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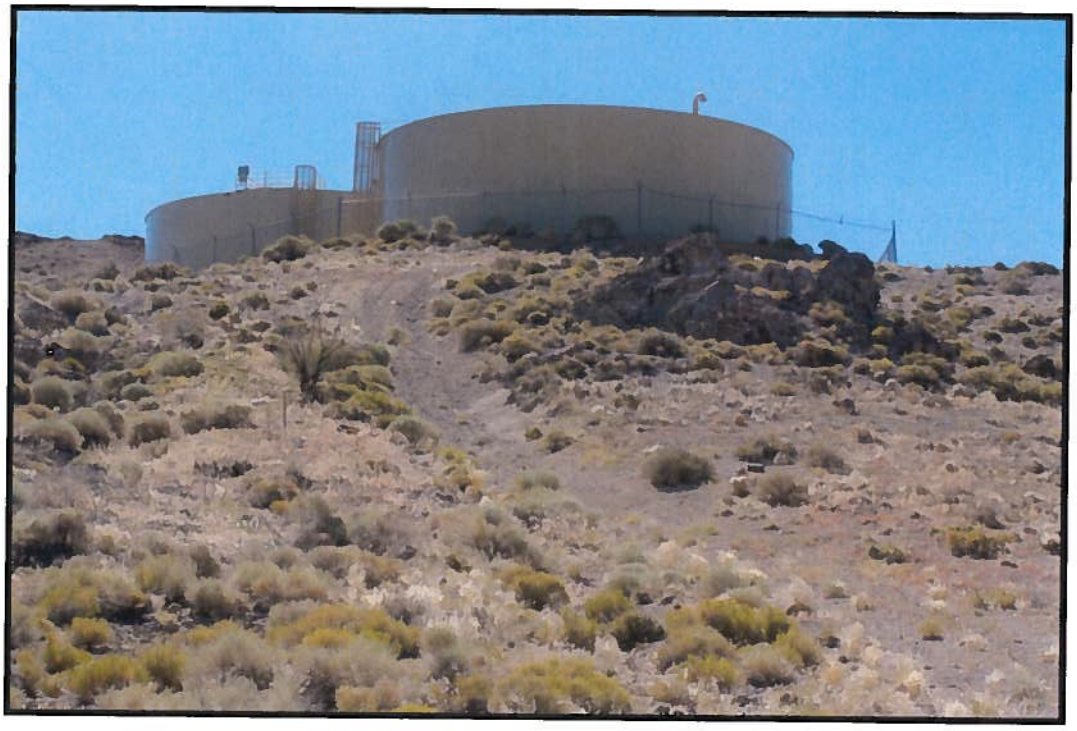
Esmeralda County Direct Land Sale
Goldfield Water Treatment Facility

N-88014



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NATIONAL SYSTEM OF PUBLIC LANDS

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It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

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LIST OF ACRONYMS

ACEC	Area of Critical Environmental Concern
ACHP	Advisory Council on Historic Preservation
ASTM	American Standard Testing Method
AUM	Animal Unit Month
BLM	Bureau of Land Management
CESA	Cumulative Effects Study Area
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
EA	Environmental Assessment
EIS	Environmental Impact Statement
ESA	Environmental Site Assessment
FESA	Federal Endangered Species Act
FLPMA	Federal Land Policy and Management Act
MDB&M	Mount Diablo Base and Meridian
NAC	Nevada Administrative Code
NDOW	Nevada Department of Wildlife
NEPA	National Environmental Policy Act
NNHP	Nevada Natural Heritage Program
NHPA	National Historic Preservation Act
NORA	Notice of Realty Action
NRS	Nevada Revised Statutes
RECs	Recognized Environmental Conditions
RFFA	Reasonably Foreseeable Future Actions
RMP	Resource Management Plan
ROD	Record of Decision
ROW	Right-of-Way
SHPO	State Historic Preservation Office
USFWS	United States Fish and Wildlife Service
WSAs	Wilderness Study Areas

1.0 INTRODUCTION

Background Information

The Bureau of Land Management (BLM) proposes to hold a direct, non-competitive land sale of Federal land, located within the Town of Goldfield, Esmeralda County, Nevada. The total proposed conveyance area consists of approximately five (5) acres, which has been identified for use as a water treatment facility. This land is currently used in support of the Goldfield Water System.

A right-of-way (N-31308) was issued to Esmeralda County in 1981, and subsequently amended, for approximately 34 acres which consists of a fenced, four (4) acre water facility site with appurtenances that includes pipelines, a well-site, pumping station, drying pond, one 100,000-gallon water tank, and one 75,000-gallon water tank.

The U.S. Environmental Protection Agency (EPA) adopted a new lower maximum concentration level (MCL) for arsenic in drinking water in 2006. The Nevada Department of Environmental Protection's (NDEP) Bureau of Safe Drinking Water (BSDW) adopted the new regulation and has primacy enforcing it. Most of the municipal water systems in Nevada are eligible for a three-year compliance extension to meet the new arsenic rule if the concentration of arsenic in the drinking water supply is at or below 50 ppb. The BSDW is responsible for monitoring these extensions and determining if the municipal water system is showing due diligence in complying with the new regulation within the three-year compliance extension.

The Town of Goldfield has applied for, and received a 3-year extension for compliance with the Arsenic Rule for Well No. 1. Well No. 2 has been shut down and is not currently being utilized as a primary water source since it has arsenic levels in excess of the previously required EPA standards.

The BLM policy is to dispose of sites associated with potential hazardous materials. Because of the potential liability of the BLM under the hazards materials laws, and the possibility of long-term expenses associated with the EPA regulations, this parcel was nominated for disposal in late 2009, instead of moving forward under a Recreation and Public Purposes (R&PP) Act patent request. The sale of five acres is limited to the smallest acreage or aliquot part possible to dispose of lands that may present a hazmat issue for the Bureau. This parcel of land is identified for disposal in the Tonopah Resource Management Plan (RMP).

Esmeralda County requested a direct land sale by submission of Esmeralda County Resolution No. 09-R-16, titled, "*Resolution Regarding Purchasing Property from the Bureau of Land Management for the Goldfield Water Treatment Facility*" on October 6, 2009 to the Tonopah Field Office. The proposal for the direct sale is in accordance with the requirements of Title 43 of the Code of Federal Regulations (CFR), part 2711.3-3 that allows for the direct sale of public lands, and meets criteria provided for in Section 203(a)(3) of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 USC 1713). The lands identified for the direct sale have been previously identified for disposal in the BLM's existing Tonopah RMP (BLM, 1997).

This document has been prepared by Bureau of Land Management resource specialists experienced in analyzing the impacts to the resources addressed (40 CFR 1502.6).

1.1 Purpose and Need for Proposed Action (40 CFR 1502.13)

Esmeralda County requested to purchase five (5) acres of public lands associated with the Goldfield Water Treatment Facility. The proposed sale area is currently being utilized as a water storage and distribution facility under a right-of-way (ROW), N-31308, issued for a period of 30 years. The proposed new facility would be constructed to treat current high levels of arsenic found in the Goldfield water supply and bringing it into compliance with the Safe Drinking Water Act.

