifies Regional Solicitor, and prepares and issues a decision of divestiture with right of appeal under 43 CFR Part 4, and proceed to Step 11 or 12; or 9c. The patentee requests a hearing before an Administrative Law Judge, proceeds in accordance with 43 CFR Par 4.420. |
| | 10. | If the Regional Solicitor determines that a prima facie violation exists and title is considered to have reverted, and directs issuance of a decision of divestiture, prepares and issues the decision allowing 30 days to respond with right of appeal under 43 CFR Part 4. A copy of the decision shall be forwarded to the Regional Solicitor. <ul style="list-style-type: none"> 10a. If patentee agrees to voluntary relinquishment, proceed in accordance with Steps 7a through c. |

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| <u>Responsible Office/Official</u> | <u>Step</u> | <u>Action</u> |
|--|-------------|--|
| | 11. | If no appeal to a decision of divestiture is timely filed, notifies Regional Solicitor, and notifies appropriate county officials by recording a copy of the decision of divestiture, sending a carbon copy to the former patentee. Updates land records, patentee record, and ALMRS record. |
| | 12. | If an appeal to a decision of divestiture is timely filed, transmits file to IBLA for decision suspends further action. |
| | 13. | Publishes order opening the lands for which title has reverted in the <u>Federal Register</u> (see VIII.G.1 and 2 for possible exceptions). |

F. Title Evidence. In divestiture actions where the patentee agrees to voluntary relinquishment involving a Quitclaim Deed of Reconveyance, the patentee shall provide the following title evidence:

1. Governmental Entities and Federal Instrumentalities.

a. A certification by the appropriate government officer that the property has not been sold or otherwise encumbered and a certification under the official seal of the recorder of deeds or other appropriate officer that no instrument has been recorded or filed that would encumber title to the property, or

b. A title report or title insurance policy showing that no instrument has been recorded or filed that conveyed or would encumber title to the property.

2. Nonprofit Association, Organizations, Foundations and Corporations.

a. A certification as that described in VIII.F.1.b.

G. Consideration of Use and Improvements.

1. Removal of Improvements. When improvements or site conditions which are injurious to public land management, dangerous to public health and safety, etc., will exist on the lands following divestiture or lease termination, the patentee or lessee shall be notified by decision that such shall be removed properly disposed of, or corrected, by a certain date. The decision shall also contain a clear statement that any improvements not removed by that date shall become the property of the United States, and may thereafter be removed and disposed of by the United States, along with site condition corrective measures, and the costs of such charged to the patentee or lessee without liability of any kind. An order opening the land should be published only after the authorized officer has determined that site conditions are acceptable for continued BLM management.

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2. Other Alternatives. When use has been terminated but improvements make continued BLM management infeasible, consider off-site disposal of the improvements, or declaration of the lands to GSA as property unsuitable for return to the public domain.

H. Patentee Record. A record of each patentee's acreage holdings under the R&PP Act must be maintained in the State Office on Form 2740-2, R&PP Grants (see Illustration 9), or as an automated record. This record must be maintained in a file by patentee in alphabetical order.

1. Use of Record. The record of patentees is used to keep track of each patentee's calendar-year acreage acquisitions.

I. Status of Lands Upon Reversion. Lands which revert by operation of law, and are determined suitable for continued management by BLM, regain their former public land status (in accordance with 43 CFR 2091, the classification and segregation on the lands terminated upon issuance of patent). An opening order must be published in the Federal Register making the lands available to the operation of the public land laws.

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Chapter IX

Chapter IX. Applications for Transfer or Change of Use.

A. Transfer of Title or Assignment of Lease. A request to transfer title or assign a lease must be filed by the patentee/lessee of record, which shall include a copy of a resolution authorizing the filing of the request, and be accompanied by an application from the proposed transferee/assignee meeting the requirements of 43 CFR 2741.4.

B. Change of Use. An application to change use of the land or add additional uses must be filed by the patentee/lessee of record and meet the requirements of 43 CFR 2741.4.

C. Processing. An application to transfer title, assign a lease, or change or add use, is processed in the same manner, and to the extent necessary, as prescribed for original applications (see III.) to determine whether the proposed patentee/lessee is a legal successor to the existing patent or lease, and/or whether the change in use should be allowed. The \$100 nonrefundable filing fee is required for applications for transfer of title and change of use, but not for applications to assign a lease. The following exceptions apply during processing.

1. Serial Number. The original serial number is retained,. Documents related to patents will be placed in the patent compliance file.
2. Acreage Limitations. Acreage limitations do not apply to applications involving only an assignment of a lease or a change of use.
3. Value Adjustment. The authorized officer arranges for appraisal of the lands, if required. The requirement for an appraisal will be determined on the basis of transferee/assignee qualifications, proposed use of the land, and/or whether an appraisal reflecting current land values has already been completed. If required, the value of the lands is established using standard appraisal techniques. Upon completion of the appraisal, apply the applicable percent discount, and:
 - a. For leases, where only a change of use is involved and where the rental is lowered, the lessee will be credited with, but not reimbursed for, any excess advance payment. Where an assignment of a lease is involved, the new lessee will be charged the full annual rental value, and the prior lessee will, if applicable, be reimbursed in accordance with 43 CFR 2912.1-1(d).
 - b. For patents, subtract the original purchase price of the land from its current fair market value in order to determine any payment due to the United States.

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4. Call for Payment. The District Office calls for any payment due for actions involving leases, and adjusts the rental in the automated billing system. For actions pertaining to patents, the District Office request any payment due prior to transmitting the case file to the State Office. The State Office continues processing in accordance with IX.D.

D. Conveyancing Documents.

1. Approval of Transfer or Change of Use. An Approval of Transfer or Change of Use (see Illustration 26) will be prepared and executed. The Patent Issuing Officer will then issue a Certificate of Approval of Transfer or Change of Use (see Illustrations 27 and 28).

2. Certificate of Approval of Transfer or Change of Use. Patent Issuing Officer prepares Certificate in triplicate (one each for the patentee, transferee, and case record). Certificates are numbered in sequence beginning with No. 1, using the State code number as a prefix, e.g., Certificate No. 02-1. A log of Certificate Numbers (see Illustration 29) will be maintained by the Patent Issuing Officer. Transferee should record Certificate in local courthouse.

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Chapter X

Chapter X. Solid Waste or Other Purposes That May Include the Disposal, Placement, or Release of a Hazardous Substance.A. Policy.

1. Landfills. In order to minimize the potential liability associated with landfills, it is the policy of the Bureau of Land Management to terminate all R&PP landfill operations as soon as possible. Field offices should be working with lessees in an all-out effort to stop waste collection and close the current landfills or to convey title to present landfill leases under the R&PP Act, a FLPMA Section 203 sale, or a FLPMA Section 206 exchange. Because of the continuing liability of the BLM under the hazardous materials laws and the potential for long-term expenses associated with EPA regulations found at 40 CFR 258, landfill closures should be a high lands priority. Although lease termination is the ultimate goal, a lease constitutes a contract between the BLM and the lessee and may only be terminated when both parties agree or through operation of the lease terms and conditions. Therefore, where a lease still has a number of years remaining and the lessee intends to continue operation, it is incumbent upon field officials to ensure that the lessee is fully aware of the 40 CFR 258 requirements and that the landfill is being operated in compliance with the lease terms and conditions.

2. Other Uses. 1988 Recreation and Public Purposes Amendment Act allowed for the disposal of public land for solid waste or ... for any other purpose that the authorized officer determines may include the disposal placement, or release of any hazardous substance The disposal action applies to both new sites and for sites presently leased on or before November 9, 1988, for recreation or public purposes. Although the 1988 Act was passed primarily as a solid waste management tool, the underlined language above should be considered whenever a proposed R&PP application is received or an existing R&PP lease meets any of the underlined criteria.

B. New Disposal Sites

1. Preapplication Consultation. The applicant should participate in preapplication consultation with the appropriate District or Resource Area Office as discussed in Chapter I. In addition to the items listed in Chapter I, the applicant should be informed of the Environmental Protection Agency regulations contained in 40 CFR 258 and applicable State regulations which pertain to siting, design, operation, closure, post-closure, and financial obligations for sanitary landfills and transfer stations, and that an appropriate State agency will generally oversee the operation of the landfill or transfer station.

The applicant should be informed that full reimbursement of costs of the investigative report will be required (see Chapter X.B.3), unless these costs are waived under special circumstances.

The applicant should be informed that the patent will contain a limited reverter provision that may cause the land to revert to the United States if, at the end of 5 years after the date of conveyance, the land is not being used in accordance with the approved plan of development. However, no portion of the land shall under any circumstances revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

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2. Application Procedures. Upon agreement as to the location of the facility and the amount of land required, the applicant should apply as follows:

a. Submit an application (Form 2740-1) (see Illustration 2) and plan of development to the authorized officer. The plan of development should be structured so that major improvements will be completed at the end of 5 years (see Chapter X.C.2 for further detail).

b. Sign the indemnification statement (see Illustration 30) and return to the authorized officer along with the application.

c. Submit copies of the application for review to those Federal and State agencies with responsibilities for enforcement of applicable laws. Proof of the submittal, such as copies of the cover letters, shall also be furnished to the authorized officer with the application.

3. Investigative Report - Upon receipt of the application, the authorized officer shall conduct an investigation of the lands to determine if any hazardous substances (substance as defined in 40 CFR Part 302) are present. Cost recovery for time spent by BLM personnel conducting field examinations and in preparation of reports shall be required unless the applicant demonstrates undue financial hardship, or the authorized officer determines that the costs of establishing and maintaining a 5440 account is more expensive than the costs of the investigative report. Cost recovery fees are to be deposited into a 5440 account (requires project number) and appropriate decisions issued to the applicant. Where the applicant can demonstrate undue financial hardship, reimbursement costs may be waived or reduced by the State Director.

4. Report Requirements. No specific format is required for the investigative report. The investigation shall include, but not be limited to, the following items (see Appendix 6 for Sample Report):

a. A review of available records regarding the history and use of the lands. Sources of available information would include BLM District and State Office records as well as county zoning records pertaining to previous or existing land uses. Appropriate State agencies shall be contacted to determine if they have information regarding previous or current violations of State environmental laws regarding hazardous materials in the area. Local government records, including those found at the city or county assessor and ownership. Local landowners should also be interviewed to assist in determining previous land uses in the area.

b. A field examination of the lands under application, and an appropriate analysis of the soil, water, and air associated with the property shall be conducted. The level of the analysis should be determined on a case-by-case basis by the authorized officer depending on the lands under rigorous level of analysis than lands located near urban areas. The appropriate State agencies shall be consulted to determine any specific concerns which may need to be addressed, recommendations as to format of the type of site or facilities needed. The completed investigative report shall then be presented to the applicant, who in turn will forward it to the appropriate State agency or agencies for review.

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5. State Certification. After review, the State agency must provide certification to the applicant that, based on the provided documents, it concurs that no hazardous substances (substances as defined in 40 CFR Part 302) are present on the lands under application. The lands under application shall not be conveyed if hazardous substances are found to be present. Alternate locations for the facility should then be considered in consultation with the applicant.

6. Plan of Development. Sufficient acreage should be conveyed to allow operation of the facility for the long term. However, it is anticipated that at the end of the first 5-year period only a portion of the lands would have been utilized for actual waste disposal purposes. The 5-year requirement is interpreted to mean that major components of the plan, such as design, layout, and installation of ancillary facilities such as buildings, fencing, access roads, etc., should have been completed by the end of the first 5-year period.

7. State Permit. A permit to operate the type of facility must be secured from the State agency charged with oversight responsibility.

8. Application Processing. Further processing of the application should follow the guidelines contained in Chapter III of this Handbook. See Chapter V to determine pricing of the lands to be conveyed.

9. Records Management. The investigative report, all environmental analyses, State certification, State Permit, and other appropriate documentation used in determining the suitability of the lands shall be retained as permanent records (refer to Chapter X.H).

10. Compliance. Compliance checks shall be conducted and documented in the patent compliance case file on at least a quarterly basis during the initial 5-year period and as necessary (recommend at least every 2 years) after the initial 5-year period and as necessary (recommend at least every 2 years) after the initial 5-year period. This will ensure that the facility is constructed and operated in accordance with the approved plan of development. Copies of State permits and compliance reports should be included in the patent compliance case file. In the event that development is not occurring according to the plan, the authorized officer shall contact the patentee and request one of the following:

a. Development of the land be brought into compliance with the approved plan of development.

b. Submit a new plan of development for approval by the authorized officer.

11. Final Compliance. At the end of 5 years from the date of patent, the authorized officer shall make a determination as to whether the lands are being used in accordance with the approved Plan of Development and document the file accordingly. If at the end of 5 years the land is not being used in accordance with the approved Plan of Development and the patentee has made no diligent efforts to comply, the authorized officer shall initiate divestiture proceedings according to the instructions outlined in Chapter VIII.E.2, steps 7-13 and Chapter X.C.2.

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C. Patent Provisions for New Disposal Sites.

Refer to Chapter VII of this handbook for commitments and other general provisions applicable to all patents (see Illustration 42 for sample patent). In addition:

1. Indemnification. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302) and indemnify the United States against any legal liability or future costs that may arise out of any violation of such laws. The wording of the signed indemnification statement submitted with the application (see Illustration 30) will become a patent provision.

2. Limited Reverter. A reversion clause shall be included which states that the lands will revert back to the United States unless substantially used in accordance with approved plan and schedule of development, on or before 5 years after issuance of patent (see Illustration 31, Limited Reverter Provision). Under no circumstances will any portion of those lands that have been used for solid waste disposal, or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance be reconveyed to the United States.

3. Compensation Provision. A provision shall be included stating that if the patentee transfers to another party ownership of any portion of the land not used for the purposes specified in the application and approved Plan of Development, the patentee shall pay the BLM the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer from the patentee, and for any existing improvements on the subject land (see illustration 31, Compensation Provision).

4. Declaratory Covenant. A declaratory covenant shall be included stating the purpose of the conveyance and that any proposed future uses of the land should take into account that small amounts of hazardous stances may be present which do not pose a significant risk to human health or the environment. This should be placed in the patent in such a manner so as to remain evident through subsequent conveyances (see Illustration 32, New Authorizations (landfills) or Illustration 40, New Authorizations (uses that may result in the disposal, placement, or release of hazardous substances).

D. Leased Disposal Sites.

1. Conversion to Patent. The lessee may apply for a patent for all or part of the lease lands, provided that the lease was issued on or before November 9, 1988. However, the express approval of the Director, Bureau of Land Management, shall be required prior to granting of the patent (see Illustration 33 for sample memorandum). The lands must have been or will be used for solid waste disposal, or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance. See chapter V to determine pricing of the lands to be conveyed. The following will be considered prior to processing of the patent:

a. The conveyance shall be consistent with the land use planning provisions contained in 43 CFR 1600 and in compliance with the National Environmental Policy Act of 1969 and any other Federal and State laws applicable to the disposal of solid wastes and hazardous substances.

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b. The conveyance shall be made only of lands classified for sale pursuant to the procedures and criteria 43 CFR 2400 (see Appendix 2).

c. A landfill transfer audit (LTA) shall be conducted on the lands to be included in the patent. This is an assessment of the conditions of any facility prior to transfer of title to the lessee and is an addition to CERCLAS 120 (h) requirements.

An LTA is composed of the following steps (see Appendix 3):

- (1) A CERCLA 120(h) search of BLM records conducted by BLM personnel.
- (2) Actions to supplement the CERCLA 120(h) provisions. These actions may be conducted by qualified BLM personnel or a qualified independent party not associated with BLM or the lessee. The independent party should preferably be a State agency or a university with expertise in conducted surveys of this nature. An outside contractor may also be utilized if a State agency or university is not immediately available.

The auditor would take the following actions:

- (a) Review lease records and interview the staff operating the facility. Review records of county health department, State solid waste and hazardous waste agency, and EPA for indications of problems at the facility during the term of the lease
 - (b) Assess the probability of contamination based on location, hydrogeological characteristics, remoteness, local industrial base, access from transportation routes, etc.
 - (c) Conduct a physical inspection of the facility including an appropriate analysis of soil, water, and air, by persons qualified to identify indicators of significant contamination or related.
 - (d) Independently assess the probability of risk to human health and the environment based on the above evidence.
- (3) Auditor and lessee sign statement that no significant risk to human health and the environment exists. Proceed to d.
 - (4) If independent party will not sign statement:
 - (a) Do not convey the lands and attempt to find an alternate location for a new facility, or
 - (b) The independent party may conduct further detailed sampling, including drilling if necessary, to determine the extent of contamination at the site. If sampling determines that there is no significant risk to human health or environment and independent party signs statement, proceed to d.

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- (c) Where contamination or probable contamination is found, notify the Environmental Protection Agency (EPA), as required under the National Contingency Plan and CERCLA, Section 103.

d. The lessee shall send a copy of the signed statement and supporting documentation to the State agency charged with over-site of landfill responsibility for review. After review, the State agency must provide certification to the lessee that, based on the provided documents, it concurs that the contents of the leased site in question does not threaten human health and the environment.

e. State Permit. A permit to operate the landfill must be secured from the State agency charged with over-site responsibility.

f. Cost Recovery. The authorized officer will collect cost recovery fees from the lessee for all administrative costs of the United States incurred during the investigation. cost recovery fees are to be deposited into a 5440 account which requires a project code (see BLM Manual 1323 for account processing procedures) and appropriate decisions issued to the applicant. If the lessee demonstrates that such costs will be an undue financial hardship, case reimbursement costs may be reduced or waived by the State Director. However, these costs shall be waived only under extraordinary circumstances and is solely at the discretion of the State Director. Cost recovery fees are to be collected prior to any "hands-on" work other than Preapplication activity. Fees are to be assessed for direct costs (site visits, application review, plan amendments, audit coordination, personnel costs, etc.), and indirect costs (managerial direction, administrative costs, general utility charges). All costs are to be documented on BLM Form 1323-1.

g. Records Management. The landfill transfer audit, all environmental analyses, State certification, and other appropriate documentation used in determining the suitability of the lands shall be retained as permanent records by the authorized officer (see Chapter X-H).

2. Renewal of Leased Landfill Sites.

a. Annual Renewal. When a landfill is being operated in full compliance with the lease terms ← and conditions, leased sites may be renewed on a yearly basis until such time as the applicant has either received a patent to the site, developed an alternate site, or closed the existing site. Care should be taken by the authorized officer to ensure that the annual renewals are not merely for the convenience of the lessee and that the lessee is actively pursuing closure of the site or a patent. Under no circumstances may the leased lands be expanded beyond the present authorization.

b. Closure. Renewed leases shall include a stipulation stating that closure of landfills or transfer stations shall be in conformance with regulations developed by the EPA and contained in 40 CFR 258, Subtitle D, and applicable State requirements. Copies of all closure plans will be provided by the operator to the authorized officer for inclusion into the permanent records. Closure plans should detail who will be responsible for monitoring the site after closure and should take into account such things as when (or if) to remove the fencing, who pays for removal of the fencing, surface revegetation, site security, etc. The final closure plan should be prepared in cooperation with the lessee, the State, and the BLM.

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3. Compliance. Landfill compliance checks are to be made a minimum of once each quarter. If noncompliance is encountered, immediate action is necessary to bring the operation into full compliance with the lease terms and conditions. If the lessee is unwilling or unable to bring the operation into full compliance, procedures will be initiated to terminate the lease. The processing steps in Chapter VIII are to be strictly adhered to.

4. Bonding. Because a lease is a contract, bonding cannot be required unless the lease terms and conditions mandate or allow for bonding. However, any lease renewal or extension or an assignment approval may be made subject to a bond. Bonds should be used whenever there is any doubt as to the financial ability of the lessee to properly terminate a lease and should be in an amount sufficient to cover all closure and rehabilitation expenses.

E. Patent Provisions for Leased Disposal Sites.

1. Provisions. Refer to Chapter VII for commitments and other general provisions applicable to all patents. No portion of the lands patented shall revert back to the United States under any circumstances. In addition:

a. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302,) and indemnify the United States against any legal liability or future costs that may out ← → any violation of such laws (see Illustration 30).

b. A declaratory covenant shall be included stating that the lands have been utilized for solid waste disposal and that any proposed future uses of the lands should take into account that a solid waste disposal facility was located on the lands. This should be placed in the patent in such a manner as to remain evident through subsequent conveyances (see Illustration 32, Existing Authorization).

F. Patented Disposal Sites.

1. Sites Patented on or Before Nov. 9, 1988. In regard to sites patented on or before November 9, 1988, upon request or with the concurrence of the patentee, the authorized officer may renounce the reversionary interest of the United States which allows for reconveyance to the United States of any lands, or portion thereof, and rescind any portion of any patent or other instrument of conveyance inconsistent with the renunciation upon a determination that such lands have been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance. After such renunciation, affected lands shall not, under any circumstances, revert to the United States by the operation of law. Illustrations 34 and 35 provide a sample letter and consistent form that may be provided to the patentee for their signature. Illustrations 36 and 37 provide a sample decision removing the reversionary language and a supplemental patent. If the patentee elects not to accept relinquishment of the reversionary clause, the regulations contained in 43 CFR 2741.6 and 2741.0 will continue to apply. In no case will the reversionary language be removed from a patent under the 1988 amendment Act if the land was not used for solid waste or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

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2. A field examination of the patented site should be made prior to renouncing the reversionary clause. The patent file should be documented as to what is existing on the site at the time reversionary clause is revoked. This includes pictures of the operation and any structures, interviews with employees, a complete walk-over of the site, and anything else that the examiner feels necessary to fully document what is existing at the time. This examination may help to reduce or eliminate any future liability of the United States that may be connected with the operation of the site.

G. Formal Closure of Landfill Sites.

1. Closure. Closure of landfills or transfer stations shall be in conformance with regulations developed by the Environmental Protection Agency and contained in 40 CFR 258, Subtitle D. Closure plans shall be developed in accordance with appropriate State regulations and copies of all approved closure plans shall be provided by the operator to the authorized officer for inclusion into the permanent records. The following will apply depending on which date the particular facility stopped receiving solid waste:

a. Facilities that stopped receiving waste on or before October 9, 1991, are not subject to the EPA regulations. However, the operator must provide suitable documentation that no wastes were received after that date.

b. Facilities receiving waste after October 9, 1991, are subject to a variety of operating requirements and closure procedures depending on the date of closure, the amount of waste received per day and if the State has an approved permit from the EPA to oversee the 40 CFR 258, Subtitle D regulations. Consult the 40 CFR 258 regulations for the procedure affecting the landfill or transfer station in question.

2. Stopped Accepting Waste. As landfill operations end and the lease is terminated, there will be a period of time between when the landfill stops accepting waste and when all rehabilitation and the EPA closure requirements have been met. During this time, the lease is not being terminated. The lease is to remain in effect and the lessee held accountable until the closure requirements have been met and all rehabilitation has been completed. Following proper closure and rehabilitation, the lease is to be terminated and the case closed. When a landfill stops accepting waste, action code 514 (stopped accepting waste) should be entered in case recordation using the date the landfill is closed to the public.

3. Long-term Monitoring. All landfills that received waste after a certain date (see below) will be required to install ground water monitoring equipment and monitor the site for at least 30 years. Besides the actual monitoring wells, there may be a need for an access road, fencing, diversion structure maintenance, or other facilities. The proper authorization for these long-term facilities is a FLPMA Title V right-of-way (R/W). Therefore, prior to terminating the lease, all long-term facilities and needs will be identified and authorized with a R/W. If an environmental analysis is completed for the closure and rehabilitation requirements, the analysis should include the impacts of a 30-year R/W. The analysis of the R/W at this point will "tie together" all the final requirements of the landfill and will negate the need for a separate analysis at a later date.

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The EPA published revised 40 CFR 258 rules on October 1, 1993. As a result of the revised rulemaking, landfills accepting waste after the below dates are subject to all the operating criteria established in 40 CFR 258:

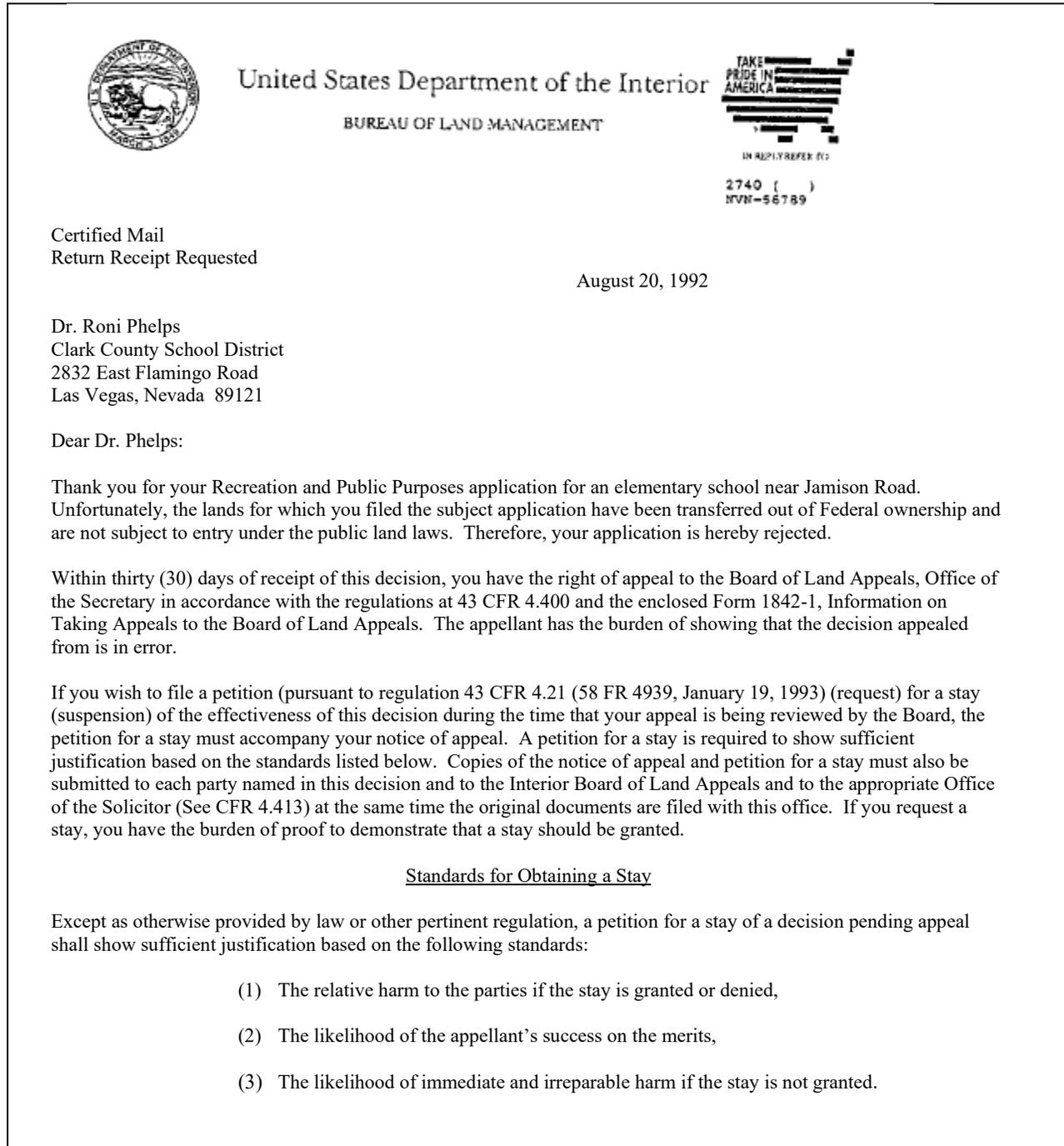
1. Landfills accepting more than 100 tons per day - October 9, 1993.
2. Landfills accepting less than 100 tons per day, are located in the State that has submitted an application to the EPA for approval to oversee landfill operations in that State, and sites that are not on the National Priority List – April 9, 1994.
3. Landfills that meet the small landfill exemption in 40 CFR 258.1(f) – October 9, 1995.

H. Records Management.

1. Duplicate Files. The regulations provide that all new patent applications, both approved and unapproved, and all documentation pertaining to issuance of patents for existing facilities, will be maintained as permanent records. Disposition of original approved and unapproved patent application case files will be in accordance with BLM Records Schedule (1272), Schedule 4, Item 7c.(2). Approved patents will be filed by patent number according to BLM Manual H-1862-1, Chapter IV. Unapproved applications will be filed by their respective serial numbers. Original files for approved patent applications will be stored at the National Archives and Records Administration (NARA) in perpetuity. A duplicate patent compliance file will be maintained at the District Office in perpetuity. All compliance documentation and subsequent correspondence will be maintained in the compliance file. Disposition of unapproved patent applications will also be in accordance with the BLM Records Schedule; however, until the new schedule pertaining to unapproved applications is approved by NARA, all documentation pertaining to unapproved applications will be retained at the District Office on a permanent basis.

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Sample Decision Denying the R&PP Application
for Lands Not Subject to Disposition



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(4) Whether the public interest favors granting the stay.

If you have questions, please contact Juanita Ortega, BLM Las Vegas District Office, at 702-598-6503.

Sincerely,

Name
District Manager

Enclosure:
Form 1842-1, Appeals Procedures

- NOTE:
1. Use of this format for the appeals paragraph requires that the address of the office issuing the decision, and the address of the appropriate Regional or Field Solicitor, be typed in for Items 2 and 3 of Form 1842-1.
 2. This letter may be put into a decision format at the discretion of the authorized officer.

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R&PP Application

| | | | | | | | | |
|--|--|---|--|--|--------------------------------|--|--|--|
| Form 2740-1 (July 1992) | UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT APPLICATION FOR LAND FOR RECREATION OR PUBLIC PURPOSES (Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4) | FORM APPROVED OMB NO. 1004-0012 Expires: October 31, 1993 | | | | | | |
| | | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Date 1/12/93</td> <td style="width: 50%;">Serial Number (BLM use only)</td> </tr> <tr> <td colspan="2">Home phone (include area code)</td> </tr> <tr> <td colspan="2">Business phone (include area code) (702) 690-1001</td> </tr> </table> | Date 1/12/93 | Serial Number (BLM use only) | Home phone (include area code) | | Business phone (include area code) (702) 690-1001 | |
| Date 1/12/93 | Serial Number (BLM use only) | | | | | | | |
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| Business phone (include area code) (702) 690-1001 | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%;">1a. Applicant's name State of Nevada Dept. of Parks & Recreation</td> <td style="width: 35%;">1b. Address (include zip code) 308 S. Fall Street Carson City, Nv. 87501</td> <td style="width: 30%;"></td> </tr> </table> | | | 1a. Applicant's name State of Nevada Dept. of Parks & Recreation | 1b. Address (include zip code) 308 S. Fall Street Carson City, Nv. 87501 | | | | |
| 1a. Applicant's name State of Nevada Dept. of Parks & Recreation | 1b. Address (include zip code) 308 S. Fall Street Carson City, Nv. 87501 | | | | | | | |
| 2. Give legal description of lands applied for (include metes and bounds description, if necessary) | | | | | | | | |
| SUBDIVISION | SECTION | TOWNSHIP | RANGE | MERIDIAN | | | | |
| E2NW4NE4 | 15 | 27 S. | 58 E. | MDM | | | | |
| County of Clark | | | State of Nevada | | | | | |
| | | | Containing (acres) 20 | | | | | |
| 3a. This application is for <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Purchase (If lease, indicate years) | | | | | | | | |
| b. Proposed use is <input checked="" type="checkbox"/> Public Recreation <input type="checkbox"/> Other Public Purposes | | | | | | | | |
| 4. Attach three (3) copies of the completed statement required by 43 CFR 2741.4(b). (Specifically identify an established or definitely proposed project for use of the land, a detailed plan and schedule for development, and a management plan which includes a description of how any revenues will be used.) | | | | | | | | |
| Proposed Boulder Creek campground. See attached plan of development and management plan. | | | | | | | | |
| 5. If applicant is State or Political subdivision thereof, cite your statutory or other authority to hold land for these purposes. | | | | | | | | |
| Nevada Revised Statutes | | | | | | | | |
| 6. Attach a copy of your authority for filing this application and to perform all acts incident thereto. | | | | | | | | |
| 7. If land described in this application has not been classified for recreation and/or public purposes pursuant to the Recreation and Public Purposes Act, consider this application as a petition for such classification. | | | | | | | | |
| (Continued on reverse) | | | | | | | | |

8. Are all activities, facilities, services, financial aid, or other benefits as a result of your proposed development provided without regard to race, color, religion, national origin, sex, or age? Yes No (If "no," describe the situation or activity and your plans for achieving compliance.)

| | |
|---|-----------------|
| Applicant's Signature <i>Carolyn S. Test</i> | Date 1/12/93 |
|---|-----------------|

Title 18 U.S.C. Section 1061, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representation as to any matter within its jurisdiction.

GENERAL INSTRUCTIONS

1. Type or print plainly in ink.
2. Submit application and three (3) copies of related plans to the proper BLM State Office for the State in which the land is located.
3. Study controlling regulations in 43 CFR 2740 (Sales) and 43 CFR 2912 (Leases).
4. If applicant is non-governmental association or corporation attach a copy of your charter, articles of incorporation or other creating authority. If this information has been previously filed with any BLM office, refer to previous filing by date, place, and case serial number.
5. If applicant is non-governmental association or corporation, attach a copy of your authority to operate in the State where the lands applied for are located. If previously filed with any BLM office, refer to previous filing by date, place, and case serial number.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

| Item | Item |
|---|---|
| <p>2. If land is surveyed, give complete legal description. If land is unsurveyed, description should be by metes and bounds connected, if feasible, by course and distance with a corner of public land survey. If possible, approximate legal subdivisions of unsurveyed lands should be stated. Acreage applied for must not exceed that specified by regulations.</p> <p>3a. Generally, title to lands will not be granted upon initial approval of an application. In order to assure proper development or use plans, the general practice will be to issue a lease or lease with option to purchase after development is essentially completed. In any case, term of lease may not exceed 20 years for non-profit organizations or 25 years for governmental agencies, instrumentalities or political subdivisions.</p> <p>4. Leases and patents under this act are conditioned upon continuing public enjoyment of the purposes for which the land is classified. The plan of development, use, and maintenance must show, at a minimum:</p> <ol style="list-style-type: none"> a. A need for proposed development by citing population trends, shortage of facilities in area, etc. b. That the land will benefit an existing or definitely proposed public project authorized by proper authority. c. Type and general location of all proposed improvements, including public access roads, trails, etc.). This showing may take the form of inventory lists, maps, plans, drawings, or blueprints in any combination available and necessary to describe the finished project. Site design | <p>should be provided for intensive use sites and general information about improvements existing or planned on lands within the overall project.</p> <p>d. An estimate of the construction costs, how the proposed project will be financed, including a list of financial sources, and an estimated timetable for actual construction of all improvements and facilities.</p> <p>e. A plan of management to include operating rules, proposed source and disposition of revenues arising from the proposed operation, personnel requirements, etc.</p> <p>f. A specific maintenance plan to include, for example, sewage and garbage disposal, road maintenance, upkeep and repair of grounds and physical facilities, etc.</p> <p>g. Applications for solid waste disposal sites must comply with guidelines established by the Environmental Protection Agency (40 CFR 240 and 241) and must include a detailed physical description of the site (including a map showing 5-foot contours at a scale of 1 inch = 200 feet), description of ground water situation, soil characteristics and management plan.</p> <p>5. This may consist of a copy of a delegation of authority, resolution or other evidence of authority from the governing board of the applicant's organization, copy of the by-laws of the organization, or the like.</p> |

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et. seq.) requires us to inform you that:
 Information is being collected to process your request for Federal lands under the provisions of June 14, 1926 (43 U.S.C. 869 as amended), Recreation and Public Purposes Act.
 Information will be used to illustrate whether the applicant meets requirements of regulations found in 43 CFR Subpart 2740.
 Response to this request is mandatory, see regulations found in 43 CFR Subpart 2741.4.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Notification Letter to Correct Application Defects



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail Return Receipt
Return Receipt Requested

Pastor Bob Richards
United Church of Faith
P. O. Box 4221
Las Vegas, Nevada 89106

Dear Pastor Richards:

In our letter to you dated May 17, 1992, deficiencies in your Recreation and Public Purposes application, NVN-98765, were identified and additional information was requested. To date, no response to that letter has been received.

You will, therefore, have 30 days from receipt of this letter to submit the requested information. If we have not received the information within the 30 day period, your application will be rejected.

If you have any questions, please contact Juanita Ortega, BLM Las Vegas District Office, at 702-598-6403.

Sincerely,

Name
Las Vegas District Manager

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Denying R&PP Application for Failure to Correct Defects



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

Pastor Bob Richards
United Church of Faith
P.O. Box 4221
Las Vegas, Nevada 89106

Dear Pastor Richards:

In our letter to you of June 20, 1992, you were given 30 days to submit additional information relative to your Recreation and Public Purposes (R&PP) Application, NVN-45628. The 30 days have now expired without receipt of the requested information. Therefore, R&PP application N-45628 is rejected.

Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of proof that the decision appealed from is in error.

→If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (5) The relative harm to the parties if the stay is granted or denied,
- (6) The Likelihood of the appellant's success on the merits,
- (7) The likelihood of immediate and irreparable harm if the stay is not granted, and ←

H-2740-1 - RECREATION AND PUBLIC PURPOSES

→ (4) Whether the public interest favors granting the stay. ←

If you have any questions, please contact Juanita Ortega, BLM Las Vegas District Office, at 702-598-6403.

Sincerely,

Name
Las Vegas District Manager

Enclosure:

Form 1842-1, Appeals Procedure

- NOTES: 1. This letter may be put into a decision format at the discretion of Authorized officer.
2. Use of this format for the appeals paragraph requires that the Address of the office issuing the decision, and the address of the appropriate Regional Solicitor, be typed in for Items 2 and 3 of Form 1842-1.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Notices of Realty Action

Sample Notices of Realty Action

DEPARTMENT OF THE INTERIOR

Bureau of Land Management
(NV-050-4210-05; NVN-63524)

Notice of Realty Action; Recreation and Public
Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management

ACTION: Notice

SUMMARY: The following public lands in Clark County, Nevada have been examined and found suitable for classification for lease or conveyance to the State of Nevada under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.) The State of Nevada proposes to use the lands for a correctional facility.

Mount Diablo Meridian

T. 20 S., R. 58 E.,
Sec. 35, All.

Containing 640 acres more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Those rights for power and telephone line purposes granted to the Las Vegas Valley Water District by Permit No. N-17000.
6. An easement for streets, roads, and utilities in accordance with the transportation plan for Clark County.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4705 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Las Vegas District office, P.O. Box 26529, Las Vegas, NV 89125-056.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a correctional facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a correctional facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

/s/ District Manager
District Manager

NOTE: NORA's prepared for publication in the Federal Register must be double spaced

H-2740-1 - RECREATION AND PUBLIC PURPOSES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NV-050-4210-05; NVN-75310)

Notice of Realty Action; Bureau Motion Recreation
and Public Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management

ACTION: Notice

SUMMARY: The following public lands near the community of Caliente, Lincoln County, Nevada have been examined and found suitable for classification and opening under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Mount Diablo Meridian

T. 9 S., R. 67 E.,
Sec. 24, E ½NW¼

Containing 80 acres more or less.

This action is a motion by the Bureau of Land Management to make available lands identified in the Caliente Resource Management Plan not needed for Federal purposes and having potential for disposal to support community expansion. Lease or conveyance of the lands for recreational or public purpose use would be in public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Lease or conveyance of the lands will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Upon publication of this notice in the Federal Register, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed classification of the lands to the District Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126-056. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Upon the effective date of classification, the lands will be open to the filing of an application under the Recreation and Public Purposes Act by any interested, qualified applicant. IF, after 18 months following the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the authorized officer.

/s/ District Manager

NOTE: NORA's prepared for publication the Federal Register must be double spaced.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

(NV-050-4210-05; NVN-32460)

Notice of Realty Action; Unsuitability of Lands
for Recreation and Public Purposes

AGENCY: Bureau of Land Management

ACTION: Notice

SUMMARY: The following described public lands in Lincoln County, Nevada have been examined and found unsuitable for classification for lease or conveyance under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Mount Diablo Meridian

T. 10 S., R. 67 E.,
Sec. 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$

Containing 40 acres, more or less.

The lands were examined in response to R&PP application, Serial No. N-32460, filed on June 12, 1986, by the State of Nevada proposing to use the lands for a prison honor camp. The unsuitability determination is based on the following reasons:

1. Land classification must be consistent with local government land use plans and programs (43 CFR 2410.1(c)). Lease or conveyance of the lands would be inconsistent with plans and programs adopted by Lincoln County. The Lincoln County Board of County Commissioners opposes a prison honor camp at this location on the basis that the County's master plan does not identify a financial burden on the County to maintain public access to the honor camp, as well as, provide other services such as fire protection.²
2. Surface uses cannot interfere with the rights of the mining claimant (43 CFR 3712.1(a)). The east 20 acres (E1/2SE $\frac{1}{4}$ /4NE $\frac{1}{4}$) are encumbered by the Hill No. 1 placer mining claim. Development of the lands under the R&PP Act would interfere with any future mining operations. Moreover, mining activities on the Hill No. 1 claim would preclude successful completion of the development plan for the lands submitted by the State of Nevada.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Dr., Las Vegas, Nevada.