The BLM proposes to process the request for sale and to analyze the environmental impacts of the proposed sale under the authority of, and in accordance with, Sections 203 and 209 of the FLPMA of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719) and regulations found at 43 CFR Parts 2710, 2711, and 2720.

A direct land sale to Esmeralda County would protect the existing equities already constructed on the land as well as proposed future construction on the site. Substantial investments have been and are being made through grants awarded by the United States Department of Agriculture to Esmeralda County for the purpose of financing the construction of a new water treatment facility. This new facility would bring the Town of Goldfield into compliance with the new EPA standards by 2011. In the event that the Town of Goldfield fails to comply with EPA standards by 2011, it could result in daily fines being levied against the Town for noncompliance. The benefits of a new water treatment facility to the Town of Goldfield, County of Esmeralda, and their residents far outweigh the current public use of the land being conveyed.

Various options for mitigation are available for arsenic and all mitigation would be for health purposes as required by the State and Federal EPA. Esmeralda County has selected an arsenic mitigation solution that is the most economical and simple to implement and manage. Because of the continuing liability of the BLM of the hazards materials laws and the potential for long term expenses associated with EPA regulations, construction of appurtenant facilities of the site would be used to mitigate the current high levels of arsenic found in the water supply and bring Esmeralda county into compliance with the Safe Drinking Water Act.

1.1.1 Decision to be made

The BLM needs to either approve or not approve a direct land sale to Esmeralda County and whether to allow the conversion of valid and existing rights to perpetual right-of-ways (ROW) or easements.

This decision will mitigate increased liability to the BLM that would result from the Town of Goldfield's construction, operation and maintenance of an arsenic treatment facility; the public interests would be better served and protected by transferring title via a direct sale, rather than continuing administration of a right-of-way or R&PP patent.

1.2 Relationship to Planning and Conformance with Land Use Plans

1.2.1 Resource Management Plan

The BLM has the responsibility to manage the surface and subsurface resources on public lands located within the jurisdiction of the Tonopah Field Office. The acreage proposed for the direct sale has been designated as suitable for disposal in the RMP and the Record of Decision (ROD) approved on October 2, 1997 (refer to the Record of Decision, Lands and Rights-of-Way page 18, and page A-46, Appendix 14 of the RMP). The RMP contains no constraints that conflict with the Proposed Action. The BLM must review the Proposed Action under the RMP management decision guidelines to ensure compliance with applicable Federal laws.

The Tonopah RMP and ROD is the Tonopah Field Office's planning document required by the FLPMA. A copy of the RMP is available for review at the BLM Tonopah Field Office, 1553 S. Main Street, Tonopah, NV.

1.3 Other Applicable Statues, Regulations, Policies, Plans, and Environmental Analyses

The Federal Land Policy and Management Act of 1976 (FLPMA) 90 Stat. 2750, 43 USC 1701, 1713, and 1719, was passed to authorize BLM's management of public lands. The applicant requested the parcel be sold under the authority of FLPMA.

- FLPMA Section 102(a)(1) gives the Bureau of Land Management the authority to sell public lands under certain criteria and requires that: "the public lands be retained in Federal ownership, unless as a result of the land use planning procedure... it is determined that disposal of a particular parcel will serve the national interest."

- FLPMA Section 203(a)(1) and 43 CFR 2710.0-3(a)(3) allow for the sale of public lands if the subject tract is difficult and uneconomic to manage because of its location or other characteristics – such as the subject's history of use, current level of development, and presence of mining claims, or is not suitable for management by another Federal department or agency. 43 CFR 2710.03(a)(2) is for the disposal of land that serve important public objectives, including, but not limited to, expansion of communities and economic development which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintain such tract in Federal ownership.

- FLPMA Section 203(a)(3) allows disposal (selling) of public land if it will serve a public benefit.

- FLPMA 203(d) and 43 CFR 2710.0-6(c)(iii)(5) requires that public lands be sold at no less than fair market value. This parcel of land would be appraised by a Federal appraiser to determine the fair market value.

- FLPMA 203(f) describes the allowable methods of sale. The public lands would be

sold under the direct sale method as described (or required) by Federal regulations at 43 CFR 2711.3-3(a)(1) and 43 CFR 2711.3-3(a)(2).

The public interest would be served best, if the lands were sold under the direct sale method. In this method, the sale proponent is without competition. The proponent nominated the parcel for disposal because it is a local government. The sale of this land would serve a public benefit.

- FLPMA 209(b)(1) and 43 CFR 2720 describes the allowance and means to convey mineral interests owned by the United States to the prospective surface owner when a parcel leaves Federal ownership if it is proven there are no known mineral values in the land, or if the reservation of mineral rights in the name of the United States would interfere with or preclude appropriate non mineral development of the land and that such development is a more beneficial use of the land than mineral development.

- Title 43 CFR 2710.0-6(c)(3)(iii) allows for a direct sale as provided in 43 CFR 2711.3-3 to be used where necessary to protect existing equities in the land or where the lands are needed by State or local governments. The authority for disposal is found at 43 CFR 2710.0-3.

Environmental Assessment, NV-050-1-13 was prepared and approved on February 4, 1981 by the Las Vegas District, Nevada for the Goldfield Water Project, right-of-way N-31308.

When compatible with local government plans, Federal lands should be made available for state, local government, and private uses.

On April 3, 1985, the Esmeralda County Board of Commissioners adopted a county policy plan for public lands under the Nevada Statewide Policy Plan for Public Lands authorized by Senate Bill 40. Senate Bill 40 directs the State Land Use Planning Agency to work together with local planning entities to actually prepare local plans and policy statements regarding the use of Federal land in Nevada.

The Esmeralda County Policy Plan promotes opportunities to increase local economic development by public land disposals in conformance with local land use plans, and those lands should be made available to the private sector for housing and economic activity. It further states, "Public lands should continue to be made available for state and local government purposes."

On April 1, 2008, Esmeralda County passed resolution 08-R-04 for a comprehensive land bill; resolution 08-R-06 established a land use advisory council which is in the process of developing a county-wide Master Plan. The Public Land Use Plan, a supplement to the Master Plan is also in the development stage. A review of an early draft of both documents indicate that public land sales for the benefit of local community development in Esmeralda County would be in conformance with Esmeralda County land use planning efforts.

All alternatives must comply with the following legislation:

* Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa to 47011
* National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 et. seq.
* National Environmental Policy Act of 1969, 42 U.S.C. 4321 et. seq.
* Clean Air Act of 1970, as amended, 42 U.S.C. 7401 et. seq.
* Clean Water Act of 1972, as amended, 33 U.S.C. 1251 et. seq.
* Council on Environmental Quality, Title 40 Code of Federal Regulations, part 1500

Any water used on the described lands should be provided by an established utility or under permit issued by the Division of Water Resources, State Engineer's Office. All waters of the State belong to the public and may be appropriated for beneficial use pursuant to the provisions of Chapters 533 and 534 of the Nevada Revised Statutes.