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For a period of 45 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the unsuitability determination to the District Manager, Las Vegas District Office, P.O. Box 26569, Las Vegas, Nevada 89126-056. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, this action shall become the final order of the Secretary of the Interior.

/s/ District Manager

NOTE: NORA's prepared for publication in the Federal Register must be double spaced.

H-2740-1 - RECREATION AND PUBLIC PURPOSES
R&PP Lease

| | | |
|---|--|---------------|
| Form 2912-1 (April 1992) | UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT RECREATION OR PUBLIC PURPOSES LEASE Act of June 14, 1926, as amended (43 U.S.C. 869 et. seq.) | Serial Number |
| | | LDI-23456 |
| <hr/> <p>This lease entered into on this <u>10</u> day of <u>February</u>, 19<u>93</u>, by the United States of America, the lessor, through the authorized officer of the Bureau of Land Management, and City of Silver City</p> | | |
| <p>called the lessee, pursuant and subject to the terms and provisions of the Recreation and Public Purposes Act and to all reasonable regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any express and specific provisions herein, which are made a part hereof,</p> | | |
| WITNESSETH: | | |
| <p>Sec. 1. The lessor, in consideration of the rents to be paid and the conditions to be observed as hereinafter set forth, does hereby grant and lease to the lessee the right and privilege of using for the purposes hereinafter set forth in the following-described lands:</p> | | |
| <p>T. 6 N., R. 5 E., BM Sec. 26, A triangular parcel at the west end of lot 8, 561' x 656' x 64'</p> | | |
| <p>containing <u>.4+</u> acres, together with the right to construct and maintain thereon all buildings or other improvements necessary for such use for a period of <u>25</u> years, the rental to be \$ <u>0.00</u> per annum. If, at the expiration date of the lease the authorized officer shall determine that the lease may be renewed, the lessee herein will be accorded the privilege of renewal upon such terms as may be fixed by the lessor. The lessee may use the premises for</p> | | |
| <p>Sec. 2. There are reserved to the United States all mineral deposits in said lands, together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.</p> | <p>Sec. 4. In consideration of the foregoing, the lessee hereby agrees:</p> | |
| <p>Sec. 3. The lessor reserves the right of entry, or use, by</p> | <p>(a) To improve and manage the leased area in accordance with the plan of development and management designated as Rupert Borne Park and Visitor Center</p> | |
| <p>(a) any authorized person, upon the leased area and into the buildings constructed thereon for the purpose of inspection;</p> | <p>and approved by an authorized officer on <u>Jan. 25, 1993</u> or any modification thereof hereinafter approved by an authorized officer, and to maintain all improvements, during the term of this lease, in a reasonably good state of repair.</p> | |
| <p>(b) Federal agents and game wardens upon the leased area on official business;</p> | <p>(b) To pay the lessor the annual rental above set forth in advance during the continuance of this lease.</p> | |
| <p>(c) the United States, its permittees and licensees, to mine and remove the mineral deposits referred to in Sec. 2, above</p> | | |

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(c) Not to allow the use of the lands for unlawful purposes or for any purpose not specified in this lease unless consented to under its terms: not to prohibit or restrict, directly or indirectly, or permit its agents, employees, contractors (including, without limitation, lessees, sub-lessees, and permittees), to prohibit or restrict the use of any part of the leased premises or any of the facilities thereon by any person because of such person's race, creed, color, sex, or national origin.

(d) Not to assign this lease or to change the use of the land without first receiving the consent of the authorized officer of the Bureau of Land Management.

(e) That this lease may be terminated after due notice to the lessee upon a finding by the authorized officer that the lessee had failed to comply with the terms of the lease; or has failed to use the leased lands for the purposes specified in this lease for a period of consecutive years; or that all or part of the lands is being devoted to some other use not consented to by the authorized officer; or that the lessee has not complied with his development and management plans referred to in subsection 4(a).

(f) That upon the termination of this lease by expiration, surrender, or cancellation thereof, the lessee, shall surrender possession of the premises to the United States in good condition and shall comply with such provisions and conditions respecting the removal of the improvements of and equipment on the property as may be made by an authorized officer.

(g) To take such reasonable steps as may be needed to protect the surface of the leased area and the natural resources and improvements thereon.

(h) Not to cut timber on the leased area without prior permission of, or in violation of the provisions and conditions made by an authorized officer.

(i) That nothing contained in this lease shall restrict the acquisition, granting, or use of permits or rights-of-way under existing laws by an authorized Federal officer.

Sec. 5. *Equal Opportunity Clause.* Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 6. *Equal Access Clause.* Lessee shall comply with all provisions of the American Disabilities Act of July 26, 1990 the Architectural Barriers Act of 1968 and Section 504 of the Rehabilitation Act of 1973, as amended. These Acts require that programs and public facilities constructed or renovated be accessible to and usable by persons with disabilities.

Sec. 7. The lessee may surrender this lease or any part thereof by filing a written relinquishment in the appropriate BLM office. The relinquishment shall be subject to the payment of all accrued rentals and to the continued obligation of the lessee to place the lands in condition for relinquishment in accordance with the applicable lease terms in subsections 4(f) and 4(g) and the appropriate regulations.

Sec. 8. The lessee further agrees to comply with and be bound by those additional terms and conditions identified as

and which are made a part hereof.

Sec. 9. No Member of, or Delegate to, the Congress, or Resider Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, except as otherwise provided in 43 CFR, Part 7, shall be admitted to any share or part of this lease, or derive any benefit that may arise there from, or the provisions of Title 18 U.S.C. Sections 431-433, relating to contracts, enter into and form a part of this lease, so far as the same may be applicable.

FOR EXECUTION BY LESSEE

IN WITNESS WHEREOF:

Sims M. Roberts
(Signature of Lessee's Authorized Officer)

[Signature]
(Signature of Witness)

Feb 10, 1993
(Date)

THE UNITED STATES OF AMERICA

By Ruby Easton
(Authorized Officer)

Area Manager
(Title)

Feb. 10, 1993
(Date)

This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require OMB approval.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Offering R&PP Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

DECISION

State of Nevada :
Department of Transportation : Recreation and Public Purposes
1263 S. Stewart Street : Lease Application NVN-299959
Carson City, Nevada 89712

LEASE OFFERED

By application dated September 23, 1992, the State of Nevada, Department of Transportation requested that the following described land be classified for lease pursuant to the Recreation and Public Purposes Act:

Mount Diablo Meridian

T. 30 N., R. 69 E
Sec. 34, Lots 5-7, 9, 11, and 14

Containing 32.5 acres more or less.

The Land has been classified suitable for Recreation and Public Act purposes. A three (3) year lease with option for renewal is offered, subject to the terms and conditions specified in the enclosed lease forms.

If you concur, the enclosed lease forms are to be signed by an authorized State official and returned within 30 days from receipt of this decision. Payment of \$25.00 advance rental must accompany the signed lease forms. A copy of the executed lease will be returned to you.

Failure to comply may result in the issuance of a decision rejecting your application.

If you have any questions, please contact Meredith Bush, BLM Ely District Office, at 702-738-4071.

Name
Ely District Manager

Enclosure

R&PP Lease Forms (Form 2912-1, 3 pages)

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Offering RPP Lease and Denying
Request for Immediate Conveyance



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

| | | |
|----------------------------------|---|--------------------------------|
| Clark County Sanitation District | : | |
| Attn: E. James Gan | : | Recreation and Public Purposes |
| 5857 E. Flamingo Road | : | Lease/Conveyance Application |
| Las Vegas, Nevada 89122 | : | NVN-37137 |

LEASE WITH OPTION TO PURCHASE OFFERED
REQUEST FOR IMMEDIATE CONVEYANCE DENIED

By application dated August 5, 1992, the Clark County Sanitation District requested that the following described land be classified for lease or conveyance pursuant to the Recreation and Public Purposes Act:

Mount Diablo Meridian

T. 16 S., R. 68 E.,
Sec. 20, NW¼NW¼, SE¼NW¼

Containing 80 acres more or less.

The land has been classified suitable for use under the Recreation and Public Purpose Act. A five (5) year lease with an option to purchase is offered and the request for immediate conveyance is denied.

Bureau policy requires that, in most instances, applicants under the Recreation and Public Purposes Act be offered a lease with an option to purchase. However, past experience has shown that in many cases a patentee fails to develop the lands in accordance with the plan of development and thereby subjects the title to reversion.

Therefore, while immediate conveyance has been denied, the purchase option may be exercised at any time during the term of the lease when development of the land is in substantial compliance with the plan of development filed in this office on September 3, 1982.

The lease being offered also contains a privilege of renewal. A request for renewal should be filed at least 180 days prior to the expiration of the lease.

If you concur, the enclosed lease forms are to be signed by an authorized official and returned to this office within thirty (30) days from receipt of this decision. Payment of \$800.00 advance rental for the five-year period must accompany the lease forms. A copy of the executed lease will be returned to you.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Failure to comply may result in the issuance of a decision rejecting your application.

Within thirty (30) days of receipt of this decision, you have the right of appeal to the Board of Land Appeals. Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed from is in error.

If you have any questions please contact Juanita Ortega, BLM Las Vegas District Office, at 702-598-640.

Name
Las Vegas District Manager

Enclosure (2):
R&PP Lease Forms
Form 1842-1, Appeals Procedures

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Approving Request for Immediate Conveyance

DECISION

| | | |
|--|---|--------------------------------|
| Clark County Board of County Commissioners | : | |
| 5051 South Paradise Road | : | Recreation and Public Purposes |
| Las Vegas, Nevada 89119 | : | Conveyance Application |
| | : | NVN-13084 |

REQUEST FOR IMMEDIATE CONVEYANCE APPROVED
PURCHASE MONEY REQUESTED

By application dated October 1, 1992, the Clark County Board of County Commissioners requested that the following described land be classified for conveyance pursuant to the Recreation and Public Purposes Act.

Mount Diablo Meridian

T. 21 S., R. 61 E.,
Sec. 32, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Containing 10 acres more or less.

The land has been classified suitable for use under the Recreation and Public Purposes Act. Your request for immediate conveyance is approved. The purchase price, authorized by the special pricing schedule for law enforcement facilities, is \$100.00. Purchase money in that amount is requested.

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890, 43 U.S.C. 945.
2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations to be established by the Secretary of the Interior.

The patent will be subject to the following:

1. Those rights for highway purposes which have been granted to the Nevada Highway Department, its successors or assigns, by Permit No. CC-020584, under the Act of November 9, 1921, 23 U.S.C. Sec. 18.

Provided, that title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that, without the approval of the Secretary of the Interior or their delegate, the patentee or its successor attempts to transfer title to or control over the lands to another, the lands

H-2740-1 - RECREATION AND PUBLIC PURPOSES

have been devoted to a use other than that for which the lands were conveyed, the lands have been used for the purpose for which the lands were conveyed for a 5-year period, or the patentee has failed to follow the approved development plan or management plan.

Provided further, that the Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, sex, national origin, or handicap.

The grant of the herein described lands will also be subject to the following reservations, conditions, and limitations:

- (1) The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
- (2) If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or their delegate may declare the terms of this grant terminated in whole or in part.
- (3) The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in the declaration.
- (4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.
- (5) The patentee or its successor in interest will, upon request of the Secretary of the Interior or their delegates, post and maintain on the property conveyed by this document signs and markers bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

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(6) The reservations, conditions, and limitations contained in paragraph (1) through (5) shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(7) The assurances and covenant required by sections (1) - (6) above shall not apply to ultimate beneficiaries under the program for which this grant is made "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

(8) Pursuant to the provisions of 43 CFR 4.21(a), this conveyance will be effective 30 days from the date of this decision unless an appeal and a petition for stay are filed with the Interior Board of Land Appeals.

If you have any questions, please contact Chen Bao, BLM Nevada State Office, at 702-470-5412.

Name, Chief
Branch of Lands & Minerals Operations

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Sample Grazing Notice to Permittee/Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240



Certified Mail
Return Receipt Requested

Flynn Franklin
P.O. Box 2456
Caliente, Nevada 87509

Dear Flynn Franklin:

The following described land within your grazing allotment has been identified for possible lease or conveyance under the Recreation and Public Purposes Act (R&PP).

| <u>Description</u> | <u>Acres</u> | <u>Allotment/Lease</u> | <u>Estimated Grazing Capacity</u> |
|--------------------|--------------|------------------------|---------------------------------------|
|--------------------|--------------|------------------------|---------------------------------------|

As discussed, 43 CFR 4110.4-2(b) provides for a 2 year prior notification before any use may occur on your (permit/lease) that precludes livestock grazing. Therefore, this letter constitutes official notice that a use under the R&PP Act is being examined that could result in a partial reduction in your grazing privileges. If your (permit/lease) has less than 2 years remaining from the date you receive this notice, a condition of the lease or conveyance will provide for your continued grazing use for a full 2 years from the date you receive this notice.

Title 43 CFR 4110.4.2(b) also provides you an opportunity to waive the 2-year notification period. If you have no objections to the proposed action, the enclosed waiver should be signed and returned to this office. You will receive a Notice of Realty Action (NORA) before the land is leased or sold which will inform you of the specific steps or actions that will be taken and your opportunities to protest lease or conveyance of the land, or provide input to the process.

Within thirty (30) days after the time the land is actually leased or conveyed, you will also receive a grazing decision specifying the extent to which your BLM grazing (permit/lease) is being canceled. The grazing decision will be subject to protest under 43 CFR 4160.2 and/or appeal under 43 CFR 4.470.

If you have any questions concerning this notice or action to be take, please feel free to contact this office.

Sincerely,

Authorized Officer

Enclosure
Grazing Waiver

NOTE: This letter notice is sent only after personal contact.

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Sample Grazing Cancellation Waiver

I have discussed the proposed (lease/conveyances) of the following public lands under the Recreation and Public Purposes (R&PP) Act with representatives of the (District/Area) Offices of the Bureau of Land Management (BLM).

| Description of Lands to be (<u>Leased/Conveyed</u>) | <u>Acres</u> | <u>Allotment/Lease</u> | Estimated Grazing Capacity_____ |
|---|--------------|------------------------|---------------------------------------|
|---|--------------|------------------------|---------------------------------------|

I understand that if I do not sign this waiver, the BLM will require the R&PP (lessee/patentee) to take the lands subject to my existing grazing authorization No. _____.

I agree to the proposed (lease/conveyance) of the lands under the R&PP Act without such condition. I also agree that the BLM may cancel, in whole or in part, my grazing preference to reflect the loss in forage arising from the (lease/conveyance) of public lands supporting this preference. I further waive any right I have to a 2-year notice prior to the BLM canceling, in whole or in part, grazing authorization No. _____ resulting from the lease/conveyance).

Signature
Permittee/Lessee

BLM Authorized Officer

H-2740-1 - RECREATION AND PUBLIC PURPOSES

R&PP Pricing Guidelines

Conveyances

| Proposed Use | Governmental Entities | Nonprofit Entities |
|---|--|--|
| Recreation and Historic Monument Purposes | No Cost | 50% of FMV, except only 10% discount may be applied if use is restricted |
| Special Pricing Program Uses | \$10 per acre, with a \$50 minimum per transaction | 50% of FMV, except only 10% discount may be applied if use is restricted |
| Regular Pricing Program Uses | 50% of FMV, except only 10% discount may be applied if use is restricted | 50% of FMV, except only 10% discount may be applied if use is restricted |

Leases

| Proposed Use | Governmental Entities | Nonprofit Entities |
|--|---|--|
| Recreation Purposes | No Cost | 50% of FMV, except only 10% discount may be applied if use is restricted |
| Special Pricing Program Uses (includes historic monument purposes) | \$2.00 per acre per year rental, with a \$25 per year minimum per transaction | 50% of FMV, except only 10% discount may be applied if use is restricted |
| Regular Pricing Program Uses | 50% of FMV, except only 10% discount may be applied if use is restricted | 50% of FMV, except only 10% discount may be applied if use is restricted |

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Provisions of Title VI of the Civil Rights Act of 1964

Form 1860-25
(May 1989)

The grant of the herein described lands is subject to the following reservations, conditions, and limitations.

- (1) The patentee or their success in interest shall comply with and shall violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964(78 Stat 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant hereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
- (2) If the patentee or their (its) successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964,and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used (or the purpose of which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or their delegate may declare the terms of this grant terminated in whole or in part.
- (3) The patentee, by acceptance of this patent, agrees for themselves (itself) or their (its) successors in interest that a declaration of termination in whole or in part or the grant shall, at the option of the Secretary or their delegate, operate to revest in the United States full title to the lands involved in the declaration.
- (4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1956, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.
- (5) The patentee or their (its) successor in interest will, upon request of the Secretary of the Interior or their delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.
- (6) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and their (its) successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.
- (7) The assurances and covenant required by sections (1)- (6) above shall not apply to ultimate beneficiaries under the program for which the grant is made "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

IN TESTIMONY WHEREOF the undersigned
Bureau of Land Management in accordance with the
provisions of the Act of June 17, 1948 (62 Stat. 476), has,
in the name of the United States caused these letters to be
made Patent, and the Seal of the Bureau to be hereunto
affixed.

[SEAL]

GIVEN under my hand, in Boise, Idaho
the tenth day of June
in the year of our Lord one thousand and ninety-two
and of the independence of the
United States the two hundred and seventeenth

By _____

Patent Number 11-92-0070

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Cultural and Paleontological Resources Protection and Pesticide Requirements

Cultural and Paleontological Resources

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the lessee, or any person working on the lessee's behalf, on public or Federal land shall be immediately reported to the authorized officer. The lessee shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The lessee will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the lessee.

Pesticides

Use of pesticides shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the lessee shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and mixing areas and method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing the authorized officer prior to such use.

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Sample Decision Offering Lease Renewal

| | | |
|--|---|--|
|  | <p>United States Department of the Interior BUREAU OF LAND MANAGEMENT</p> |  |
| <p>Certified Mail Return Receipt Requested</p> | | |
| <p>DECISION</p> | | |
| <p>The Roman Catholic Bishop Of Reno P.O. Box 1211 Reno, Nevada 89504</p> | <p>: : : :</p> | <p>Recreation and Public Purposes Lease Renewal Application NVN-12089</p> |
| <p><u>LEASE RENEWAL OFFERED</u></p> | | |
| <p>By application dated September 16, 1987, the roman Catholic Bishop requested renewal of Recreation and Public Purposes Lease N-12089 for the parking lot adjacent to St. Viator's Community Center in Las Vegas.</p> | | |
| <p>A recent field examination of the site disclosed that the facility is being operated in compliance with the approved plans of development and management. Therefore, a five-year lease renewal is hereby offered subject to the terms and conditions specified in the enclosed lease forms. If you concur, please sign the enclosed forms and return them within thirty (30) days of receipt of this decision. Advance rental in the amount of \$215.00 for the first year of the renewal must also be submitted. A copy of the executed lease renewal will be returned to you.</p> | | |
| <p>The purchase option may be exercised at any time during the term of the lease. Additional information in this regard will be provided at such time as you request purchase.</p> | | |
| | | <p>Name Las Vegas District Manager</p> |
| <p>Enclosure: R&PP Lease Forms</p> | | |

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Sample Decision Denying Request to Exercise Purchase Option



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

Decision

Las Vegas Bible Studies : Recreation and Public Purposes
5720 Eugene Avenue : Lease N-21980
Las Vegas, Nevada 89108

REQUEST FOR CONVEYANCE DENIED

By letter dated January 15, 1985, Las Vegas Bible Studies asked to exercise the option to purchase contained in its Recreation and Public Purposes Lease N-21980, which was issued on September 8, 1981, and expires on September 7, 1986.

A field examination conducted on April 18, 1985, revealed that development planned for the second, third, and fourth years of the lease term had not been started. Consequently, the substantial compliance requirement of the purchase option clause has not been met and your request for conveyance is hereby denied.

Within thirty (30) days of receipt of this decision, you have the right of appeal to the Board of Land Appeals. Office of the Secretary, in accordance with the requisitions at 43 CFR 4.400 and the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (use CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.

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- (3) The likelihood of immediate and irreparable harm if the stay is not granted and
- (4) Whether the public interest favors granting the stay.