1.4 Scoping, Public Involvement, and Issues

A public meeting was held by the Esmeralda County Commissioners that addressed the proposed sale. Esmeralda County Resolution No. 09-R-16 was approved on October 6, 2009. The BLM would make this environmental assessment (EA) available for a 30-day public review and comment period. A news release would be published in the local newspapers. A Notice of Realty Action (NORA) for the proposed sale, as required by 43 CFR 2711.1-2, would be published and sent to all interested parties by the BLM. The NORA would be published for one time in the Federal Register, and once a week for three weeks in the local newspaper. The NORA would be sent to the Nevada Congressional Delegation and the Office of the Governor of the State of Nevada. EA and NORA would be available for public review at: http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.

2.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

2.1 Project Area History and Existing Operations

The subject parcel lies in the Town of Goldfield, approximately 25 miles south of Tonopah, in south-central Nevada. Adjoining lands are primarily in Federal ownership, being used for livestock grazing, accommodation of rights-of-ways, and outdoor recreation under the administration of the BLM.

The Town's wellfield has two potable water supply wells that are located just west of US Highway 95 (Nev 042808), about half way between Tonopah and Goldfield. Existing facilities within the 4-acre right-of-way site to be disposed of through the 5-acre land sale include two water tanks, a pumping station, cyclone fencing, a portion of water pipeline, and access road.

A Cadastral Survey is in the process of being completed at this time, to accurately describe the legal description.

2.2 Location and Land Status

The BLM proposes to sell a 5-acre parcel, via non-competitive sale. The location is shown on Figure #1, page 12 and Figure 4, page 15 and described as follows:

Mount Diablo Meridian, Nevada

T. 3 S., R. 42 E.,
A 5-acre parcel located in the SE¼ of Sec. 3.

2.3 Proposed Action (40 CFR 1502.12)

The BLM proposes to sell (via direct sale) 5 acres of BLM-administered surface estate to Esmeralda County. The direct sale to Esmeralda County would clear the currently held 4-acre site portion of the right-of-way (N-31308, issued in 1980) and transfer all surface rights and responsibilities to the County of Esmeralda.

43 CFR 2807.15 provides that the BLM will notify ROW holders of the potential for transfer of the public land encumbered by their ROW. Holders are given the opportunity to: 1) maintain their current ROW as status quo; 2) convert the term of the ROW to perpetuity; 3) convert the ROW to a perpetual easement; or 4) negotiate an easement with the patentee. The BLM mailed notification letters dated December 23, 2010, to Nevada Bell (NV Bell) and Sierra Pacific Power (SPPCO) companies notifying them of their right of conversion. The Holders had 60 days to respond with their decision on which option they select. Issuance of perpetual right-of-ways or easements only occurs at time of conveyance of the affected sale parcel. Both Holders have responded requesting conversion to perpetual rights-of-ways. Case files N-89535 (SPPCO) and N-89536 (NV Bell) have been established.

The BLM's proposed sale would release the BLM from future responsibility for decisions that impact the Town of Goldfield's water supply and any future potential liability for hazardous materials or other issues that could arise from actions taken on behalf of the Town of Goldfield or Esmeralda County to continue development and operations at their water treatment facility.

2.3.1 Direct Sale Procedure

The direct sale would be conducted in accordance with the requirements of 43 CFR 2711.3-3, inclusive. Figures 1 and 5 illustrate the public lands identified for the direct sale. The lands would be purchased for their fair market value, as determined by the BLM during a formal real estate appraisal process that would be completed prior to the publishing of the NORA in the *Federal Register.*

1) FLPMA 203(d) requires lands disposed of be sold at no less than fair market value. The parcel would be appraised by a Federal appraiser who is trained to determine the fair market value.

2) FLPMA 203(f) describes the allowable methods of sale. The parcel would be sold using the

"direct sale" method. 43 CFR 2711.3-3(a)(1) and 43 CFR 2711.3-3(a)(2) are the appropriate citations for the sale of the parcel.

BLM would offer the subject lands to the Esmeralda County Board of Commissioners at fair market value. Upon acceptance of the offer, the County would be required to submit 20% of the purchase price. Final payment would be due within 180 days of receipt of the 20% deposit. An appraisal has been requested by the Southern Nevada District Office sales team.

3) FLPMA 209(b)(1) describes the allowance and means to convey mineral interests owned by the United States to the prospective surface owner when a parcel leaves Federal ownership if it is proven (1) that there are no known mineral values in the land, or (2) the reservation of mineral rights to the United States would interfere with or preclude appropriate non-mineral development of the land and that such development is a more beneficial use of the land than mineral development.

A Mineral Potential Report (BLM, 2010), evaluated the mineral potential of the lands identified for the direct sale. The Mineral Potential Report recommends that the United States convey all mineral rights to Esmeralda County. These lands were examined and found suitable for disposal by direct sale at the appraised fair market value. The BLM determined the information contained in the 2010 Mineral Potential Report is valid to assess the Proposed Action. No mining claims of record were found on the parcel. No evidence of mining related activity was seen during field examination. There are no known minerals of value on the parcel.

Under the Proposed Action, the BLM would proceed with the direct sale to Esmeralda County. It is recommended that the United States convey all mineral rights to Esmeralda County.

2.4 Project Alternatives (40 CFR 1502.14)

This 5-acre parcel of land is located within the Town of Goldfield administrative area (township) in Esmeralda County. Currently, a 30-year ROW with amendment for an arsenic water treatment facility, exists on 4 acres at this site for the explicit purpose of constructing, operating, and maintaining a Goldfield City water treatment facility (Figure 2, page 13).

Both the proposed action and the no action alternatives are very similar in that both result in development of the water treatment facility. In the case of the proposed action, the water treatment facility would be authorized at the discretion of Esmeralda County. Under the no action alternative, the water treatment facility would still be built but under the authority of an amendment to the BLM (ROW N-31308).

Under either alternative the impacts to the environment would be the same. The resulting environmental impacts analysis is not very informative as the impacts to the land and resources are the same under either alternative with a couple minor exceptions—land tenure and hazardous materials.

There are no processes such as categorical exclusions (CX) that might simplify the environmental analysis. The BLM will analyze and present a relative impact comparison between the two alternatives in the following section.

2.4.1 No Action Alternative

The subject lands would remain as Federal public land under the no action alternative, and be subject to the pre-existing ROW (N-31308). In this case, there would be no land sale. Esmeralda County received an amendment to the ROW to build the arsenic treatment plant at the existing water storage facility in 2008. Water tanks and other water infrastructure already exist at this site. Esmeralda County does not have any additional private property to expand this facility and provide water treatment in order to meet the new EPA arsenic standards. Under an amendment to the ROW, the BLM would retain the responsibility and/or liability for a potential hazardous materials site.

If the subject lands are not sold, no ROW conversions would occur. The existing ROWs would remain authorized under their current authorities.