Name
Las Vegas District Manager

Enclosure:
Form 1842-1, Appeals Procedures

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Sample Decision Accepting Relinquishment of Lease

| | | |
|---|---|--|
|  | <p>United States Department of the Interior BUREAU OF LAND MANAGEMENT</p> |  |
| <p>Certified Mail Return Receipt Requested</p> | | |
| <p>DECISION</p> | | |
| <p>The Roman Catholic Diocese of Reno-Las Vegas P.O. Bo 12111 Ren, Nevada 89504</p> | <p>: : :</p> | <p>Recreation and Public Purposes Lease NVN-20391</p> |
| <p><u>RELINQUISHMENT ACCEPTED</u></p> | | |
| <p>By letter dated September 27, 1987, The Roman Catholic Diocese requested relinquishment of its Recreation and Public Purposes Lease N-20391.</p> | | |
| <p>A field examination has revealed than the site has never been developed in accordance with the terms and conditions of the lease and there are no encumbrances or improvements on the land that require rehabilitation. Therefore, relinquishment of the lease is hereby accepted.</p> | | |
| <p>Name Carson City District Manager</p> | | |

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Sample Show-Cause Notice



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

NOTICE

:
City of Datepalm : Recreation and Public Purposes Act
728 West Avenue : Patent No. 29-78-0020 (CACA-35672)
Datepalm, California 92550

ORDER TO SHOW CAUSE

Patent No. 29-78-0020 was issued to the City of Datepalm on May 22, 1978, pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741), for the following described lands:

San Bernardino Meridian, California

T. 6 N., R. 12 W.,
Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$

Containing 20 acres more or less.

The patent states that "If the patentee or its successor in interest does not comply with provisions of the approved plan of development, filed on April 5, 1971, with the Bureau of Land Management, or by any revision thereof approved by the Secretary of the Interior or their delegate, said Secretary or their delegate, after due notice and opportunity for a hearing, may declare the terms of this grant terminated in whole or in part. The patentee, by acceptance of this patent, agrees for itself and its successors in interest that such declaration shall be conclusive as to the facts found by the Secretary or their delegate and shall, at the option of the Secretary or their delegate, operate to revest in the United States full title to the lands involved in the declaration.

The lands have not been developed as specified in the patent. The approved plan of development shows that the lands will be devoted to a multi-purpose recreational center and parking lot. On February 10, 1986, a field examination revealed that a city-operated health clinic has been constructed on the east 10 acres of the site. Correspondence in the file indicates that the Bakersfield District Manager has made numerous requests to the City for an amended plan of development; however, the City has not complied with these requests. The lands are being used for an additional purpose not specified in the approved development plan. The health clinic constitutes a use other than that for which the lands were conveyed and is a violation of the reversionary

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Therefore, the city of the Datepalm is hereby ordered to show cause why action should not be taken to revert its title to the Lands in accordance with the patent terms by submitting evidence demonstrating that no violation has occurred.

If the City is not in agreement with the findings that title should revert, and chooses not to submit the required evidence, it may request a hearing before an Administrative Law Judge (ALJ) in accordance with 43 CFR Part 4.420. A request for a hearing should be filed with _____, with a copy sent to this office.

If the City is in agreement with the findings that title should revert for failure to comply with the terms of the patent, then the enclosed quitclaim deed must be executed and returned to this office within thirty (30) days of receipt of this notice. An appropriate resolution authorizing such action should accompany the quitclaim deed and the original patent should be returned for termination. In addition, title evidence must also be furnished either in the form of (1) a certification by the appropriate City official that the property has not been sold or otherwise encumbered and a certification under the official seal of the City Recorder or other appropriate City official that no instrument has been recorded or filed that would encumber title to the property, or (2) a certification by an abstractor or abstract company that no instrument has been recorded or filed that conveyed or would encumber title to title.

Failure to comply with one of the requirements above within 30 days of receipt of this notice shall result in the issuance of a decision of divestiture of title.

Name
Bakersfield District Manager

Cc: Office of Regional Solicitor

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Sample Decision Terminating a Lease



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

Town of Silver City :
P.O. Box 1199 : Recreation and Public Purposes
Silver City, New Mexico 88062 : Lease NMN067062

RECREATION AND PUBLIC PURPOSES LEASE TERMINATED

Recreation and Public Purposes (R&PP) Lease NM-67062 was issued on May 2, 1984, to the town of Silver City for the following described lands for use as a multi-purpose recreational facility:

New Mexico Principal Meridian

T. 18 S., R. 14 W.,
Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$

Containing 40 acres more or less

On July 22, 1987, the City was issued a show-cause notice and give 30 days in which to either provide adequate justification as to why the lease should not be terminated, or request a hearing. The lessee has failed to comply with terms and conditions found in Section 4€ of its lease in that the leased lands have never been used for the purpose specified in the lease. The period of nonuse specified in Section 4€ of the City's lease is 3 years.

The regulations at 43 CFR 2912.101(c) state: "Lease shall be terminable by the authorized officer upon failure of the lessee to comply with the terms of the lease, upon a finding, after notice and opportunity for hearing, that or part of the land is being devoted to a use other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized officer. The specified period of nonuse or unauthorized use shall not be less than 2 years nor more than 5 years.

The lessee has stated that the reason the leased lands have not been used is because the adjacent landowner will not allow the Town of Silver City access across their private land. As the lessee has no access to the leased lands and the lands will remain in a nonuse status, the Bureau of Land Management has no alternative but to terminate R&PP lease NM-67062 in its entirety.

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Within thirty (30 days) of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, Information of Taking Appeals to the board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Name
Las Cruces District Manager

Enclosure
Form 1842-1, Appeals Procedures

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Quitclaim Deed for Reconveyance to the United States

QUITCLAIM DEED
(Reconveyance to the United States)

This Deed, made this 24th day of September, A.D., 1986, between City of Caliente organized and existing under the laws of the State of Nevada, acting by and through its city council, Grantor, and the United States of America, Grantee.

WHEREAS, by Patent No. 27-81-0002, dated November 18, 1981, the United States of America conveyed the land described below to City of Caliente, for recreational purposes under the provisions of the Act of Congress of June 14, 1926, as amended (43 U.S.C. 869 et seq.).

WHEREAS, it is the intention of the Grantor to convey said land back to the Grantee, as it is not being used for recreational purposes in compliance with the terms of Patent No. 27-81-0002 and the provisions of the cited Act of Congress which provide for reversion of title to the United States of America in the event of noncompliance.

WHEREAS, on or about the 10th day of August, 1986, a resolution was duly adopted, passed, and approved by the city council, of the City of Caliente of the State of Nevada authorizing and directing the Grantor to convey said land to the Grantee.

WITNESSETH, in consideration of the foregoing premises, the Grantor does by these presents remise, release, convey, and quitclaim unto the United States of America any or all right, title, claim, and interest in and to the following described real property situated in Lincoln County, Nevada; T.11 N., R. 57 E., Mount Diablo Meridian, Section 12, All.

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The area described contains 640 acres, according to the official Plat of Survey of the said land, on file in the Bureau of Land Management.

In WITNESS WHEREOF, the Grantor has executed this deed and of the day and year first written above, and affixed its seal thereto.

(Grantor - Organization)

By _____
(Title)

STATE OF Nevada)
) ss
COUNTY OF Lincoln)

This instrument was subscribed and sworn to before me this 24th day of September, 1986.

Notary Public

My Commission Expires:

December, 1988

NOTE: This document must be prepared double-spaced.

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Sample Authorizing Resolution

CORPORATE RESOLUTION OF TRANSFER OF INTEREST
IN REAL PROPERTY

I, Curtis J. Wheeler, Secretary, of Carson Lions Club, a California Corporation, hereby certify that the following is a true and correct copy of a resolution appearing in the Minutes of the Board of Director's Meeting held September 10, 1986.

RESOLVED, that the President of the Corporation, Diana Royal, be and she hereby is authorized to execute on behalf of the Corporation a Reconveyance to the United States of certain real property consisting of approximately 80 acres of lands situated in T. 8 S., R. 15 E., Section 25, N1/2NE1/4, San Bernardino Meridian, California.

Secretary

STATE OF CALIFORNIA)
) ss
COUNTRY OF SAN DIEGO)

Subscribed and sworn to before me this 11th day of September, 1986.

Notary Public

My Commission Expires:

December 31, 1988

NOTE: This document must be prepared doubled-spaced.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Accepting Title



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



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Return Receipt Requested

DECISION

:
City of Avondale : Reversion of Lands under
P.O. 222 : Recreation and Public Purposes Act
Avondale, Nevada 89100 : (NVN-123456)

TITLE ACCEPTED

On November 18, 1981, Patent No. 27-81-0009 issued on N-123456, filed under the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), for T. 10 N. R. 69 E., Section 12, All, Mount Diablo Meridian.

The patent contained a provision that the lands would revert to the United States in the event the patentee or its successor, without prior proper consent, transfers title or uses the land for uses other than that specified in the patent. The lands were not improved in accordance with the provision of the plan of development on file with the Bureau, or by any approved revision thereof.

On August 28, 1986, a quitclaim deed to the United States, describing the above lands, was received in this office from Azul Perez, Mayor of Caliente, Nevada.

The deed, resolution, and title evidence are acceptable, and the Bureau of Land Management hereby accepts title to the above-described lands on behalf of the United States. A copy of the recorded quitclaim deed is enclosed for your records.

Name
State Director

Enclosure
Copy of Recorded Quitclaim Deed

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Sample Letter Informing County Assessor of Reconveyance



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



County Assessor
County of Yuma
Yuma, Arizona 85364

Dear County Assessor:

This is to inform you that on September 29, 1986, title to the following described lands owned by the City of Palmyra, was reconveyed to the United States and properly recorded with the County Recorder on September 30, 1986 (Book 896, page 62):

Gila and Salt River Meridian

T. 10 S., R. 23 E.,
Section 12, All.

Containing 640 acres, more or less

These lands were originally patented under Patent No. 1226869 to the city of Palmyra on November 18, 1963.

Sincerely,

Name
Chief, Branch of Lands and Minerals

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Sample Decision for Divestiture of Patent



United States Department of the Interior
BUREAU OF LAND MANAGEMENT



Certified Mail
Return Receipt Requested

DECISION

Young American Recreation Assn : Recreation and Public Purposes Act
P. O. Box 300 : Patent No. 27-85-0032
Crossroads, Nevada 89322 : (NVN-123456)

DIVESTITURE OF YOUNG AMERICAN RECREATION ASSN'S TITLE - REVESTITURE OF TITLE IN THE UNITED STATES

Pursuant to the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), the United States issued Patent No. 27-85-0032, dated July 26, 1985, to the Young American Recreation Association (hereinafter referred to as the Association) for, inter alia, the NE¼SW¼ of Section 23, T.12S., R.16E., MDM, Nevada. As required by the Act (43 U.S.C. 869-2) and the regulations thereunder (43 U.S.C. 1984 ed., 2741.8 - now 43 CFR 1986 ed., 2741.9), the patent contains a clause providing for the reverter of title to the United States if grantee or its successor, without prior proper consent, attempts to transfer title to or control over the lands to another, or to another which is not a qualified transferee under the Act (43 U.S.C. 869-1(a) and 869-1(c)). For the reasons stated below, the Association's attempt to transfer title to an unqualified transferee is deemed a violation of the reversionary provision of the patent and such action affects a divestiture of the Association's title to the lands and the reversion thereof in the United States.

Following the issuance of patent, which was based on successful completion of the project in accordance with the approved development plan, the Association wrote the BLM Las Vegas District Office in a November 7, 1985, letter that it no longer had the financial capability to operate and maintain the project. The Association indicated that it intended to sell the property to a buyer willing to continue to operate the facility as in the past. On November 14, 1985, the District Office responded, informing the Association that any attempt to sell or transfer title to the lands without prior approval of the BLM would violate the reversionary clause in the patent. Ignoring what it had been told by BLM, and apparently unable to find a willing buyer on its own, the Association attempted to sell the lands through a local real estate agent. This was confirmed in a February 15, 1986, letter to the District Office from Orion Realty, Inc. of Crossroads, Nevada. On February 28, 1986, BLM again informed the Association that it had no power to sell or transfer title to the lands without the express consent of the BLM. A subsequent field examination of the lands on July 15, 1986, revealed that another organization, Youth America, Inc., was operating and maintaining the project under a "Gift Deed" granted by the Association. It was further determined through corresponding with the State of Nevada and the Internal Revenue Service that Youth America, Inc. is a profit-making corporation.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

The Recreation and Public Purposes Act is applicable only to States, Federal and State instrumentalities and political subdivisions, including counties and municipalities, and nonprofit associations and nonprofit corporations. The Act and the pertinent regulations thereunder, supra, expressly provide that title shall revert upon a finding that the patentee attempts to transfer title to or control over the lands to another without the approval of the Secretary or their delegate. The Association's repeated attempts to sell the property, on its own and through a local real estate agent, and its entering into a contractual arrangement with another party, itself not qualified to hold lands under the Act, is deemed to be a violation of the reversionary provision of the Patent and to effect divestiture of the Association's title to the land and the reversion thereof in the United States.

Within thirty (30) days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, Information on Taking an Appeal to the Board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If no appeal is filed within the time specified, this decision will be deemed to have become final and the appropriate records, including the Clark County records, will be noted regarding the extinguishment of the Association's title to the described land and the reversion thereof in the United States.

Name
Chief, Branch of Lands and Minerals

Enclosure
Form 1842-1, Appeals Procedures

H-2740-1 - RECREATION AND PUBLIC PURPOSES

- 5/ If all lands in the patent are affected by the approval action, enter “Those described in the above-noted patent”. If only part of the lands are affected, enter the legal description. Metes and bounds descriptions are acceptable for the purposes of approvals.
- 6/ If patent was issued prior to the June 4, 1954, amendment to the R&PP Act, enter the date of this approval (see Manual Section 2740.3). If patent was issued on or after the June 4, 1954, amendment, enter “None”.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Chapter 3 Sample Certificate of Approval of Change of Use

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Serial No. NVN-4940
Certificate No. 27-05

CERTIFICATE OF APPROVAL
OF CHANGE OF USE
(Act of June 14, 192; 44 Stat. 741);
43 U.S.C. 869 et seq., as amended)

This is to certify that the authorized officer of the Bureau of Land Management on May 9, 1984, authorized the Nevada Department of Game and Fish to use the lands described below and in Patent No. 27-73-0078, dated June 14 1973, for recreational purposes instead of wildlife project purposes as stated in said patent. This approval is subject to the reversionary provisions of the above noted Act.

Lots 14, 15, and 16 in Section 12, Township 32 South,
Range 66 East, Mt. Diablo Mer., Clark County, Nevada

Containing 78.42 acres, more or less.

May 15, 1986
Date

/s/ State Director or designee
Title

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Log of Certificate of Transfer or Change of Use

Page ____ of ____

| Certificate No. | Date of Action | Serial No. | Patent No. and Date | Approved Transferee | Approved Permitted Use |
|-----------------|----------------|--------------------------|--|--|---|
| 49-1 | 06-17-1966 | WYW 089346 | 1222763 09-14-1961 | --- | Community recreation and municipal purposes; and municipal rodeo arena. |
| 49-2 | 12-19-1968 | WYW 065329 | 1198714 08-28-1959 | --- | Municipal water storage - recreation. |
| 49-3 | 01-10-1975 | WYW 039261 | 1181992 05-05-1958 | --- | Therapeutic recreation purposes. |
| 49-4 | 11-04-1975 | WYW 0319029 | 49-66-0085 06-30-1966 | Natrona County School District No. 1 | School site purposes. |
| 49-5 | 11-24-1975 | WYW 077525 | 1198019 08-05-1959 | --- | County Road and Bridge equipment storage purposes. |
| 49-6 | 04-12-1977 | WYW 42362 | 49-75-0043 01-14-1975 | --- | National Guard Armory Complex purposes. |
| 49-7 | 09-04-1979 | WYW 28922 | 49-74-0002 08-10-1973 | --- | Office complex purposes. |
| 49-8 | 12-28-1979 | WYW 42362 | 49-75-0043 | State of Wyoming | National Guard Armory site. |
| 49-9 | 04-06-1981 | WYW 42362A WYW 089346 | 01-14-1975 1222763 | Military Department | Public Works maintenance and storage facility site purposes. |
| 49-10 | 06-04-1981 | WYW 038843 | 09-14-1961 1182845 | --- | Fenced storage yard and trailer space site. |
| 49-11 | 02-01-1984 | WYW 78596 WYW 78596A | 06-09-1958 49-83-0027 04-11-1983 | Housing Authority of the city of Buffalo, Wyoming. | Elderly low cost housing project. |
| 49-12 | 02-21-1984 | WYW 0215775 | 49-81-0011 02-20-1981 | City of Casper, Wyoming | Ski resort site. |
| 49-13 | 03-12-1984 | WYW 78596 | 49-83-0027 04-11-1983 | --- | Senior Citizen Center purposes. |
| 49-14 | 02-14-1989 | WYW 42362 | 49-75-0043 01-14-1975 | State of Wyoming Military Department; Parcel B | National Guard Armory site purposes. |
| 49-15 | 02-14-1989 | WYW 42362A | 49-75-0043 01-14-1975 | County of Sweetwater, Wyoming; Parcel A | Access road to county fairgrounds. |

H-2740-1 - RECREATION AND PUBLIC PURPOSES

INDEMNIFICATION PATENT PROVISION FOR DISPOSAL SITES

The (patentee), its successors or assigns, assumes all liability for and shall defend indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from (insert legal description), regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

Signature

Date

H-2740-1 - RECREATION AND PUBLIC PURPOSES

LIMITED REVERTER PROVISION

Provided, that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of conveyance. No portion of the land shall under any circumstances revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.

COMPENSATION PROVISION

If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

SAMPLE DECLARATORY COVENTANTS FOR PATENTS ON NEW OR EXISTING LANDFILL SITES

The following language should be utilized in the patent in order to establish a covenant that will be noted by title researchers when investigating future conveyances of the land. Surface indicators of a disposal facility will probably disappear within a few years after closure while the landfill contents will likely be present for several hundred years or more. These covenants would be especially important in areas where urban expansion could eventually result in the land being utilized for development which may require extensive disturbance of the subsurface.

SAMPLE COVENANT FOR NEW AUTHORIZATIONS

The above described land has been conveyed for utilization as a solid waste disposal site as follows: (describe precise location to the extent possible utilizing legal descriptions and/or relationship to permanent landscape markers. Include proposed depth of landfill, dimensions of perimeter, type of liner and cover, etc., and place where permanent records will be filed). Upon closure, the site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

SAMPLE COVENANT FOR EXISTING AUTHORIZATIONS

The above described land has been used for solid waste disposal as follows: (describe precise location to the extent possible utilizing legal descriptions and/or relationship to permanent landscape markers. Include proposed depth of landfill, dimensions of perimeter, type of liner and cover, etc., and place where permanent records will be filed). Solid waste commonly includes small quantities of commercial hazardous waste and household hazardous waste as determined in the Resource Conservation and hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Memorandum to the Director

2740
NMN-87542

MEMORANDUM

We are requesting your approval for the sale of the (insert name) sanitary landfill to (insert lessee). The site is currently leased for landfill purposes under the Recreation and Public Purposes (R&PP) Act and the applicant has requested that the landfill be conveyed pursuant to the provisions of the R&PP Act and the regulations contained in 43 CFR 2743. The lessee has determined that retaining the existing site is in their best economic interests and will provide an acceptable facility for the disposal of solid waste.

A landfill transfer audit (LTA) has been completed and signed by the (insert auditor and lessee) (copy attached). The audit indicates that the facility is operated in an environmentally safe fashion and does not pose a significant threat to human health or the environment. The audit has been reviewed by (State agency) which has certified that, based on the information in the audit, it concurs that the contents of the disposal site do not threaten human health and the environment. The lessee has signed an indemnification statement agreeing to hold the United States harmless from any liability associated with the operation of the landfill, and a provision to that effect will be included in the patent. A provision stating that the landfill may contain small amounts of hazardous waste in the form of household or commercial materials will be included in the patent. In addition, a covenant stating that the lands have been used for landfill purposes which should be taken into account when considering future land uses will also be included.

The lessee has been made aware of the Environmental Protection Agency regulations contained in 40 CFR 258, which pertains to siting, design, operation, closure, and post-closure obligations for sanitary landfills.

The sale is in conformance with the BLM land use plan for the area and local zoning ordinances.

Questions may be directed to [BLM employee name] at 505-465-8723.

Attachment

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Letter to Patentee to Remove Reversionary Clause

2740

R&PP Patentee
160 Maple St.
Anytown, NV 89098

Dear Patentee:

On (insert date), you were granted a patent under the Recreation & Public Purposes Act for the purpose of establishing a (sanitary landfill/transfer station) located at (location).

Recently, the Federal regulations pertaining to the Recreation and Public Purposed Act were revised to allow patentees to rescind the reversionary clause contained in the patent which provides for reconveyance of the land to the United States in the event that the lands are not utilized for the intended purpose. Removal of the reversionary clause would ensure that the lands remain in private ownership, thus limiting liability to the United States in the event that hazardous substances are present on the land. Relinquishment of the clause would in no manner affect your existing right to operate a (sanitary landfill/transfer station) on the patented lands.

Enclosed is a form, which when signed will authorize removal of the reversionary clause from the patent. If removal of the reversionary clause is satisfactory to you, please sign and return to this office. If you have questions, please contact (authorized individual) at 505-234-9876.