Therefore, a no action alternative is not a reasonable alternative and does not meet the purpose and need of the BLM to meet community needs and to dispose of this site and release itself from any long term responsibility for potentially hazardous materials.

Only the impacts from the proposed action will be analyzed in Chapter 3.

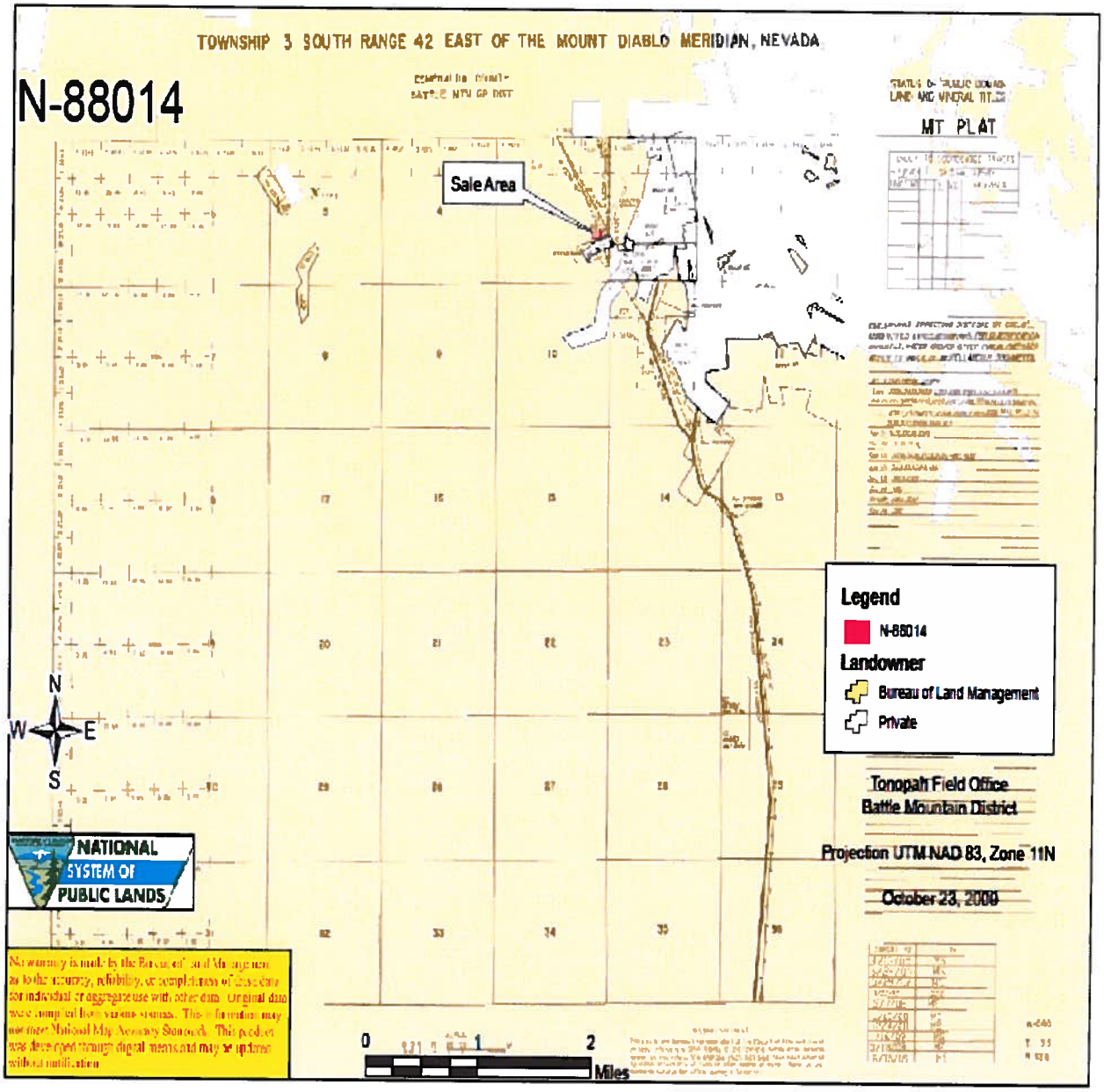

Figure #1 – Master Title Plat Map

Figure #2 – Location Site Map

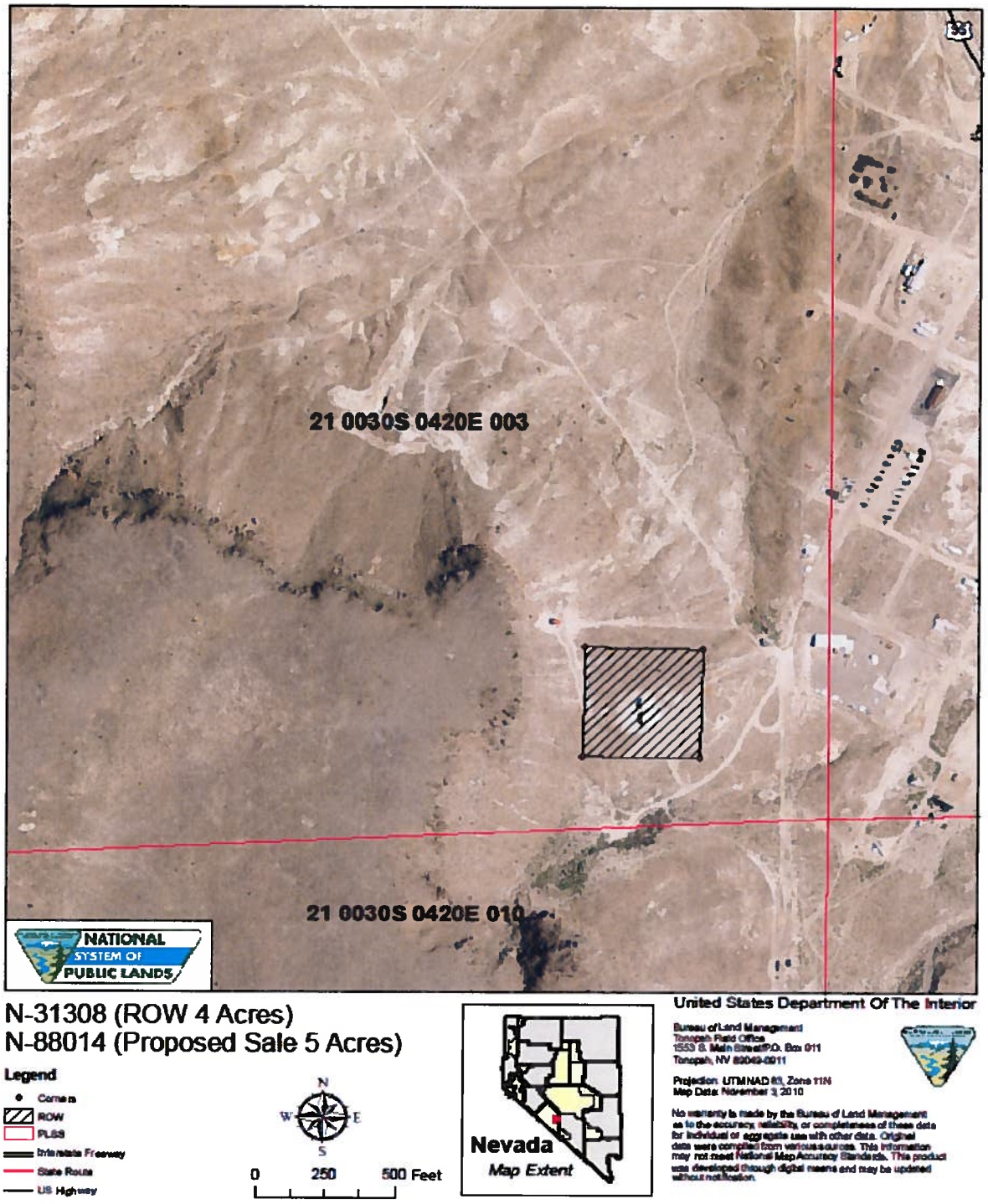

Figure #3 – Right-of-Way N-31308 (existing 4-acre well site)

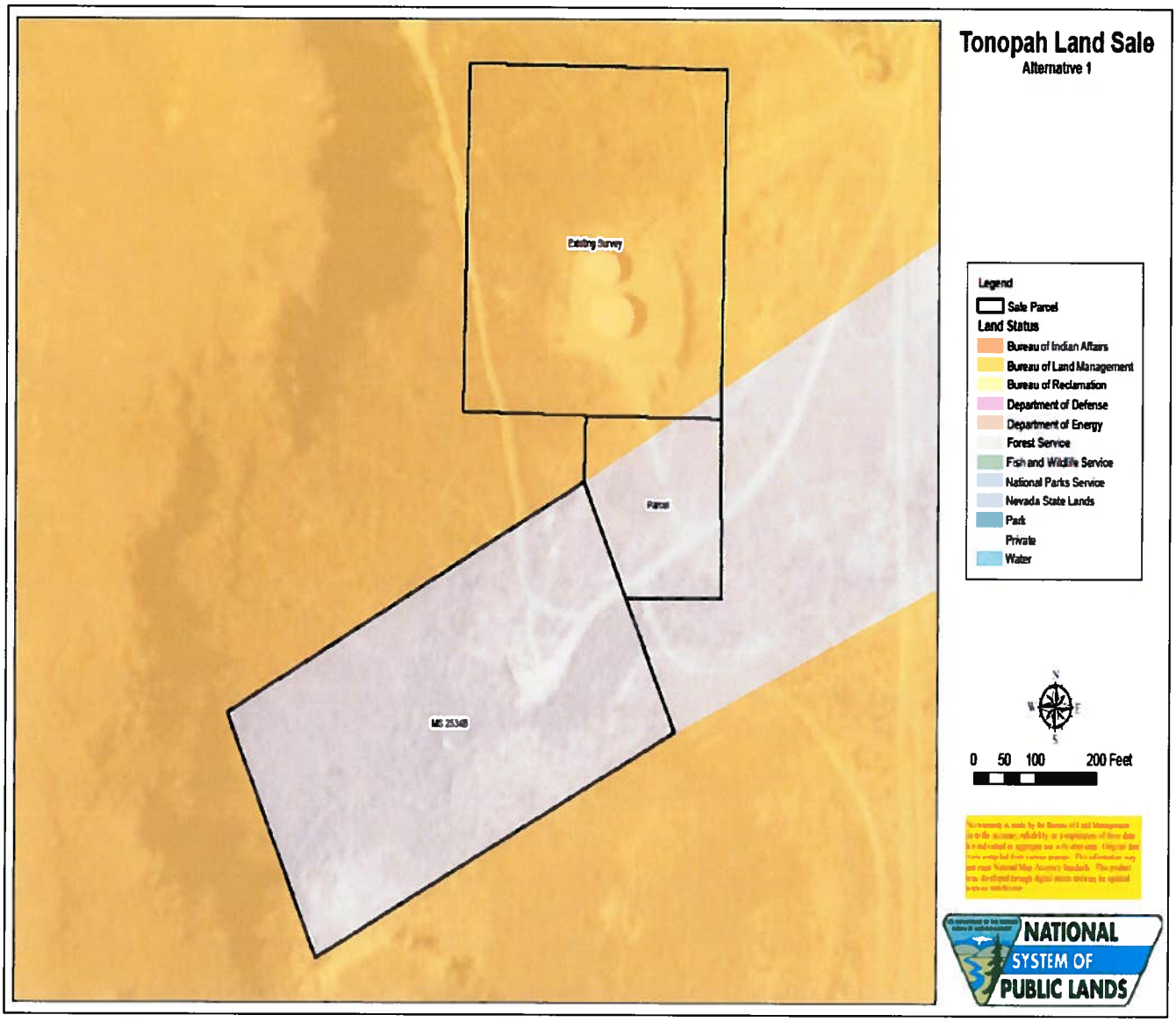

Figure #4 – Proposed Sale Area with existing 4-acre ROW area and adjacent parcel of 1-acre

NOTE:

Existing Survey area – ROW N-31308 (4 acres); sale area of 4 acres
Parcel area – sale area of 1 acre on unpatented millsite
MS 25348 – Patented 5 acre millsite; adjacent unpatented 5 acre millsite to the NE