Sincerely yours,

Authorized Officer

Enclosure

H-2740-1 - RECREATION AND PUBLIC PURPOSES

RELINQUISHMENT OF REVERSIONARY CLAUSE

The undersigned hereby (requests/concurs with) relinquishment of the reversionary clause contained in Patent No. (patent number) granted to (patentee) for the purpose of a (sanitary landfill/transfer station) located at (sanitary landfill/transfer station) located at (legal description).

Signature

Date

Title

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Decision Removing Reverter Provision
Through Supplemental Patent

Certified Mail
Return Receipt Requested

Decision

County of Rio Blanco :
County Courthouse : COC 27132
Montrose, Colorado 86542 : R&PP Patent

Supplemental Patent Issued

On June 5, 1982, Rio Blanco County was issued patent number 05-83-0013 under the authority of the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741), for a sanitary landfill on the following described land:

Sixth Principal Meridian, Colorado

T. 1 N., R. 101 W., Sec. 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$

Containing 40 acres

The land has been used properly for a landfill since the date of patent.

On July 23, 1992, Rio Blanco County requested an amendment to remove the reverter language pursuant to the Recreation and Public Purposes Amendment Act of 1988 (Public Law 100-648). Rio Blanco County has complied with all provisions of the law and therefore, the patent is supplemented by removal of the reversionary language. The supplemental patent is enclosed.

Within thirty (30) days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of proof by showing that the decision appealed for is in error.

If you wish to file a petition (request) (pursuant to regulation 43 CFR 4.21) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the time the original documents are filed with this office. If you request a stay you have the burden of proof to demonstrate that a stay should be granted.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, petition for a stay of a decision depending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Name
Deputy State Director, Operations

Enclosures:
Patent 05-92-0013
Form 1842-1, Appeals Procedures

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Supplemental Patent With Reverter Language Removed

Form 1860-9
(January 1988)

The United States of America
To all to whom these presents shall come, Greeting:

Colorado 27132

Page 1 of 3

WHEREAS

COUNTY OF RIO BLANCO, STATE OF COLORADO

is entitled to a land patent pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869; 869-1 to 869-4), for the following described land:

Sixth Principal Meridian, Colorado

T. 1 N., R. 101W.,
sec. 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$

containing 40 acres

NOW KNOW YE, that the United States of America, in considerations of the premises, and in conformity with the said Act of Congress, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said County of Rio Blanco, State of Colorado, the tract above described, for a sanitary landfill; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the same County of Rio Blanco, State of Colorado, forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945); and
2. All the mineral deposits in the lands so patented, and the right of the United States, or persons authorized by the United States, or persons authorized by the United States, to prospect for, mine, and remove such deposits from the same under applicable laws and regulations as the Secretary of Interior may prescribe; and

Patent Number **05-92-0013**

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Colorado 27132

Page 2 of 3

Subject To:

1. Those rights for highway purposes as have been granted to the Colorado State Highway Department, its successors or assigns, by Permit No. Denver 056626 under Section 17 of the Act of November 9, 1921 (23 U.S.C. 317), as amended; and
2. Those rights for electric power distribution line purposes as have been granted to Moon Lake electric Association, Inc., its successors and assigns, by Permit No. Colorado 990815 under the Act of March 4, 1911 (43 U.S.C. 961), as amended.

This entry is made under Section 29 of the Act of February 20, 1920, 1920 (30 U.S.C. 186), and the patent is issued subject to the rights of prior permittees or lessees to use so much of the surface of said land as is required for mining operations without compensation to the patentee for damages resulting from proper mining operations.

The grant of the herein described land is subject to the following reservations, conditions, and limitations:

- (1) The patentee or their (its) successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the land conveyed herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
- (2) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, or the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

Patent No **05-92-0013**

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Form 1860-10
(April 1988)

Colorado 27132

Page 3 of 3

(3) The patentee or their (its) successor in interest will, upon request of the Secretary of the Interior or their delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

(4) The reservations, conditions, and limitations contained in paragraphs (1) through (5) shall constitute a covenant running with the land, binding on the patentee and their (its) successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(5) The assurances and covenant required by sections (1)-(4) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

This patent is supplemental to Patent No 05-82-0006, issued on June 5, 1982, and issued for the purpose of removal of the reversionary language.

In Testimony Whereof, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, cause these letters to be made Patent, and the Seal Of the Bureau to be hereunto affixed.

[SEAL]

Given under my hand, in DENVER, COLORADO
the TWENTY-SEVENTH day of AUGUST
in the year of our Lord one thousand nine hundred and
NINETY-TWO and of the Independence of the
United States the two hundred and SEVENTEENTH

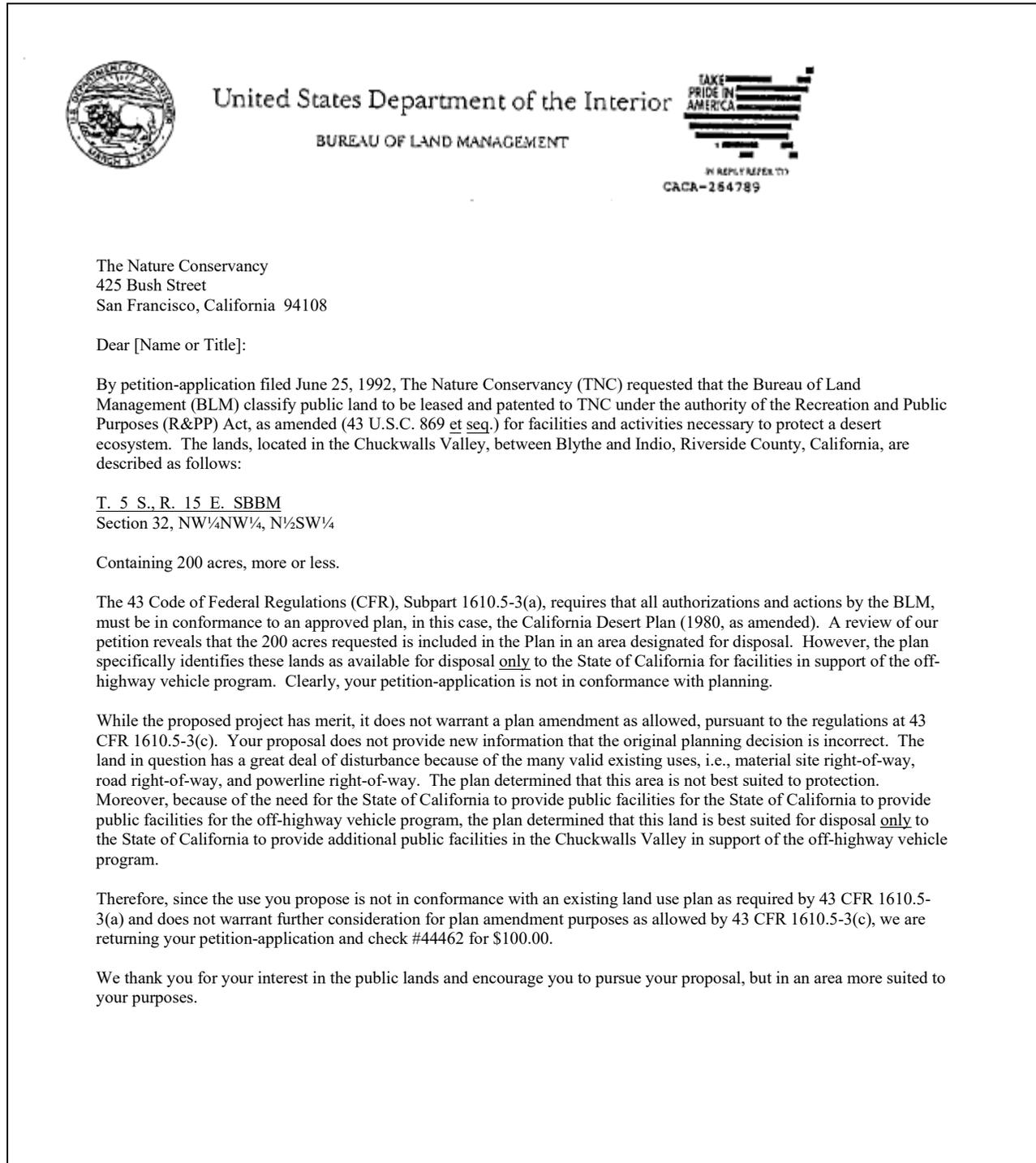
By _____
NAME
CHIEF, DIVISION OF OPERATIONS

Patent No **05-92-0013**

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Letter Rejecting Application

Based on Land Use Planning



H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Letter Rejecting Application
Not in the Public Interest

| | | |
|--|---|---|
|  | <p>United States Department of the Interior BUREAU OF LAND MANAGEMENT</p> |  |
| <p>Uintah County Commission County Courthouse Vernal, Utah 84708</p> | | |
| <p>Dear County Commissioners:</p> | | |
| <p>We have completed an environmental analysis of your proposal to construct a sanitary landfill on sheep flat. As part of the analysis, we found a sizable population of the threatened plant Russian Thistle (<i>Adioussa Stepanekii</i>). Because the BLM is charged with the protection of all species that are found on the U.S. threatened or endangered species list, we must deny your application. We will be happy to work with you find an alternative location.</p> | | |
| <p>Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400 and the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.</p> | | |
| <p>If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay/(suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate office of the Solicitor (see CFR 4.413), at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.</p> | | |
| <p style="text-align: center;"><u>Standards for Obtaining a Stay</u></p> | | |
| <p>Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards.</p> | | |
| <ol style="list-style-type: none">(1) The relative harm to the parties if the stay is granted or denied.(2) The likelihood of the appellant's success on the merits,(3) The likelihood of immediate and irreparable harm if the stay is not granted, and | | |

H-2740-1 - RECREATION AND PUBLIC PURPOSES

(4) Whether the public interest favors granting the stay.

If you have any questions, please contact Joy Fasteddy, BLM Vernal District Office, at 801-789-1362.

Sincerely,

Name
District Manager

NOTE: Use of this format for the appeals paragraph requires that the address of the office issuing the decision and the address of the appropriate Regional or Field Solicitor, be typed in for Items 2 and 3 of Form 1842-1.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Declaratory Covenants for Patents on New or Existing Sites That May
That May Result in the Disposal, Placement, or Release of Hazardous Substances

The following language should be utilized in the patent in order to establish a covenant that will be noted by title researchers when investigating future conveyances of the land. Surface indicators of a facility will probably disappear within a few years while the contents will likely be present for several years or more. These covenants would be especially important in areas where urban expansion could eventually result in the land being utilized for development which may require extensive disturbance of the subsurface.

SAMPLE COVENANT FOR NEW AUTHORIZATIONS

The above described land has been conveyed for utilization as a (describe site). The land may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5.

SAMPLE COVENANT FOR EXISTING AUTHORIZATIONS

The above described land has been used for (describe site). The land may contain small quantities of commercial hazardous waste and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and define in 40 CFR 261.4 and 261.5.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Patent Civil Rights Language When Using
the 1988 Amendment Act

Reverter Provisions

The 1988 R&PP Amendment Act provided for patents to be issued on new sites with a limited title reverter and patents to be issued for leased sites with no title reversion. The limited and no reverter provisions of the 1988 Act created a conflict with the standard Civil Rights Act Title VI patent provisions which allow for title reversion if there are violations of the civil rights provisions in the patent. Patents issued pursuant to the provisions of the 1988 R&PP Amendment Act will have the following Title VI language:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of title VI of the Civil Rights Act of 1964, 78 Stat. 241, requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto, 43 CFR 17, for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
2. The United States shall have the right to seek judicial enforcement of the requirements of title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said title VI, in the event of their violation by the patentee.
3. The patentee or its successor in interest will, upon request of the Secretary of the Interior or their delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.
4. The reservation, conditions, and limitations contained in paragraphs 1-3 shall constitute a covenant running with the land, binding on the patentee and its successors interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provisions of similar services or benefits.
5. The assurances and covenant required by paragraphs 1-4 above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

Those States that use BLM Form 1860-25 should XX out items 2 and 3 prior to attaching to the patent.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

Sample Patent for New Sites Under the
Provisions of the 1988 Amendment Act

Form 1860-9
(January 1988)

The United States of America

To all to whom these presents shall come, Greeting:

NMNM 86622

Page 1 of 3

WHEREAS

City of Farmington

is entitled to a land patent pursuant to The Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), for the following described land:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 14 W.,
sec. 34, lots 5 and 6,
SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

Containing 34.96 acres;

NOW KNOW YE, that there is, therefore, granted by the UNITED STATES, unto the City of Farmington, the land above described for a law enforcement shooting range and training facility; TO HAVE AND TO HOLD the land with all the rights, privileges, immunities and appurtenances, of whatsoever nature, thereunto belonging, unto the City of Farmington, and its assigns forever; and

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945);
2. All mineral deposits in the land so patented, and right of the United States, or persons authorized by the United States, to prospect for, mine, and remove such deposits from the same under applicable laws and regulations as the Secretary of the Interior may prescribe.

SUBJECT TO:

1. Valid existing access road rights-of-way and easements;
2. Outstanding oil and gas lease NMNM 0206995 embracing lots 5, 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 34, T. 30 N., R. 14 W., issued August 1, 1948, for a 10-year period, and so long thereafter as oil and gas is produced in paying quantities or other extensions granted consistent with the terms of the lease and applicable laws and regulations, with any funds generated under the lease for fees or royalties from production accruing to the benefit of the United States;

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3. The City of Farmington, its successors or assigns, shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR Part 302);
4. The City of Farmington, its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in the clause as the United States) from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal, placement or release of hazardous substances from lots 5, 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 34, T. 30 N., R. 14 W., NMPM, regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.
5. The above described land has been conveyed for utilization as a shooting range and training facility. The land may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C 6901), and defined in 40 CFR 261.4 and 261.5;
6. Provided, that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially used all of the land in accordance with the approved plan of development on or before the date five years after the date of conveyance;
7. No portion of the land shall under any circumstances revert to the United States if any such portion has been used for any purpose which may result in the disposal, placement, or release of any hazardous substance.
8. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon;
9. The Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees and permittees) to prohibit or restrict the use of any part of the patented land or any of the facilities thereon by any person because of such person's race, creed, sex, or national origin.

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In addition to the above the grant of the herein described land is subject to the following reservation, conditions, and limitations:

1. The patentee and its successors or assigns in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits;
2. The United States shall have the right to seek judicial enforcement of the requirements of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee;
3. The patentee and its successors or assigns in interest will, upon request of the Secretary of the Interior or their delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rihts Act of 1964 to the area or faicity conveyed;
4. The reservations, conditions, and limitations contained in paragraphs (1) through (3) shall constitute a covenant running with the land, binding on the patentee and its successors or assigns in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits;
5. The assurances and covenant required by sections (1)-(4) above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in Santa Fe, New Mexico the FOURTEENTH day of JANUARY in the year of our Lord one thousand nine hundred and NINETY-FOUR and of the Independence of the United States the two hundred and EIGHTEENTH.

BY _____
Name
Farmington District Manager

Patent Number **30-94-0007**

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Sample Plan of Development and Plan of Management
PROPOSED INDIAN CREEK PARK

PROPOSED INDIAN CREEK PARK

Development and Improvement Plan

1. Description

The proposed Indian Creek Park comprises 80 acres situated around the junction of the East and the West Forks of Indian Creek, and encompasses ½ miles of shoreline along the streams. The site is located 25 miles southwest of Adams (population 18,000). Nevada State Highway 38, an all-weather gravel road, leads to within ½ public outdoor recreation facilities within 35 miles and this location is the only available site southwest of Adams. The East and the West Forks join near the mouth of a steep scenic canyon. The proposed site is on relatively level bench land supporting an open stand of large ponderosa pines and aspen. Indian Creek provides excellent trout fishing and elk, deer, and other wildlife are numerous in the vicinity.

2. State of Need

This region is now subject to intense recreational pressures from the local population, especially from Adams, and to a lesser extent from tourists using Highway 38. A serious public health and litter problem has been created by use of these undeveloped lands for picnicking and overnight camping and pollution of Indian Creek by human wastes. Recent road counts along Nevada 38 indicate an average weekday traffic flow from April to October of 225 units, while weekends and holidays average 850 units. This traffic is primarily the result of people looking for places to picnic, camp, fish, hike in the mountains, or just to enjoy nature. Hunters camp in this location during the winter months. There is one public picnic area with 60 units ten miles northeast of Adams, which is subjected to severe overuse. During the past several years, this site has shown an average weekend attendance which increased 300 percent (600 visits in 1968 to 1800 visits in 1973). The population of Adams has increased from 9,000 in 1960 to the present 18,000, which is one of the largest percentage increases in the State. With is population growth, new industries have been established in the vicinity, and continued increase in population is to be expected. Scheduled resurfacing of Nevada 38 during the next few years is expected to increase the average daily summer traffic flow from 225 units to more than 1,000 units.

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3. Location

The lands embraced by the proposed part are under various forms of management by this agency (see General Vicinity Map):

T. 4 N., R. 62 E., MD Meridian, Nevada

| | | |
|------------|-----------|--|
| Section 21 | S½SE¼SW¼ | owned fee title |
| Section 22 | S½SW¼SW¼ | owned fee title |
| Section 27 | SW¼NE¼NE¼ | leased |
| Section 28 | S½NE¼NE¼ | own fee title |
| | NW¼NE¼ | leased with option to purchase |
| | N½NE¼NE¼ | own 20' easement along Indian Creek and right-of-way for vehicular traffic |

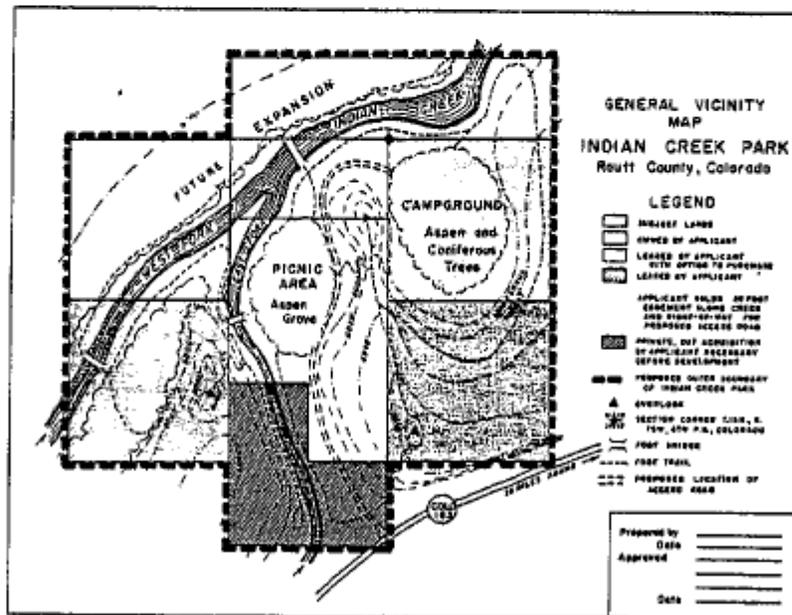
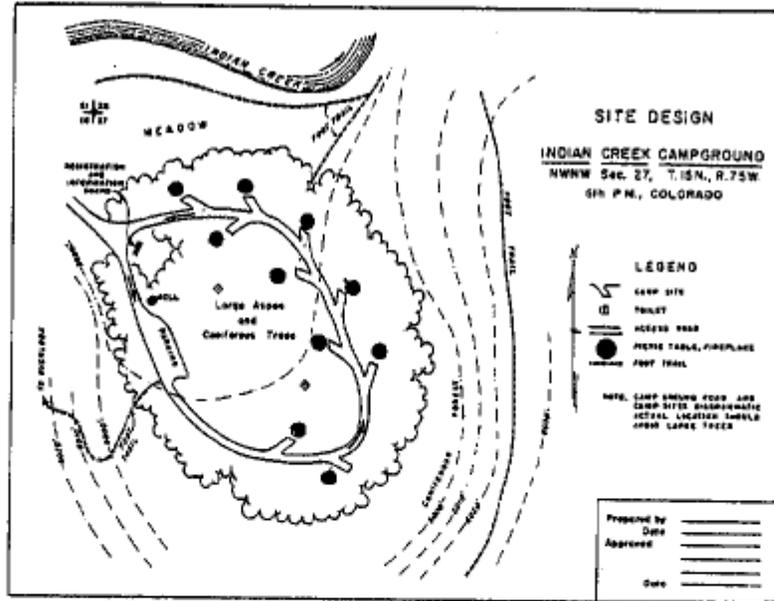
The land embraced by the instant application will be used as follows:

| | | |
|------------|--------|---|
| Section 27 | NW¼NW¼ | Overnight campground and development of foot trails |
| Section 28 | SW¼NE¼ | Fishing access, overlook and foot trails. No major recreational developments other than a foot bridge crossing the West Fork of Indian Creek is contemplated. This tract is desired to act as a buffer zone between intensive development as exhibited in the camp and picnic grounds and adjoining privately owned lands. Therefore, it is intended that this tract remain in its natural state. |

It is urgent that the development of public outdoor recreation facilities be initiated in the Indian Creek area. Development of the proposed Indian Creek Park will not only help alleviate the intense demand for such facilities, but will also act as a springboard for the future acquisition and development of similar sites in this area which are now in private property.