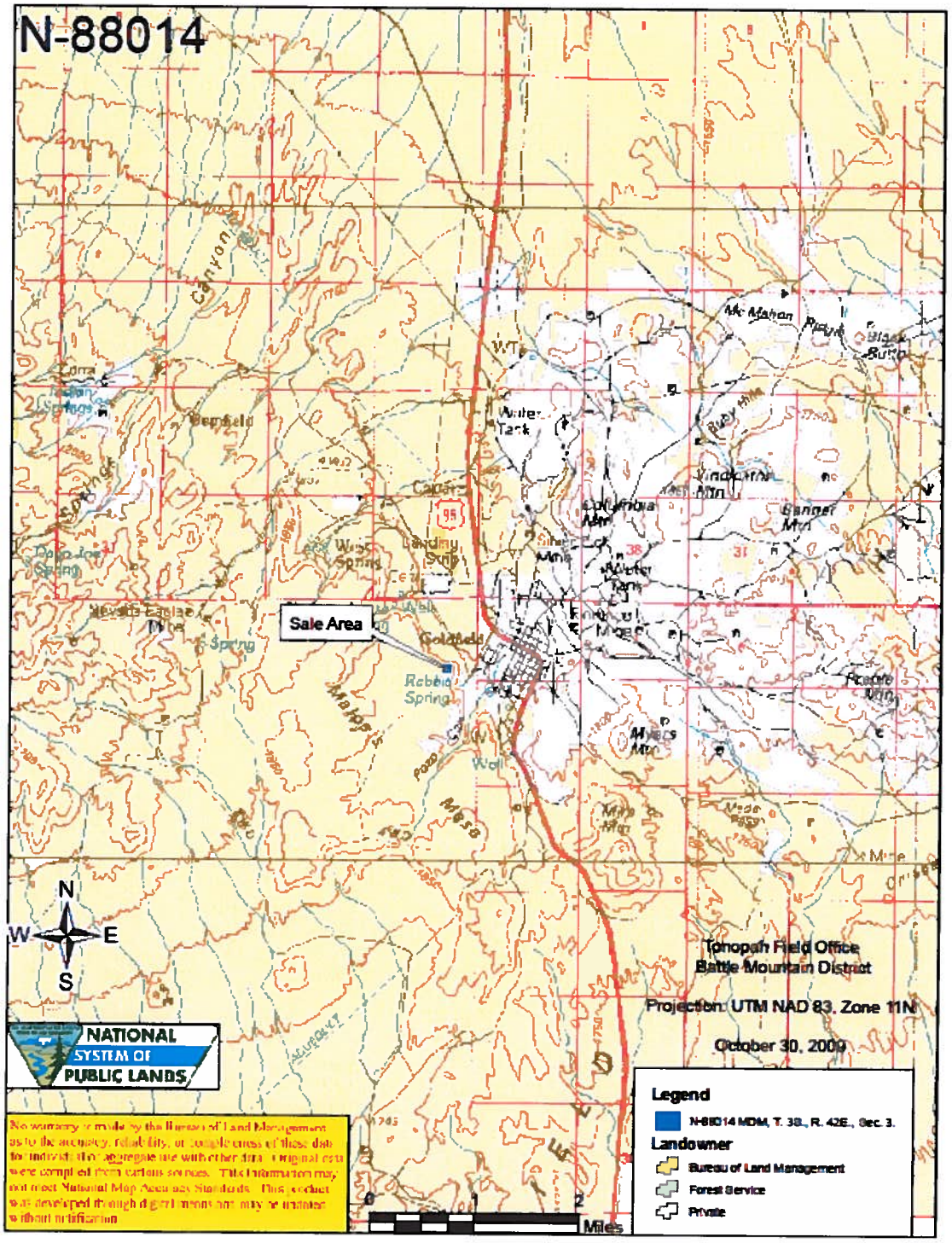

Figure #5 – Location Site Map with Topographical

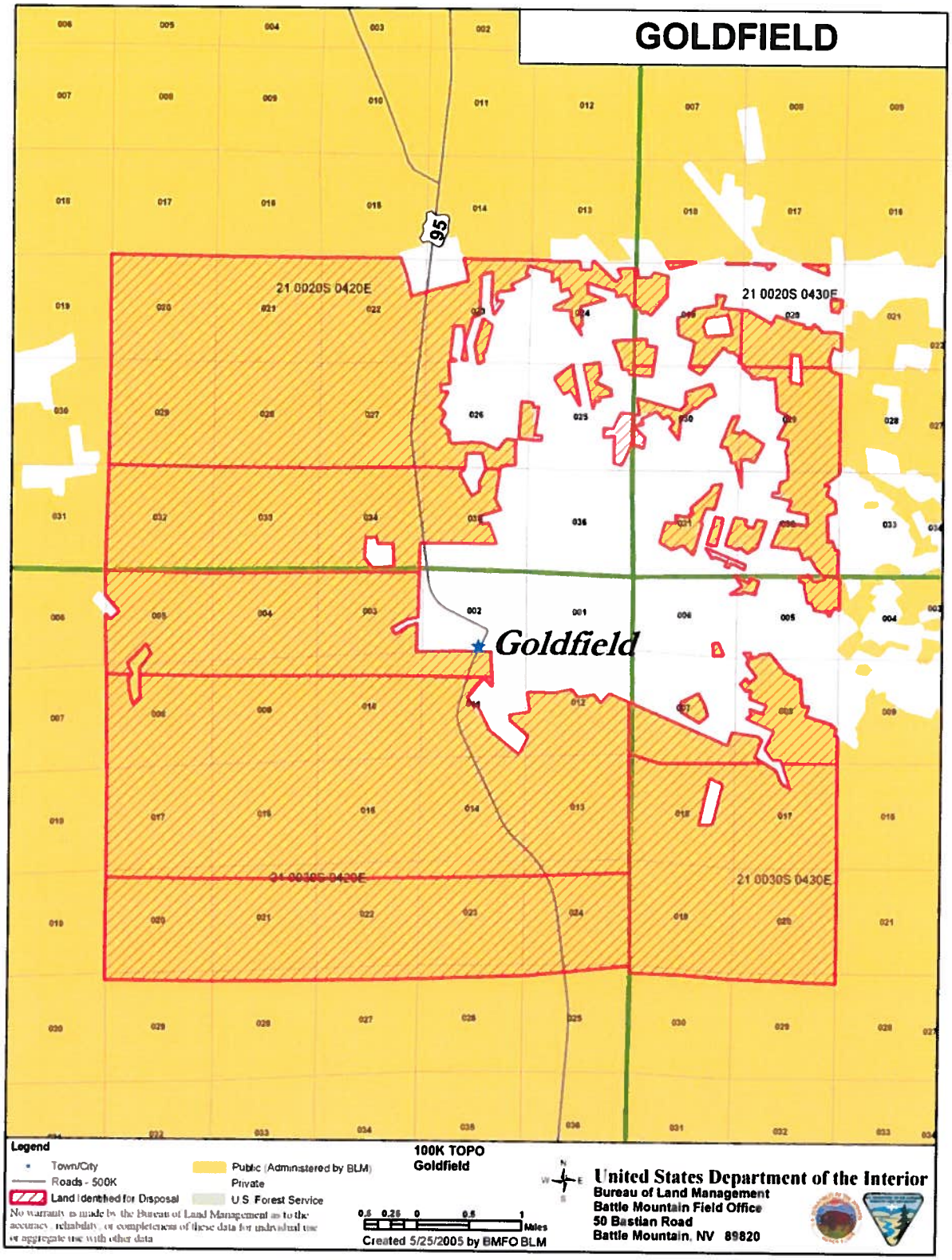

Figure #6 – Lands identified for disposal in Appendix 14, Tonopah RMP

3.0 AFFECTED ENVIRONMENT (40 CFR 1502.15), ENVIRONMENTAL CONSEQUENCES (40 CFR 1502.16) AND PROPOSED MITIGATION OR AVOIDANCE MEASURES

3.1 Introduction

This chapter describes the environment that would be affected by the proposed action. For the purposes of this EA, impacts or lack of impacts to key resources such as cultural, threatened and endangered species, migratory birds (eagles), land tenure, and hazardous materials are discussed

3.1.1 Critical Elements of the Environment

To comply with the National Environmental Policy Act (NEPA), the Bureau of Land Management is required to address specific elements of the environment that are subject to requirements specified in statute or regulation or by executive order (BLM 1988, BLM 1997). The following table outlines the 15 critical elements that must be addressed in all environmental assessments (EA), as well as other resources deemed appropriate for evaluation by the BLM, and denotes if the Proposed Action or No Action Alternative affects those elements.

Table 3-1 Supplemental Authorities and Other Resources of the Human Environment and Rationale for Detailed Analysis

Resource	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Supplemental Authority				
Air Quality		X		There are no areas of non-attainment for criteria pollutants in or around the Proposed Action area.
Area of Critical Environmental Concern (ACEC)	X			There are no ACECs present in the vicinity of the Proposed Action area.
Cultural Resources		X		The area has been surveyed and no cultural sites or historical properties exist. The surface has been heavily disturbed. See discussion in Section 3.3.1 below.
Environmental Justice		X		The community of Goldfield is very small (415 residents) and has no discernible minority or low income population. Impacts from this action would affect the community as a whole.
Farmlands Prime or Unique	X			Resource not present in the vicinity of the Proposed Action area.

Table 3-1 Supplemental Authorities and Other Resources of the Human Environment and Rationale for Detailed Analysis

Resource	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Fish Habitat	X			The resource is not present in the vicinity of the Proposed Action.
Floodplains	X			There are no Federally designated floodplains located near or adjacent to the Goldfield Water Facility.
Forests and Rangelands (Healthy Forest Restoration Act only)	X			This project does not meet the criteria to qualify as an HFRA project.
Human Health and Safety	X			The Proposed Land Sale would not contribute to any impacts to human health or safety per Executive Order 13045.
Migratory Birds		X		See discussion in Section 3.5.1 below.
Native American Religious Concerns	X			There are no Native American Traditional values in the proposed sale area. See discussion in Section 3.3.1 below.
Noxious Weeds/Invasive Non-native Species	X			This action is for a proposed direct land sale to Esmeralda County. The area does not have any noxious or invasive weeds.
Threatened or Endangered Species (Special Status Species, plants & animals)		X		See discussion in Section 3.6.1 below.
Waste-Hazardous and Solid	X			No hazardous waste would be generated by the Proposed Action.
Water Quality (Surface/Ground)	X			The Alkali Goldfield Area, like most others in this arid desert region, lacks perennial sources of surface water and the small amount of water that is present does not meet the United States Environmental Protection Agency's minimum standards for drinking water according to the latest BLM studies (BLM 1997).

Table 3-1 Supplemental Authorities and Other Resources of the Human Environment and Rationale for Detailed Analysis

Resource	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Wetlands/Riparian Zones	X			There are no jurisdictional wetlands/riparian areas or waters of the United States located adjacent or near to the Goldfield Water Facility.
Wild and Scenic Rivers	X			Resource not present in the vicinity of the Proposed Action area.
Wilderness	X			There are no designated wilderness or wilderness study areas (WSAs) located near the Goldfield Water Facility that would be impacted by the proposed action.
Wilderness Characteristics	X			No lands meeting the criteria established by Secretarial Order No. 3310 exist within the project area.
Other Resources				
Fire Management	X			The Proposed Land Sale is within the Town of Goldfield's town boundaries.
Grazing Management		X		The Proposed Land Sale is within the Montezuma Grazing Allotment Grazing does not occur within the town boundaries.
Land Use Authorization			X	See discussion in Section 3.4.1 below.
Minerals		X		A review of LR2000 indicates no mining claims exist. See discussion in Section 3.7 below.
Paleontological Resources	X			There are no known paleontological resources in the Proposed Action area.
Recreation		X		Local recreation opportunities would not be affected by the Proposed Action. The BLM has a ROW for a mountain bike trail, N-62535, which is an access road through Goldfield and near the Proposed Land Sale.
Socioeconomic Values		X		The Proposed Action takes place in the Town of Goldfield and would not affect local socioeconomic values. See discussion in Section 3.8 below.

Table 3-1 Supplemental Authorities and Other Resources of the Human Environment and Rationale for Detailed Analysis

Resource	Not Present	Present/Not Affected	Present/May be Affected	Rationale
Soils		X		The Proposed Action would not involve excavation or other major ground-disturbing activities and therefore would not affect local soil resources.
Vegetation		X		The Proposed Action would not involve excavation or other major ground-disturbing activities and therefore would not affect local soil resources. This is a Proposed Direct Land Sale to Esmeralda County.
Visual Resources		X		The Proposed Land Sale is within a Class IV VRM area.
Wild Horses and Burros		X		This proposed action is within the Montezuma HMA. See discussion in Section 3.10 below.
Wildlife		X		See discussion in Section 3.5 and 3.6 below.

Source: BLM 2008.

Several critical elements of the human environment have been identified by BLM resource specialists as likely to be impacted by the proposed action, they are: land use authorizations, threatened and endangered species, migratory birds, socio-economic values, and hazardous materials. The two alternative actions result in the same disturbance to the ground and thus there is no distinction between alternatives based on environmental impacts.

3.2 Description of the Affected Environment and Environmental Consequences (40 CFR 1502.16)

General Setting

Goldfield is a small community of 415 people located along U. S. Highway 95 in Esmeralda County, Nevada. The 5-acre tract under consideration for sale to Esmeralda County is within the town limits of Goldfield. This tract and the associated well-field are located in the Alkali Spring Valley Basin (142). The basin is relatively small, covering about 310 square miles. The community of Goldfield is at the southern edge, situated on the northeastern skirts of the Malpais Mesa, some 11.5 miles south of the well-field. Drainage in the basin appears to terminate at Alkali Lake and there are no other natural surface outlets from the basin. Early USGS reports suggest regional groundwater in flows from Ralston valley to the east to outflows to Clayton Valley to the west.

The proposed sale area is located in Montezuma Valley, Esmeralda County, Nevada. It is immediately west of the Goldfield and is enclosed by a Goldfield town site administrative fence-line.

3.3 Cultural Resources

3.3.1 Affected Environment

The proposed sale area is located in Montezuma Valley, Esmeralda County, Nevada, immediately west of the Goldfield townsite limit fence line. This is an internally draining basin which has been considered the site of Pluvial Lake Goldfield, but more recent research indicates the age of the lakeshore features as much more recent. Several springs dot the western and southern margins of the archeological study area.

A Class III archaeological survey (BLM 5-749(P)) was completed of the area on January 20, 1981 for right-of-way grant, N-31808, which authorized a water well site, storage tank site, booster pump stations, access road, and associated water pipelines. Seven acres were surveyed for the storage tank site. The new facility will be located on four of the previously surveyed seven acres.

The Goldfield Historic District, consisting of the downtown area, roughly bounded by 5th St., Miner, Spring, Crystal, and Elliot Avenues, and the Goldfield Hotel, are on the Nevada Register of Historic Places. The view of the proposed treatment plant from the historic district will be obstructed by existing water storage tanks and will not create an adverse visual effect to the historic district.

3.3.2 Environmental Consequences

Since the surface acres are heavily disturbed, there would be no environmental impacts to cultural resources as a result of either the proposed action.