4. Concurrence in this project has been obtained from the Routt County Planning Commission. A copy of their comments is enclosed.

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Description of proposed improvements and estimated cost of development for lands encompassed by the proposed Indian Creek Park:

Unit 1 Indian Creek Campground (See Site Design)

NW¼NW¼, Section 27, T. 4 N., R. 62 E., MDM, Nevada

Surveying, planning, and construction of ½-mile interior road, 10 feet wide, graded gravel and crushed stone with 4-inch macadam surface; 10 parking units, 3-inch macadam surface; ½ -mile foot trail, 3 feet wide, graveled.

Clearing, leveling, and developing of campsites, with 20 family units (camping).

Subtotal \$21,250

Unit 2 (See General Vicinity Map)

SW¼NE¼, Section 28, T. 4 N., R. 62 E., MDM, Nevada

½-mile foot trail, 3 feet wide, graveled; 1 foot bridge Crossing West Fork Indian Creek, 5 feet wide by 20 feet long, log-steel structure.

Subtotal \$ 2,000

In addition to the above improvements to be placed on the lands applied for, the following amounts will be expended on county-owned or leased land in developing Indian Creek Park.

Subtotal \$33,000

The purchase of 30 acres of privately owned land, and annual rental of leased private land, will require an expenditure of \$6,000 over the five-year period.

Subtotal \$ 6,000

TOTAL \$62,250

In addition to the above costs, the county will provide maintenance and custodial services.

(Also show source of funds to be used in developing and maintaining the site.)

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Timetable for Development of the Indian Creek Park

The plan is to develop the park over a 5-year period which will commence with the lease of the lands applied for. Prior to the end of the 5-year lease period, construction will be completed. The proposed timetable for development will approximate the following:

First Year

| | |
|---|-------------------|
| 1. Annual rental of other property within park | \$ 100 |
| Purchase of 30 acres now impeding full utilization and development of Indian Creek Park | \$ 5,500 |
| 2. Development costs: | |
| Surveys for road and trail construction; development plans for picnic grounds and campgrounds | 5,000 \$10,600 |

Second Year

| | |
|---|----------|
| Annual rental of other property within park | \$ 100 |
| Construction of access and interior roads and parking area | 12,500 |
| Initial construction of picnic grounds | 10,000 |
| Initial construction of foot trails | 750 |
| | \$23,350 |

Third Year

| | |
|-------------------------------------|----------|
| Annual rental other property within | \$ 100 |
| Completion of picnic grounds | 10,000 |
| Completion of foot trails | 1,500 |
| | \$11,600 |

Fourth Year

| | |
|---|----------|
| Annual rental of other property within park | \$ 100 |
| Initial construction of campground | 5,000 |
| Construction of two foot bridges | 3,000 |
| | \$ 8,100 |

Fifth Year

| | |
|--|----------|
| Annual rental of other property within | \$ 100 |
| Completion of campground | 7,000 |
| Construction of one foot bridge | 1,500 |
| | \$ 8,100 |

| | |
|-------|-----------|
| TOTAL | \$ 62,250 |
|-------|-----------|

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Management Plan

In consideration of a lease and eventual conveyance of the BLM lands at no cost, the Routt County Park Commission (through the Board of County Commissioners), agrees to the following commitments, which commitments will be incorporated by reference in the conveyance of the subject lands:

1. To maintain the lands open to use by the public for recreational purposes without discrimination or favor.
2. To make no more than a reasonable charge for the use of facilities on the land (whether by concession or otherwise) and to charge no more for entrance to and use of the area than is charged at other comparable installations managed by State and local agencies. The Commission will submit to the Bureau of Land Management its schedule of charges. All charges shall be subject to review for conformance with this requirement and appropriate modification by the Secretary of the Interior or their delegate after reasonable notice and opportunity for hearing.
3. To develop and manage the lands in accordance with the approved program of utilization, submitted with this application.
4. To secure the approval of the Secretary of the Interior or their delegate of all plans of construction prior to commencing actual construction.
5. To maintain in satisfactory condition the facilities on these lands.

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R&PP NORA/CLASSIFICATION PROCESS

| Responsible Office/Official | Step | Action |
|---------------------------------|------|---|
| District Manager | 1. | Prepares and publishes NORA. Allows 45-day comment period. Comments, if any, go to issuing office. |
| | | If no adverse comments are received, classification becomes final, effective 60 days after publication of NORA in the <u>Federal Register</u> . |
| | | If adverse comments are received, prepares analysis and forwards recommendations to State Director. |
| State Director | 2. | Reviews District recommendations and either affirms, modifies, or vacates the NORA. |
| | | a. If affirmed, advises protestant(s) by certified mail, other interested parties by regular mail, of the decision by letter. Provides opportunity to comment to Secretary (LLM 260) within 30 days of protestants receipt of decision in accordance with 43 CFR 2450.5. |
| | | b. If modified, either by adding or deleting acreage from the original NORA or there is a significant change in proposed use, republishes NORA in accordance 43 CFR 2741.5(h), providing for comment to Secretary (LLM 260). NORA must state: (1) that for a period of 45 days after date of publication in the <u>Federal Register</u> , the proposed classification shall be subject to the exercise of supervisory authority by the Secretary of the Interior for the purpose of administrative review, and (2) that if the Secretary does not exercise their authority for review, the proposed classification shall become the final order of the Secretary. |
| | | If modified for reasons other than 2b. above, notifies protestant and other interest parties as in 2a. |
| | 3. | If no adverse comments are received, the State Director's decision becomes the final order of the Secretary. |
| Secretary of Interior (LLM 260) | 4. | If timely adverse comments are received, requests analysis of comments by State Director |
| | 5. | Decides whether to exercise supervisory authority and if so advise all parties. |
| | 6. | Classification, if approved, becomes effective upon completion of administrative review. |

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Sample Landfill Transfer Audit

PICKLES BUTTE SANITARY LANDFILL

RECORD REVIEW AND INSPECTION

STATE OF IDAHO

DEPARTMENT OF HEALTH & WELFARE

DIVISION OF ENVIRONMENTAL QUALITY

HAZARDOUS MATERIALS BUREAU

C.S. RASMUSSEN

HAZARDOUS MATERIALS COMPLIANCE OFFICER

NOVEMBER 20, 1990

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Based on the existing available data and the results of this report, the Pickles Butte Sanitary Landfill does not present a significant risk to human health and the environment at this time.

Canyon County Commission

Date

Idaho Department of
Health and Welfare

Date

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PICKLES BUTTE LANDFILLE AUDIT

EXECUTIVE SUMMARY

The relatively short operating life of the landfill, the annual precipitation, and the geology and hydrology/hydrogeology indicate that no significant impact to the environment has occurred at this time.

Canyon County Commissions should be advised that if the landfill operations continue in their present mode and if, without major modification, this site becomes a regional landfill, contamination can be expected to occur.

The gravel removal operations that are on BLM land above the landfill should be discontinued to eliminate the creation of catch basins for water collection. The ponding would enhance the potential for high infiltration through the landfill thereby changing the hydrology of the site.

A review of the Idaho DEQ and the Southwest District Health Department files does not reveal any unusual operating conditions at the Pickles Butte Landfill.

A routine inspection, on November 14, 1990 (using an OVA), while revealing some items of non-compliance, did not show any obvious signs of significant adverse environmental impact.

Information on the pressure tank in the maintenance shop indicates that static water was encountered at a depth in excess of 500 feet; however, the well log filed with the Department of Water Resources records static water at 339 feet.

The county should be appraised of the Michalson domestic well, in the NE ¼NE¼ of Section 21, Township 2N., Range 3W. This well is less than three quarters of a mile from the Canyon County domestic well at the landfill. The well log records the static water level at 45 feet and a total well depth of 100 feet. The well is not cased below the 30 foot level.

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INSPECTION

An inspection of the Pickles Butte Landfill was conducted on November 14, 1990 by Stanley Rasmussen, Hazardous Materials Bureau Compliance Officer, and Ron Lane, Environmental Hydrogeologist, from the Idaho Division of Environmental Quality, Hazardous Materials Bureau. No soil or water samples were taken during the inspection; however, a Summit Industries Organic Vapor Analyzer (OVA) was used to test for the presence of hazardous wastes in the landfill. No detectable amounts of toxins or explosive vapors were noted in the air above the landfill.

At the time of the inspection the rubbish was not being covered on a daily basis as required by Idaho Solid Waste Rules and Regulations (IDAPA 16.01.6008,12). Liquid sludge was being dumped on the uncovered face of the landfill, in violation of Idaho Solid Waste Rules and Regulations IDAPA 16.01.6008,16. The site operator, Richard Lattimer, informed the inspection team that he was trying to develop a trench for the disposal of liquid wastes. The Pickles Butte Landfill does not have a permit for the disposal of liquid waste. According to Lattimer, the liquid sludge was received from a rendering operation. The liquids had run down the face of the landfill and formed a small (6'x2') puddle at the toe of the trash face.

The nearest well to the landfill is the county well located in the maintenance shop at the equipment yard next to the landfill operations office. Information on the pressure tank at the well head indicates the static water level to be in excess of 500 feet below land surface. The well pump has a capacity of 5 gpm and is in excess of 550 feet below ground surface. According to both Lattimer and the employees in the shop, the well pump could not keep up with the small water demand for the shop operations.

The cross-bedded sandstones observed at the road cuts on the landfill, together with the silty sands observed on-site, indicate that infiltration (percolation) through the trash cells will be slow.

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RECORD REVIEW

1. During the compliance audit by Advance Sciences, Inc. (April 1990) a record search was made of the landfill operating history. This review concluded that the landfill lease was authorized on April 16, 1976 and was for a period of 25 years. The leasing agency is the Department of the Interior, Bureau of Land Management, and the lessee is Canyons County, Idaho.
2. The start of actual land filling operations is not known. The audit by ASI states that the landfill site was approved by the Department of Health & Welfare on June 16, 1973 (ASI Audit, April 19, 1990).

A review of the HMB files shows that an environmental assessment of the operating plans for the landfill was completed and a response regarding the findings with tentative approval was sent to the county on June 16, 1973. The IDH&W approval notice to BLM was sent on May 2, 1975 in answer to BLM's letter requesting review of the plans that was received by HMB on April 2, 1975. The recommendation, from EPA, that the lease be granted was dated June 16, 1975.

Of interest is the sequence of dates of the requests and the timing of the approval process:

- a. County lease request April 19, 1972 was received in BLM office April 19, 1973.
- b. Letter from BLM to DEQ was received by HMB April 3, 1975.
- c. Letter to BLM from EPA written June 16, 1975.

This sequence of dates suggests that the landfill operations might have been on-going prior to final approval. However, after interviews with the operator, Richard Lattimer, and Paul Seronko, Environmental Protection Specialist/BLM, this does not appear to be the case.

3. Compliance inspections were performed by the Southwest District Health Department (SWDHD) and the BLM. The inspection reports indicate that there were no major infractions. The most common problems, according to inspection reports, are improper covering and blowing trash (ASI Audit, April 1990).

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4. The inspection reports on file with HMB do not reveal the presence of any hazardous material. The reports express the inspector's concerns for improper daily coverage and blowing trash.

INTERVIEWS OF PERSONNEL**Paul Seronko-BLM Environmental Protection Specialist/Boise District**

Mr. Seronko believes the delay in the approval of the lease was attributable in part to landowners in the area expressing concerns over the location of the landfill. His research also indicates that the County was actively looking at one other site for the landfill. He does not believe any waste was going to this site prior to BLM final lease approval since the Central Cove Landfill was still in operation.

Jeri Jankowski-Solid Waste Specialist/Hazardous Materials Bureau/Idaho Department of Health & Welfare-DEQ.

Ms. Jankowski is not aware of the usage of Pickles Butte for refuse disposal prior to final site approval. She does recall that at the time the request for lease of the property was initiated there was opposition to the lease. The Pickles Butte land was being used for recreational purposes by off-road vehicle owners who were opposed to the location of a landfill in the area.

She recalled being told by people involved in the site operation that exempt amounts of hazardous waste were received at the landfill. Ms. Jankowski has no personal knowledge of hazardous waste being incorporated into the landfill. She does believe that a questionable material (caustic soda or sodium hydroxide), along with exempt amounts of toxic wastes, were received at the site and buried in "special" set-aside areas.

R. Lattimer-Pickles Butte Landfill Manager

During the interview R. Lattimer stated that all waste is checked upon arriving at the entrance to the landfill. While an in-depth inspection of each load is not the practice, loads

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Appearing suspicious or those that might contain regulated waste are screened more thoroughly. When asked about the disposal of the fuel tank (as mentioned in the HMB files), the manager recalled it had gone to a local farmer for private use.

R. Lattimer reported that they did not always cover the trash (as required by Idaho State operating rules and regulations) at the end of the day. The manager also said that the landfill was not in a position to accept liquids but they were considering a liquid sludge disposal trench.

**Roni Lane-Environmental Hydrogeologist/Idaho Hazardous Materials
Bureau/Idaho Department of Health & Welfare**

Dr. Lane's memo states that the site specific geology, hydrology/hydrogeology, and the fact that no observable imminent hazards currently exist on the site, would indicate that adverse environmental impact the subsurface soils and groundwater have probably not yet occurred (memo attached).

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WELL LOG INFORMATION

1. Canyon County well:

This well is located in SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 2 N., Range 3W. Boise Meridian. The well is cased and the well diameter is shown as telescoping from a diameter of 20 inches at the top to a diameter of 10 inches at the 637 foot level. Static water was encountered at 339 feet with a total well depth of 658 feet. The well screen extends from 577 feet to 637 feet below ground surface. At an eight gpm pumping rate, the water level was drawn down 111 feet over a period of three hours.

2. Reese Michalson well:

This well is located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, Township 2 N., Range 3 W., Boise Meridian. This well has a 6 inch diameter casing to a depth of 30 feet. The remainder of the well (60 feet) is not encased.

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State of Idaho
Department of Water Resources

WELL DRILLER'S REPORT

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion of operations. W.R. 17-10-1

USE TYPEWRITER OR BALL POINT PEN

| <p>1. WELL OWNER</p> <p>Name <u>Chadwick Title Co.</u> Address <u>Chadwick Title Co.</u> Owner's permit No. _____</p> <p>2. NATURE OF WORK</p> <p><input checked="" type="checkbox"/> New <input type="checkbox"/> Repair <input type="checkbox"/> Replacement</p> <p><input type="checkbox"/> Abandoned (describe method of abandonment)</p> <p>3. PROPOSED USE</p> <p><input checked="" type="checkbox"/> Domestic <input type="checkbox"/> Irrigation <input type="checkbox"/> Test <input type="checkbox"/> Other (specify) _____</p> <p><input type="checkbox"/> Mineral <input type="checkbox"/> Industrial <input type="checkbox"/> Stock <input type="checkbox"/> Water Channel or Intake</p> <p>4. METHOD DRILLED</p> <p><input checked="" type="checkbox"/> Casing <input type="checkbox"/> Rotary <input type="checkbox"/> Aug <input type="checkbox"/> Other _____</p> <p>5. WELL CONSTRUCTION</p> <p>Diameter of hole <u>3.0</u> inches Total depth <u>450</u> feet Casing automatic <input type="checkbox"/> Steel <input type="checkbox"/> Concrete</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Thickness</th> <th>Quantity</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td><u>3.0</u> inches</td> <td><u>16</u> inches</td> <td><u>0</u> feet</td> <td><u>575</u> feet</td> </tr> <tr> <td><u>2.5</u> inches</td> <td><u>10</u> inches</td> <td><u>575</u> feet</td> <td><u>577</u> feet</td> </tr> <tr> <td><u>2.0</u> inches</td> <td><u>10</u> inches</td> <td><u>577</u> feet</td> <td><u>650</u> feet</td> </tr> <tr> <td>_____ inches</td> <td>_____ inches</td> <td>_____ feet</td> <td>_____ feet</td> </tr> <tr> <td>_____ inches</td> <td>_____ inches</td> <td>_____ feet</td> <td>_____ feet</td> </tr> </tbody> </table> <p>Was casing drive done used? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Was a packer or seal used? <input type="checkbox"/> Yes <input type="checkbox"/> No Perforated? <input type="checkbox"/> Yes <input type="checkbox"/> No How perforated? <input type="checkbox"/> Factory <input type="checkbox"/> Knife <input type="checkbox"/> Torch Size of perforations _____ inches by _____ inches _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet _____ perforations _____ feet _____ feet</p> <p>Well screen installed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Manufacturer's name <u>THOMSON</u> Type <u>STAINLESS</u> Model No. _____ Diameter <u>1.6</u> inch size <u>25</u> feet from <u>577</u> feet to <u>677</u> feet Diameter _____ inch size _____ feet from _____ feet to _____ feet</p> <p>Gravel crushed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Size of gravel <u>1/4" to 1/2"</u> Placed from <u>577</u> feet to <u>650</u> feet</p> <p>Surface seal depth <u>20</u> inches seal in case <input checked="" type="checkbox"/> Cement grout <input type="checkbox"/> Packing clay <input type="checkbox"/> Wet slurry Sealing process used <input type="checkbox"/> Slurry at <input type="checkbox"/> Temporary surface casing <input type="checkbox"/> Overlays in seal depth</p> | Thickness | Quantity | From | To | <u>3.0</u> inches | <u>16</u> inches | <u>0</u> feet | <u>575</u> feet | <u>2.5</u> inches | <u>10</u> inches | <u>575</u> feet | <u>577</u> feet | <u>2.0</u> inches | <u>10</u> inches | <u>577</u> feet | <u>650</u> feet | _____ inches | _____ inches | _____ feet | _____ feet | _____ inches | _____ inches | _____ feet | _____ feet | <p>7. WATER LEVEL</p> <p>Static water level <u>7.00</u> feet below land surface Flowing? <input type="checkbox"/> Yes <input type="checkbox"/> No G.P.W. Feet _____ Temperature _____ ° Celsius _____ ° Fahrenheit Artesian closed or pressure _____ S.A.L. Cased into by <input type="checkbox"/> Valve <input type="checkbox"/> Cap <input type="checkbox"/> Plug</p> <p>8. WELL TEST DATA</p> <p><input type="checkbox"/> Pump <input type="checkbox"/> Suck <input type="checkbox"/> Other _____</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Duration A.P.M.</th> <th>Draw Down</th> <th>Recovery</th> </tr> </thead> <tbody> <tr> <td><u>5:15 AM</u></td> <td><u>1.1</u></td> <td><u>3</u></td> </tr> </tbody> </table> <p>9. LITHOLOGIC LOG</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Depth</th> <th>From</th> <th>To</th> <th>Material</th> <th>Color</th> </tr> </thead> <tbody> <tr> <td><u>0</u></td> <td><u>0</u></td> <td><u>3</u></td> <td><u>Top Soil</u></td> <td></td> </tr> <tr> <td><u>3</u></td> <td><u>45</u></td> <td><u>45</u></td> <td><u>Sand 2-3" clay</u></td> <td></td> </tr> <tr> <td><u>45</u></td> <td><u>152</u></td> <td><u>152</u></td> <td><u>Sand 2" clay</u></td> <td></td> </tr> <tr> <td><u>152</u></td> <td><u>285</u></td> <td><u>285</u></td> <td><u>Yellow clay</u></td> <td></td> </tr> <tr> <td><u>285</u></td> <td><u>325</u></td> <td><u>325</u></td> <td><u>Red clay sticky</u></td> <td></td> </tr> <tr> <td><u>325</u></td> <td><u>350</u></td> <td><u>350</u></td> <td><u>Blue shale</u></td> <td></td> </tr> <tr> <td><u>350</u></td> <td><u>370</u></td> <td><u>370</u></td> <td><u>Blue clay 1-2" sand</u></td> <td></td> </tr> <tr> <td><u>370</u></td> <td><u>520</u></td> <td><u>520</u></td> <td><u>Blue clay (shale)</u></td> <td></td> </tr> <tr> <td><u>520</u></td> <td><u>575</u></td> <td><u>575</u></td> <td><u>Grey shale</u></td> <td></td> </tr> <tr> <td><u>575</u></td> <td><u>650</u></td> <td><u>650</u></td> <td><u>Shale sand</u></td> <td></td> </tr> <tr> <td><u>650</u></td> <td><u>650</u></td> <td><u>650</u></td> <td><u>Blue clay</u></td> <td></td> </tr> </tbody> </table> <p>10. LOCATION OF WELL</p> <p>Sketch map (attach if not drawn with previous location) <u>63</u></p> <p>Section No. _____ Lot No. _____ Block No. _____</p> <p>11. DRILLER IDENTIFICATION</p> <p>Permit No. <u>WTR Drilling Per 1455</u> Address <u>Chadwick Title Co. 7/11/78</u> Signed by (Print Name) <u>Chadwick Title Co.</u></p> | Duration A.P.M. | Draw Down | Recovery | <u>5:15 AM</u> | <u>1.1</u> | <u>3</u> | Depth | From | To | Material | Color | <u>0</u> | <u>0</u> | <u>3</u> | <u>Top Soil</u> | | <u>3</u> | <u>45</u> | <u>45</u> | <u>Sand 2-3" clay</u> | | <u>45</u> | <u>152</u> | <u>152</u> | <u>Sand 2" clay</u> | | <u>152</u> | <u>285</u> | <u>285</u> | <u>Yellow clay</u> | | <u>285</u> | <u>325</u> | <u>325</u> | <u>Red clay sticky</u> | | <u>325</u> | <u>350</u> | <u>350</u> | <u>Blue shale</u> | | <u>350</u> | <u>370</u> | <u>370</u> | <u>Blue clay 1-2" sand</u> | | <u>370</u> | <u>520</u> | <u>520</u> | <u>Blue clay (shale)</u> | | <u>520</u> | <u>575</u> | <u>575</u> | <u>Grey shale</u> | | <u>575</u> | <u>650</u> | <u>650</u> | <u>Shale sand</u> | | <u>650</u> | <u>650</u> | <u>650</u> | <u>Blue clay</u> | |
|---|------------------|-----------------|----------------------------|-------|-------------------|------------------|---------------|-----------------|-------------------|------------------|-----------------|-----------------|-------------------|------------------|-----------------|-----------------|--------------|--------------|------------|------------|--------------|--------------|------------|------------|---|-----------------|-----------|----------|----------------|------------|----------|-------|------|----|----------|-------|----------|----------|----------|-----------------|--|----------|-----------|-----------|-----------------------|--|-----------|------------|------------|---------------------|--|------------|------------|------------|--------------------|--|------------|------------|------------|------------------------|--|------------|------------|------------|-------------------|--|------------|------------|------------|----------------------------|--|------------|------------|------------|--------------------------|--|------------|------------|------------|-------------------|--|------------|------------|------------|-------------------|--|------------|------------|------------|------------------|--|
| Thickness | Quantity | From | To | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>3.0</u> inches | <u>16</u> inches | <u>0</u> feet | <u>575</u> feet | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>2.5</u> inches | <u>10</u> inches | <u>575</u> feet | <u>577</u> feet | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>2.0</u> inches | <u>10</u> inches | <u>577</u> feet | <u>650</u> feet | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| _____ inches | _____ inches | _____ feet | _____ feet | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| _____ inches | _____ inches | _____ feet | _____ feet | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Duration A.P.M. | Draw Down | Recovery | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>5:15 AM</u> | <u>1.1</u> | <u>3</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Depth | From | To | Material | Color | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>0</u> | <u>0</u> | <u>3</u> | <u>Top Soil</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>3</u> | <u>45</u> | <u>45</u> | <u>Sand 2-3" clay</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>45</u> | <u>152</u> | <u>152</u> | <u>Sand 2" clay</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>152</u> | <u>285</u> | <u>285</u> | <u>Yellow clay</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>285</u> | <u>325</u> | <u>325</u> | <u>Red clay sticky</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>325</u> | <u>350</u> | <u>350</u> | <u>Blue shale</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>350</u> | <u>370</u> | <u>370</u> | <u>Blue clay 1-2" sand</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>370</u> | <u>520</u> | <u>520</u> | <u>Blue clay (shale)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>520</u> | <u>575</u> | <u>575</u> | <u>Grey shale</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>575</u> | <u>650</u> | <u>650</u> | <u>Shale sand</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <u>650</u> | <u>650</u> | <u>650</u> | <u>Blue clay</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

H-2740-1 - RECREATION AND PUBLIC PURPOSES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

Form 238-7
9-82

USE TYPEWRITER OR
BALLPOINT PEN

This law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

1. WELL OWNER
Name Rocco Nicholas
Address Boise Id
Owner's Permit No. _____

2. NATURE OF WORK
 New well Deepened Replacement
 Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE
 Domestic Irrigation Test Municipal
 Industrial Stock Waste Disposal or Injection
 Other _____ (Specify use)

4. METHOD DRILLED
 Rotary Air Hydraulic Reverse rotary
 Case Dig Other _____

5. WELL CONSTRUCTION
Casing schedule: Steel Concrete Other
Thickness _____ inches _____ inches _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
_____ inches _____ inches _____ feet _____ feet
Was casing drive shoe used? Yes No
Was a packer or seal used? Yes No
Perforated? Yes No
How perforated? Factory Knife Torch
Size of perforation _____ inches by _____ inches
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
_____ perforations _____ feet _____ feet
Well screen installed? Yes No
Manufacturer's name _____
Type _____ Model No. _____
Diameter _____ Start size _____ Set from _____ feet to _____ feet
Diameter _____ Start size _____ Set from _____ feet to _____ feet
Gravel packed? Yes No Size of gravel _____ feet
Placed from _____ feet to _____ feet
Surface seal depth 50 (if optional used) Cement grout
 Bentonite Pudding mix
Sealing procedure used: Shurry pit Tamp, surface casing
 Overhaul to seal stretch Overhaul to seal stretch
Method of joining casing: Threaded Bolted Cemented between _____ feet
Describe casing joint _____

7. WATER LEVEL
Static water level 95 feet below land surface.
Flowing? Yes No G.P.M. flow _____
Artificial discharge pressure _____ h.a.l.
Controlled by: Valve Gate Plug
Temperature _____ °F Quality _____
Describe conditions of flow, if any, in the well.

8. WELL TEST DATA
 Pump Sailer Air Other _____
Duration G.P.M. _____ Pumping Lines _____ Hours Pumped _____

9. LITHOLOGIC LOG

| Start | Depth | Material | Water |
|-------|-------|----------|------------|
| Depth | From | To | Test Hole |
| 0 | 0 | 10 | Druckman |
| 9 | 10 | 30 | Rock Layer |
| 6 | 30 | 100 | Loam Rock |

RECEIVED
SEP 26 1986
DEPARTMENT OF WATER RESOURCES

10. LOCATION OF WELL
Sketch map section _____ agree with written location.
Subfield - Name _____
Lot No. _____ Block No. _____
County Chippewal
NE 1/4 NE 1/4 Sec 21 T 22 N R 34 W

11. DRILLER'S CERTIFICATION
I/We certify that all minimum well construction standards were complied with at the site and (if) test removed.
Firm Name Hobbs Drilling Firm No. 198
Address Chippewal Id Date 9/14/86
Signed by (if not Owner) Ed Hobbs
and
Owner Same

USE ADDITIONAL SHEETS IF NECESSARY - FORWARD THE WHITE COPY TO THE DEPARTMENT

H-2740-1 - RECREATION AND PUBLIC PURPOSES

PHOTOGRAPHS

1. Looking over completed lift, example of hills and soil surrounding Pickles Butte Landfill.
2. Start of new lift and access road into landfill proper.
3. Picture of the type of hills surrounding the site, looking up to top of hill where gravel removal operations are occurring.
4. This photograph is a good example of the terrain surrounding the landfill; note depth and type of soil.
5. Shows start of new lift; in far background is the uncovered trash and sludge dump.
6. Shows uncovered trash (possible recyclable material) mixed with liquid sludge.
7. Shows liquid from sludge that has run down face of lift and formed puddle.
8. Uncovered trash mixed with liquid sludge from rendering plant; shows high amount of liquid.

H-2740-1 - RECREATION AND PUBLIC PURPOSES

APPENDIX C

H-2740-1 - RECREATION AND PUBLIC PURPOSES



State of Idaho
DEPARTMENT OF HEALTH AND WELFARE
Division of Environmental Quality

1410 N. Hillen
Boise, Idaho 83708

CECIL D. ANDRUS
Governor
RICHARD P. O'CONNOR
Director

November 15, 1990

MEMORANDUM

TO: C.S. Rasmussen

FROM: Roni Lane

SUBJECT: Site Inspection of Pickles Butte Landfill, Canyon County

The inspection of the Pickles Butte Landfill on November 14, 1990, indicated that there were no obvious signs of a significant adverse impact resulting from the on-going landfill operation.

The cross-bedded sandstones observed at some road cuts, together with the silty sands observed on-site would lead one to assume that infiltration (percolation) through these units (soils) would be slow.

An inspection of the production well at the maintenance shop indicated that the static water level is excess of 500 ft. below land surface with the 5 gpm pump intake set below 550 ft. Discussions with maintenance shop personnel revealed that the well was recently deepened and the existing well yield is very low and sometimes cannot keep up with the small demand of the shop. One possibility for the low yield could be the completion interval of the well, which could be in an upper portion of a low yield formation rather than in the deeper, regional flow regime.

In summary, the relatively short operating life of the landfill, combined with the site-specific geology, hydrology/hydrogeology with the fact that no observable imminent hazards currently exist on-site would indicate that adverse environmental impact to subsurface soils and groundwater have probably not yet occurred. Major modifications to the landfill would (should) be required, however, if its operation is to continue, especially on a regional basis.

RDL/jc
Cc: Avery Hernandez



H-2740-1 - RECREATION AND PUBLIC PURPOSES



State of Idaho
DEPARTMENT OF HEALTH AND WELFARE
Division of Environmental Quality

CECIL D. ANDRUS
Governor
RICHARD P. DONOVAN
Director

1410 N. Hillen
Boise, Idaho 83706

November 20, 1990

Mr. Paul Seronko
Environmental Protection Specialist
Bureau of Land Management
Boise District
3984 Development Ave.
Boise, Idaho 83705

Dear Mr. Seronko:

Attached is the report of the Hazardous Materials Bureau review of Pickles Butte Sanitary Landfill. To assist in your review I have included a memorandum from Ron Lane, two well logs, and some photographs. Ron is an Environmental Hydrogeologist with the Bureau and was assigned to assist me with the landfill inspection. The well logs are copies of the information on file with the Idaho Department of Water Resources.

I have not included the audit report from Advanced Sciences; however, the information in that report was utilized in this review.

If you have any questions please call me at 334-0463.

Sincerely,

A handwritten signature in cursive script that reads "C. S. Rasmussen".

C. S. Rasmussen
HW Compliance Officer

CSR/cm

cc: Kari Gebhardt, Hydrologist/Environmental Engineer, BLM Boise



H-2740-1 - RECREATION AND PUBLIC PURPOSES



State of Idaho
DEPARTMENT OF HEALTH AND WELFARE
BLM/DSO
Division of Environmental Quality

APR 2 1991

CECIL B. ANDRUS
RICHARD F. DOBROVANSKY
Director

1410 N. Hilton
Boise, Idaho 83706

| | ACTION WAS TAKEN | INFO | NOTED |
|--|---------------------|------|-------|
| DSR | | | |
| LANDS | | | |
| LANDS BLM | | | |
| NOV 28 1990 RECEIVED BUREAU OF LAND MANAGEMENT OREGON STATE OFFICE | | | |
| ENGIN. | | | |
| CADASTRAL | | | |
| APPRAISAL | | | |

November 28, 1990

Paul Seronko
Environmental Protection Specialist
Boise District BLM
3948 Development Avenue
Boise, ID 83705

November 28, 1990

Paul Seronko
Environmental Protection Specialist
Boise District BLM
3948 Development Avenue
Boise, ID 87305

Dear Paul:

I have completed the investigation of the Pickles Butte Sanitary Landfill, which is operated by Canyon County. It is my professional opinion, based on existing available data and the investigation, that the Pickles Butte Sanitary Landfill does not present a significant risk to human health of the environment at this time.

Sincerely,



C.S. Rasmussen
Compliance Officer
Hazardous Materials Bureau

CSR/cm

cc: Nancy Bloyer
Elfie Schultsmeier



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H-2740-1 - RECREATION AND PUBLIC PURPOSES

RPP NORA - Classification/Planning

R&PP NORA - Classification/Planning

I. NORA Background

As part of R&PP case processing, the Bureau of Land Management began using NORA's in the 1980's as a substitute for the proposed and initial decisions used to classify lands. The use of the NORA as part of R&PP case processing is a time saving tool, but has created confusion regarding what is being announced to the public and the public's administrative rights. The NORA may initiate two key processes in the one document. It may only disclose the classification decision or it may announce the classification decision and a proposal to implement a land use planning decision. The area of confusion lies in what is protestable/appealable and to whom. The classification decision is ultimately protestable to the Secretary and the planning decision is ultimately appealable to the Interior Board of Land Appeals (IBLA). We must make both of these actions clear to the public within the NORA and afford them the opportunity for the proper administrative review procedure.

II. Classification

The R&PP Act is one of five acts that still require land classification prior to allowance of the proposed action (See 43 CFR 2400). An R&PP classification provides two key elements; one is the opening of the land to actions that qualify under the requirements of the R&PP and secondly, the determination of land suitability for the type of use being proposed. This contrasts with the specific use that is proposed in the application. Lands can be classified for R&PP use yet the specific use proposed in the application is unacceptable as described. Classifications are exempt from the appeal provisions of 43 CFR 4.4, but 43 CFR 2450 provides for comments to the Secretary, who may exercise supervisory authority over the decision.

III. Land Use Planning

With the passage of the federal land policy and management act of 1976 (FLPMA), all lands actions are required to be in conformance with an approved LAND USE PLAN. To this end, the provisions of 43 CFR 1610.5-3 provide that any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.4. Therefore, besides the classification notice in the NORA, **THE PUBLIC COULD ALSO BE INFORMED OF A DECISION TO IMPLEMENT A SPECIFIC ACTION WITHIN THE LAND USE PLAN.** Negative comments received on the specific action must be treated as a protest, answered by the State Director, and given an opportunity to appeal to the IBLA.

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IV. Examples

Two examples may help to illustrate the difference between a classification action and an application action. The first is a proposed high school for wayward boys in California. Following publication of the NORA, numerous comments were received from local residents expressing concern that bringing these types of boys into the neighborhood would mean future trouble for local residents and would be a bad influence on the local children. Nobody commented or suggested that the land was not suitable for a high school, only this specific high school. This is not a classification issue and should have been handled as a protest to the application with an appeal right to the IBLA.

The second example involves the construction of a monument in New Mexico. Following publication of the NORA, numerous comments were received protesting the construction of a monument to honor a historical figure which the commenters felt should not be so honored. No comments were received regarding the suitability of the land for a monument. Again, this is not a classification decision but one relative to the application.

V. Future NORA Wording

In future R&PP NORAs, the following language should be included:

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a (high school, monument, park, etc.). Comments on the classification are restricted to whether the land is physically suited for a (high school, monument, park, etc.), whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a (high school, monument, park, etc.)

Comments received on the classification will be answered by the State Director with the right to further comment to the Secretary. Comments on the application will be answered by the State Director with the right of appeal to the IBLA.

Of course, standard language should also be included such as the 45 day comment period where to send comments, and that in the absence of any comments, the realty action will become the final determination of the Department of the Interior.

In the event that it cannot be clearly determined if a comment is a classification or in application issue, it will be considered a classification comment. When negative comments are received on both the classification and application, a final classification decision must be in place prior to addressing the application protest.

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| LANDFILL INSPECTION REPORT | | | |
|---|-----|------------------|-----|
| INSPECTOR'S NAME: | | | |
| DATE: | | | |
| LANDFILL NAME: | | BLM LEASE NUMBER | |
| INSPECTION ITEM | YES | NO | UNK |
| 1. Stipulations from Lease. | | | |
| a. Fence landfill. | | | |
| b. No burning. | | | |
| c. Posted hours. Gate closed when landfill closed | | | |
| d. Post "No hazardous waste accepted." | | | |
| e. No scavenging | | | |
| 2. Results of the last BLM Inspection | | | |
| a. Gate not locked on weekends. | | | |
| b. Scavenging Occurring | | | |
| c. Evidence of burning noted. | | | |
| 3. Results of last State Government Inspection. | | | |
| a. Operator not maintaining sign-in sheets. | | | |
| b. Facility not following operation plan. | | | |
| c. Burning | | | |
| d. Run on/run off structures not maintained. | | | |
| 4. Common Questions for Operators or Lessees. | | | |
| a. Is the landfill active (accepting wastes)? | | | |
| b. How many active cells are there? | | | |
| c. Are there any closed cells (how many and where)? | | | |
| d. Are there any new cells proposed (how many and where)? | | | |

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| INSPECTION ITEM | YES | NO | GCM |
|---|-----|----|-----|
| e. Is it possible to get a copy of the location of all cells to accompany this report | | | |
| f. Does this facility have a surface impoundment? | | | |
| g. Does this facility have a land application unit? | | | |
| h. Since my last inspection have there been any notices of violations (NOV) on the landfill? (If yes, list dates and reasons). _____ _____ _____ | | | |
| i. Since my last inspection have there ever been any fines levied against the landfill? (If yes, list amounts, dates, and reasons). _____ _____ _____ | | | |
| j. Are there or have there been any administrative complaints on the landfill? (If yes, list them with dates and reasons). _____ _____ _____ | | | |
| k. List the current permits for the facility. Are any of the landfill permits due (or overdue) for renewal? _____ _____ _____ | | | |
| l. List types of wastes excluded from the landfill. _____ _____ _____ _____ | | | |
| 5. Results of the telephone conversations with lessee and operator. Attach records of telephone conversations to this form. | | | |
| a. Any unusual conditions to the report? _____ _____ _____ | | | |

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| INSPECTION ITEM | YES | NO | UNCN |
|---|-----|----|------|
| b. Any unusual materials showing up in the waste stream? If so, what, when, who was responsible, who was notified, what actions where and where was the material taken. _____ _____ _____ | | | |
| c. Have Items 2 and 3 above been corrected? | | | |
| d. I will be inspecting the landfill on (Date)_____. Do you want to be present? | | | |
| IF UNUSUAL CONDITIONS ARE NOTED THAT MAY EFFECT YOUR SAFETY, CONSULT YOUR SAFETY OFFICER AND HAZMAT COORDINATOR. | | | |
| 6. Site boundary inspection. | | | |
| a. Is the site fenced? Is the fencing continuous? What type of fence is it? _____ _____ | | | |
| b. Does the fence surround the entire landfill? | | | |
| c. Is there a gate? Is the gate locked when the landfill is not in use? | | | |
| d. Is the site accessible only when operating personnel are present? 40 CFR 241.208-3(a). | | | |
| e. Are there waste materials outside the fence? | | | |
| f. Was the waste beyond the fence line caused by the wind or was it deposited outside the fence? 40 CFR 241.208-3(a). _____ _____ | | | |
| g. Do any ephemeral or permanent streams cross from the landfill onto adjacent property? | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|---|-----|----|-----|
| <p>h. From the fence did you note any large scale dumping of industrial or chemical wastes? (These are often indicated by large containers, pesticide, herbicide, or agricultural containers. If you can read the labels on these containers without your binoculars, you are too close. Record what you observed including label information. _____ _____ _____ _____</p> | | | |
| <p>i. Did you observe any large areas of dead vegetation, ground stains, or unusual (for the season or climate) moist areas from the fence? If so, make a site diagram to remind you of the location, noting permanent landmarks, if any, and the location of other prominent landfill features, e.g. waste pits, landfarm areas, sludge pits, gates, building, stream locations. Attach the diagram to this record.</p> | | | |
| <p>j. Did you note any unusual smells, particularly chemical smells?</p> | | | |
| <p>k. Are there surface grades and side slopes that promote runoff without excessive erosion and minimize infiltration? 40 CFR 241.209-2(b), 241.204-3(a).</p> | | | |
| <p>l. Are there procedures to promote vegetative growth? 40 CFR 241.209-2(c).</p> | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|--|-----|----|-----|
| <p>n. How far are the nearest residences from the fence line?</p> <p>_____</p> <p>_____</p> | | | |
| <p>IF YOU HAVE ANY DOUBTS AS TO YOUR SAFETY ON THE SITE DUE TO YOUR FENCE LINE OBSERVATIONS, CONSIDER YOU ONSITE INSPECTION COMPLETED AND CONDUCT FURTHER INTERVIEWS WITH THE LANDFILL OPERATOR OR LESSEE IN AN ATTEMPT TO CLARIFY THE ISSUES. IF YOU CANNOT RESOLVE THE ISSUES, CONSULT YOUR HAZMAT COORDINATOR.</p> | | | |
| <p>7. Safety. 40 CFR 214.211.</p> | | | |
| <p>A. Is there a safety manual on site?</p> | | | |
| <p>b. Do employees use personal safety equipment?</p> | | | |
| <p>c. Is vehicle safety equipment present? Is it in working order? Is it in use?</p> | | | |
| <p>d. Is emergency communications always available at the landfill?</p> | | | |
| <p>e. Is access to the site controlled?</p> | | | |
| <p>8. Are there groundwater quality issues associated with this landfill?</p> | | | |
| <p>a. What are the current and projected uses of groundwater resources in the area of the landfill? What are the closest wells and their uses? 40 CFR 241.204-2(a)(1).</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> | | | |
| <p>b. Does groundwater ever work its way into the lowest point of the lowest cell? 40 CFR 241.204-2(a)(2).</p> | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|--|-----|----|-----|
| c. Are there any proposed observation wells, sampling stations, and a groundwater testing program? If so, have you requested results for your files? 40 CFR 241.204-2(a)(5). | | | |
| d. Are there potential leachate control systems? 40 CFR 241.204-2(a)(8). | | | |
| 9. Surface Water Issues. | | | |
| a. Are there surface water run-off control provisions (containment structures)? 40 CFR 241.204-2(a)(7). | | | |
| b. Are there effective run-on control structures? 40 CFR 241.204-3(a). | | | |
| c. Do the cells fill with surface water any time during the year? | | | |
| d. Are there low spots in the cap that collect water? | | | |
| e. Is the landfill located in a 100 year floodplain? | | | |
| f. Does the landfill restrict the flow of a (100 year) base flood that would threaten human health and the environment? 40 CFR 257.3-1(a). | | | |
| g. Does the landfill reduce temporary water storage capacity of the floodplain that would threaten human health and the environment? | | | |
| h. Does the landfill result in a washout of solid waste that would threaten human health and the environment? 40 CFR 257.3-1(a) | | | |
| i. If so, is the site protected against a 50-year flood by dikes or other means to prevent floodwaters from coming in contact with wastes? 40 CFR 241.204-2(b). | | | |
| j. What are current and projected uses of surface water in the area of the landfill? 40 CFR 241.204-2(a)(1). _____ _____ _____ | | | |
| k. Are there surface water containment structures on site? 40 CFR 257.3-3. | | | |
| l. Are surface water containment structures necessary to prevent contaminated water surface flows from leaving the landfill? | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|---|-----|----|-----|
| 10. On Site Equipment. | | | |
| a. List the equipment found on site. _____ _____ _____ | | | |
| b. Is the equipment permanently located on site? | | | |
| c. Is the equipment serviced on site? 40 CFR 241.210-2(b) | | | |
| d. Is the equipment in good repair? Does safety equipment work? (See safety). | | | |
| e. Is replacement equipment available in the event of breakdown? | | | |
| f. Are there buildings on site? | | | |
| g. List the contents of the signs seen on site and the number of signs. _____ _____ _____ _____ | | | |
| h. Are traffic signs present to promote an orderly flow of traffic? 40 CFR 241.211-3(h). | | | |
| i. Is there a record keeping system on site? Are users and wastes logged and permanent records kept? | | | |
| 11. Special Handling. | | | |
| a. Are there special handling provisions for excluded or hazardous materials? | | | |
| b. Does the landfill staff know what wastes can not be accepted at the landfill? | | | |
| c. Are prohibitions against disposal being followed? | | | |
| d. Are the landfill staff trained to detect materials not accepted at the landfill? | | | |
| e. Does the landfill accept the following: | | | |
| Sewage | | | |
| Asbestos | | | |
| Bulk liquids? 40 CFR 261.5 | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|--|-----|----|-----|
| Waste oil | | | |
| Dead animals | | | |
| Oil field or mining waste | | | |
| Hazardous wastes from small quantity generators? 40 CFR 261.5 | | | |
| Medical or veterinary waste? 40 CFR 241.201-2. | | | |
| Incinerator or air pollution control residues? 40 CFR 241.200-3e | | | |
| f. Has the state permitted the facility for this disposal (see 11, e). | | | |
| g. Can the operator/employee explain special handling requirements of these waste (see 11, e)? 40 CFR 241.22-1 and -2, 241.201-2. | | | |
| h. Do landfill personnel require that all pesticide containers be emptied, triple-rinsed, and punctured to facilitate drainage before they are accepted for disposal? 40 CFR 210-1 and 165.9(a-c) of the Federal Environmental Pesticides Control Act of 1972. | | | |
| i. Does the facility provide for salvaging bulky wastes in a controlled manner? 40 CFR 241.200-3(b) | | | |
| 12. Other Questions. | | | |
| a. Are there provisions in the landfill operating plan to control insects, rodents, and other vectors? 40 CFR 241.207-7, -3, 40 CFR 257.3-6(a). | | | |
| b. Is there a dust control plan? 40 CFR 241.205-2. | | | |
| c. Is there a methane control plan? Necessary if there are enclosures (building) on or near the landfill. 40 CFR 241.206-3(a). | | | |
| d. Is the landfill operated in a manner that would constitute a hazard to air traffic? 40 CFR 241.202-2(e), 40 CFR 257.3-8(b) | | | |
| e. Do landfill operations constitute a danger to threatened or endangered species? 40 CFR 257.3-2(a). | | | |
| f. Do landfill operations adversely effect critical habitat? 40 CFR 257.3-2(b) | | | |

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| INSPECTION ITEM | YES | NO | UNK |
|---|-----|-------|-----|
| 13. What is the projected use of the landfill area after the closure of the landfill? | | | |
| a. Does your land use plan segregate the site from uses that would encourage erosion? | | | |
| b. Does your land use plan include provisions for a buffer around the site? | | | |
| c. Does your land use plan include provisions of monitoring the site after closure? | | | |
| d. Will the current lessee participate in '13 a through c' above? | | | |
| Signature of Inspector: | | Date: | |

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Sample Landfill Transfer Audit
New Site

LAND TRANSFER AUDIT
PROPOSED SAND DRAW LANDFILL EXPANSION
FREMONT COUNTY, WYOMING

February 8, 1993

Prepared For:
Fremont County Solid Waste Disposal District
P.O. Drawer 1333
Lander, WY 82520

1774-RE

Prepared By:
INBERG-MILLER ENGINEERS
124 EAST MAIN STREET
RIVERTON, WYOMING 82501

INBERG - MILLER ENGINEERS

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INBERG-MILLER ENGINEERS
124 EAST MAIN STREET RIVERTON, WYOMING 82501-4387 307-856-8136

February 8, 1993

1774-RE

Fremont County Solid Waste Disposal District
P. O. Drawer 1333
Lander, WY 82520

ATTENTION: HARRY C. LABONDE, JR., CHAIRMAN

RE: LAND TRANSFER AUDIT
PROPOSED SAND DRAW LANDFILL EXPANSION
FREMONT COUNTY, WYOMING

Gentlemen:

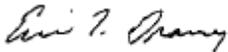
As requested by the Fremont County Solid Waste Disposal District (FCSWDD), we have performed a land transfer audit for the proposed Sand Draw Landfill Expansion. This audit has been performed according to the Bureau of Land Management's January 4, 1993, letter to FCSWDD. Enclosed are seven (7) copies of the final audit.

The work described in this Final Land Transfer Audit has been completed per our Proposal dated January 11, 1993 and Amendment 1 to our June 29, 1992 service Agreement.

We appreciate the opportunity to provide these services to you. We are available, at your request, to perform additional work, if you desire. If you have questions or comments, please contact us.

Sincerely,

INBERG-MILLER ENGINEERS



Eric T. Graney, P.G.
Hydrogeologist

ETG:cag:rpt

Enclosures: As stated.

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APPENDIX A - SITE INFORMATION

- Site Location Plan (Pocket)
- Site Photographs

APPENDIX B - INFORMATION SOURCES

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EXECUTIVE SUMMARY

This purpose of this land transfer audit was to review existing information regarding the proposed landfill expansion property and to independently assess the probability of risk to human health and the environment based upon the above review.

Based upon our research and reconnaissance, we have concluded that there is a low potential for the proposed expansion area to have been impacted by significant amounts of hazardous substances. Although it is possible for some hazardous substances to be present at the site, it is likely that, if present, they exist in small amounts. Since the area is planned to be utilized as a landfill, soil sampling and testing does not appear necessary. However, we recommend that the situation be monitored, especially during top soil removal and sampling occur if conditions warrant it.

SCOPE OF SERVICES

The purpose of this land transfer audit was to identify, to the extent possible, obvious conditions or activities on or near the proposed landfill expansion property which could indicate a potential for the presence of hazardous materials. In addition, the audit was to identify obvious and/or reasonably likely existing and potential sources of contamination either on-site or off-site that could potentially affect the subject property. It was not the purpose of this study to characterize the presence, degree or extent of contamination, if any, at the subject property. This would require drilling, sampling, monitoring well installation, groundwater measurements and analytically laboratory analysis which is beyond the scope of this audit.

The following services were performed as part of our scope of services.

- A. Historical Review
 - 1. A review of available site plans, surveys and serial photos. Identify surface water and surface drainage. Review available information from the Department of Environmental Quality records.

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SCOPE OF SERVICES, ContinuedA. Historical Review, Continued

2. Review public records to identify past uses of the site and adjacent parcels.
3. Interview appropriate public officials to obtain information regarding the site and nearby groundwater contamination from leaking underground storage tanks or waste disposal sites.
4. Identify and interview, if possible, any parties who may be familiar with past uses of the site or adjacent properties.

B. Site Reconnaissance

1. Walk through the site and adjacent property from public rights-of-way.
2. Observe locations and sizes of structures, evidence of underground storage tanks, distressed vegetation, signs of chemical production or storage, nature of trash or rubbish and site fills, types of businesses and activities operating in the area, and evidence of any illegal disposal practices.
3. Record appropriate information gained from observing the site and surrounding areas and from conversations with site personnel and other sources.

C. Summary Report

1. Information gathered in the various parts of this assessment will be compiled in a written summary report. The report will include our professional opinion that the proposed property does or does not represent a threat to human health or the environment.

Our scope of services did not include:

1. Asbestos survey or evaluation
2. Radon survey or evaluation
3. Sociological, biological or other evaluations associated with "environmental impact statements."

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SITE INFORMATION

The subject property is located approximately 8 miles southeast of Riverton, Wyoming, and approximately ½ mile west of State Highway 135. More specifically, the site property is located in the NW¼, SW¼ and SE ¼ of Section 26, Township 34 N., Range 96 W., 6th Principal Meridian, Fremont County, Wyoming.

The subject property is approximately 140 acres with a surface drainage to the southwest. The extreme eastern portion of the proposed expansion area drains toward the east. The topography at the site appears to be natural and there is an estimated change in relief of approximately 90 feet. The nearest permanent body of water in the area is a stock pond and it is located approximately ¼ mile northwest of the subject site.

Except for the existing 80 acre Sand Draw Landfill north and east of this property, adjacent parcels of land are undeveloped and administered by the Bureau of Land Management (BLM). The adjacent parcels of land are primarily used for livestock and wildlife grazing and habitat. There is a State owned section approximately ¼ mile southeast of the subject property and the Wind River Indian Reservation is located approximately ½ mile to the north.

the nearest residence is approximately 7 miles north of the subject site. Except for a permitted water well and dry monitoring wells at the existing 80 acre landfill facility, there are no permitted water wells within a one mile radius of the subject site.

The climate in the area of the proposed landfill expansion is sem-arid and receives 8 to 11 inches of precipitation per year (Marston, 1990). A site location plan can be found in Appendix A.

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SITE RECONNAISSANCE

On February 1, 1993, a representative of Inberg-Miller Engineers observed the area of the proposed landfill expansion area. At the time of our site visit, there was approximately 12 to 18 inches of snow on the property, therefore our surface observation were limited.

We did observe evidence of minor amounts of trash scattered throughout the proposed expansion area and is likely a result of wind blown debris from the existing landfill. In addition, we observed several 10 gallon metal containers piled near the crest of the hill in the northwest corner of the subject site. These containers appeared to be empty and quite old. Labels were not observed on these containers, therefore, their format content is unknown.

We did not observe any evidence of distressed vegetation, site fills or evidence of burial activity at the site. However, conditions were such during our site visit that potentially obvious conditions may have been overlooked. Site photographs have been provided in Appendix A.

AREA RECONNAISSANCE

Our area reconnaissance included observing adjacent property from public rights-of-way and identifying facilities within the immediate vicinity that could potentially effect soil and ground water conditions at or near the subject property.

Only one facility that could present an environmental concern for the subject property is the existing 80 acre Sand Draw Landfill located adjacent to and north and east from the proposed landfill expansion area. However, on June 5, 1992, Inberg-Miller Engineers presented a report entitled "Landfill Transfer Audit, Sand Draw Landfill, Fremont County, Wyoming". In that report, we concluded that, at the time of our audit, there was no significant human health and environmental risk associated with the existing Sand Draw Landfill. We also determined that runoff from the existing landfill was not degrading soil outside the existing landfill boundary and groundwater appears not to have been affected by landfill operations.

INBERG-MILLER ENGINEER

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SITE GEOLOGY

The proposed landfill expansion area is within the Wind River Basin, a large structural depression that is bordered to the north by the Owl Creek Mountains, to the east by the Casper Arch, to the south by the Gas Hills and to the west by the Wind River Mountains. The Wind River Basin is comprised mainly of Tertiary sedimentary deposits.

The subsoil conditions at the adjacent Sand Draw Landfill were described in reports compiled by Inberg-Miller Engineers dated April 10, 1982 and January 24, 1984. The subsoils at the site consist of silty sand overlying clay, all of which are in the Wind River Formation. The depth to the clay layer ranged from 8.5 to 23.0 feet below the ground surface.

Saturated soil conditions were not encountered in any of the test borings performed at the existing landfill through the test boring termination depths of 30 and 61.5 feet. The depth to the first water-bearing formation below the proposed landfill expansion is not known, however, the water well on the existing landfill site is reportedly producing from a confined sandstone layer approximately 160 feet below the ground surface. The potentiometric surface of water within that well is approximately 102 feet.

SITE HISTORY

From conversations with Jack Kelly of the BLM, it is our understanding that the proposed landfill expansion area has always been administered by the BLM. Currently, the property is open range and is used for livestock grazing and wildlife habitat. Mr. Kelly did not know of any illegal dumping or disposal practices on the subject property.

The Wyoming Oil and Gas Commission was contacted regarding the potential for oil and gas drilling to have occurred in the past at the subject site. Their records indicated that there has not been any oil and gas drilling or leases within the proposed landfill expansion area. Records have been kept on oil and gas drilling and leasing since the early 1950s.

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SITE HISTORY, Continued

Ms. Vickie Vance of the Wyoming Department of Environmental Quality Solid Quality Solid and Hazardous Waste Division (WDEQ-SHWD) was interviewed regarding her knowledge of illegal dumping or groundwater contamination in the area. Ms. Vance did not know of any problems within a 1 mile radius of the subject property.

Mr. Donald Connell, superintendent of operations for the Fremont County Solid Waste Disposal District (FCSWDD) was also interviewed regarding his knowledge of the history of the proposed landfill expansion property. He indicated that he did not know of any illegal dumping or solid waste disposal. He did mention that the old highway once ran near the property.

CONCLUSIONS

Based upon our research and reconnaissance, we have developed the following conclusion regarding the proposed landfill expansion area.

1. There appears to be a low potential for the proposed expansion area to contain hazardous substances. This conclusion has been based upon previous studies performed on the adjacent existing Sand Draw Landfill, our historical review and site and area reconnaissance. Although several metal containers appear to have been disposed of on the property, the apparent old age of the containers suggest that even if their contents were emptied on-site, chemical such as fuels, solvents, pesticides or herbicides would have most likely been degraded over the years. It is possible, however, that the containers contain heavy metals, PCBs or other types of long term hazardous chemicals, in which case, these chemicals could still be present. Since the property will be utilized as a landfill, it is our opinion that additional sampling is not necessary at this time. The landfill operators should be made aware of the potential and be especially aware of the situation while clearing the topsoil. Soil testing may be needed in the future if conditions warrant it.

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LIMITATIONS

This report was prepared for Fremont County Solid waste Disposal District to be used in their evaluation of the subject property. the contents should not be relieved upon by any party other than the aforementioned without the express written consent of Ingerg-Miller Engineers. The information is relevant to the dates of our sites work and shold not be relied on to represent conditions at later dates.

The opinions expressed herein are based on information obtained during this Land Transfer Audit and on our experience. If additional informtaion becomes available, we request the opportunity to review the information and modify our opinions, if necessary.

Our services have been provided using the degree of care and skill ordinarily exercised, under similar circumstances, by environmental consultants practicing in this similar locality. No warranty, expressed or implied, is made as to the professional opionions presented in this report.

CLOSURE

The purpose of this Land Transfer Audit was to review existing information, perform a site reconaissance to evaluate the environmental risks present at the subject property and to provide conclusions.

This report has been prepared for the exclusive use of our client, Fremon County Solid Waste Disposal District, to evluate the environmental risk present at the site. It may contain insufficient information for applications other than is herein described.

INBERG-MILLER ENGINEERS

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CLOSURE, Continued

We appreciate the opportunity to provide these services. We can offer additional services to perform additional site assessment or engineering services, as requested. If there are any questions with the contents of this report, please do not hesitate to call.

Sincerely,

INBERG-MILLER ENGINEERS

Eric T. Graney
Eric T. Graney, P.G.
Hydrogeologist

ETG:cag:rpt

REVIEWED BY:

Howard M. Johnson
Howard M. Johnson, P.E. & P.L.S.
President



H-2740-1 - RECREATION AND PUBLIC PURPOSES

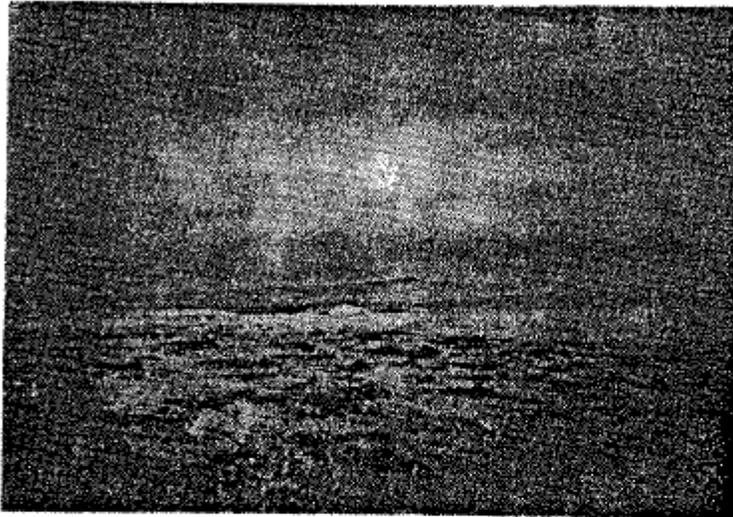
APPENDIX A - SITE INFORMATION

H-2740-1 - RECREATION AND PUBLIC PURPOSES

SITE PHOTOGRAPHS

Project: Proposed Landfill Expansion Job No.: 1774-RE

Location: Sand Draw Landfill Client: FGSWDD



1. Looking East Across Site.
Note: Existing Sand Draw
Landfill



2. Looking South Across Site.

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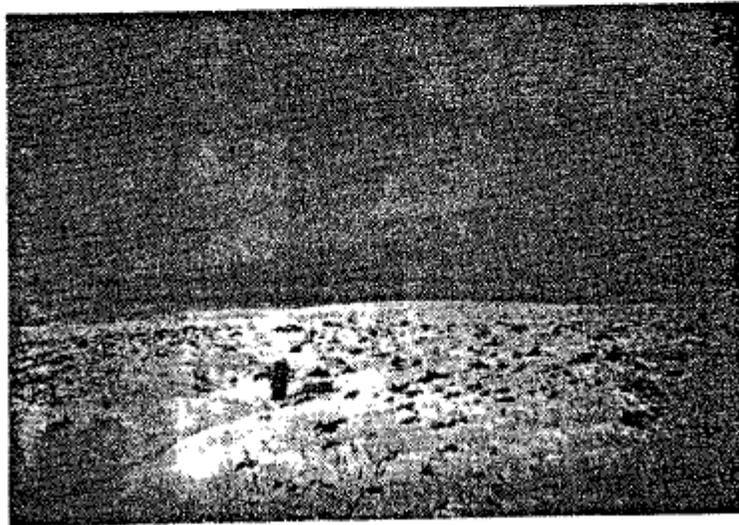
H-2740-1 - RECREATION AND PUBLIC PURPOSES

SITE PHOTOGRAPHS

Project: Proposed Landfill Expansion Job No.: 1774-RE
Location: Sand Draw Landfill Client: FGSWDD



3. Looking North Across Site.
Note: Empty Containers



4. Looking West Across Site.

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APPENDIX B - INFORMATION SOURCES

H-2740-1 - RECREATION AND PUBLIC PURPOSES

INFORMATION SOURCES

Information presented in this report is based partially upon the following sources:

Maps

United States Geological Survey Topographic Map
Bringolf Ranch Quadrangle

References

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