3.4 Land Use Authorizations

3.4.1 Affected Environment

Land tenure patterns would not be affected by the sale. Following the transfer of ownership, the anticipated land use of the subject parcel would be the same as the current use. The Tonopah RMP, Appendix 14, describes lands for Federal disposal in Goldfield. These lands are identified on Map 3. The project area lies within the area identified for disposal.

The Master Title Plat (MTP) shows one encumbrance. A right-of-way N-31308, was issued to Esmeralda County in 1981 and subsequently amended for a 4-acre water facility consisting of a 6-inch water pipeline, well-site, pumping station, drying pond, one 100,000-gallon water tank; and one approximate 75,000-gallon water tank. This right-of-way was recently amended to be used as an arsenic treatment facility in order for Esmeralda County to come into compliance with

the new lower maximum concentration level for arsenic in drinking water adopted by the EPA in 2006.

An overhead fiber optic line ROW, 20-feet wide is authorized by case file N-73706 to Nevada Bell. This ROW bisects a portion of the southeast portion of the proposed sale area.

Sierra Pacific Power Company (SPPCO) dba as NV Energy applied for a 632 foot long, 25 kV distribution line (N-89268), to include 3-4 poles within the proposed area of the requested land sale. A grant was issued to SPPCO on December 14, 2010.

The two valid and existing ROW Holders above were notified by mail of their opportunity to convert their compliant ROWs to either perpetual ROW, perpetual easement, to remain as status quo, or to negotiate an easement with the patentee. Perpetual ROWs or easements are authorized only at patent issuance and only if the property is conveyed. If the property does not convey, the existing ROWs would remain on the land authorized under their current authority.

3.4.2 Environmental Consequences

Land tenure patterns would not be affected by the sale. Following the transfer of ownership, the anticipated land use of the Subject Parcel would be the same as the current use.

The act of amending rights-of-way to a perpetual right-of-way or easement does not cause any direct impacts to the environment. These rights-of-way are already constructed. The action of converting these authorizations is administrative only.

3.5 Migratory Birds

3.5.1 Affected Environment

Migratory birds are protected by the Migratory Bird Treaty Act (MBTA). A migratory bird is any species of bird **except** upland game species, feral pigeons, European starlings, and English house sparrows. Surface disturbing activities during the migratory bird nesting season (April 1st through August 31st) may destroy the eggs or young of ground-nesting migratory birds. Any violation of the MBTA can incur penalties up to $15,000 or 6 months imprisonment, or both per individual offense.

According to the NDOW 240 form collection master database there is a record of the California condor (*Gymnogyps californianus)* in the vicinity of the proposed action. The project area does not contain the habitat characteristics preferred by California Condors and if the record is legitimate, the bird was certainly transitioning through the area. There is no potential for adverse impacts to the California condor from the proposed action.

3.5.2 Environmental Consequences

The sale of land, in itself, would not directly affect migratory birds. The BLM advises that ground clearing or other disturbance to vegetation during the migratory bird nesting season (roughly, March through July) risks a violation of the Migratory Bird Treaty Act by destroying the eggs or young of common shrub-nesting birds such as the sage thrasher, sage sparrow, Brewer's sparrow, horned lark and meadow lark. Almost every migratory bird, with the exception of a few species such as the starling and English sparrow, is covered by this law. For more information about the Migratory Bird Treaty Act, and how to avoid violations, contact the U.S. Fish and Wildlife Service regional office in Reno, Nevada at (775) 861-6300.

There would be no direct impacts to migratory birds as a result of the proposed action, which is merely the transfer of land ownership. The subsequent land use would be a continuation of the current use and is not expected to result in impacts to migratory birds.

BLM Sensitive Species:

The golden eagle *(Aquila chrysaetos)* is the only BLM sensitive raptor species on record as being present in the area. However, there is a high probability that other BLM sensitive raptor species such as the Northern goshawk (*Accipiter gentilis),* ferruginous hawk (*Buteo regalis),* Swainson's hawk (*Buteo swainsoni),* prairie falcon (*Falco mexicanus),* may be seasonal migrants through the area as well. There are no reasonably foreseeable adverse impacts to the populations of any of these raptor species as a direct result of this proposed action.

3.6 Threatened and Endangered (plants and animals)

3.6.1 Affected Environment

Nevada BLM sensitive species of bat have been identified in the area of the proposed action. They are the Western small-footed myotis *(Myotis ciliolabrum),* California myotis (*Myotis californicus),* Townsend's big-eared bat (*Corynorhinus townsendii),* spotted bat (*Euderma maculatum),* Western pipistrelle (*Pipistrellus hesperus).* Riparian areas are one of the most important habitat features for populations of bats as well as other wildlife in the desert. Other features such as roosting sites and other foraging habitat will not be impacted by this project to a degree that would adversely impact bat populations in the area.

Five species of sensitive plants could potentially grow in or proximal to the project area. These species include the Black woolypod (a.k.a. Funeral milk-vetch), Gilman milk-vetch, Nevada dune penstemon, Amargosa penstemon, and Mojave sweet pea. A field survey in 2005 did not find any of these species.

3.6.2 Environmental Consequences

This proposed action and existing development would not likely impact individual animals that could periodically use this area. All preexisting habitat has been substantially altered or denuded from the proposed land sale site.

In an October 2010, field survey, none of the sensitive animal species listed were found in or near the project area. In summary, no species of threatened, endangered or sensitive animal or plant species were found in or near the project area. Thus, potential impacts to such species are negligible.

3.7 Minerals and Geology

3.7.1 Affected Environment

A Mineral Potential Report was prepared that evaluated the mineral potential of the subject parcel. The Report provides a detailed assessment of the geology of the area and associated mineral potential and concluded that a low potential exists for all locatable minerals (metallic minerals, uranium and thorium and nonmetal/industrial minerals) and is not a potentially valuable source for leasable minerals (coal, geothermal, sodium/potassium, oil and gas). The subject parcel is not potentially valuable source for mineral materials.

3.7.2 Environmental Consequence

It is recommended that the BLM convey all mineral rights to Esmeralda County. Since there is little to no mineral potential on this parcel, there would be little to no significant environmental risk from conveyance of mineral interest.

3.8 Socioeconomics

3.8.1 Affected Environment

Esmeralda County's largest population center is Goldfield with an estimated population of 415 in 2008. Esmeralda County's 2000 census population was officially 971, making its population density 0.1045 inhabitants/km² (0.2706/sq mi), the second-lowest (to Loving County, Texas) of any county-equivalent outside of Alaska. As of the 2000 census, there were 971 people, 455 households, and 259 families residing in the county. Census of 2008 shows a population of approximately 629.

In terms of employment opportunities, the majority of jobs are in the services and professional, government and mining sectors. Chemetall Foote is the largest private employer, located in Silver Peak. The majority (71%) of the residents are employed within the county, primarily with the State of Nevada and Esmeralda County. The remainder work within Nye County, which borders Esmeralda County. This segment of population have a commute time of less than 22 minutes.

Esmeralda County's unemployment rate is at 4.9%. This does not however include agricultural employment and is not represented. Esmeralda County is in the process of restoring its ghost towns, in order to bring tourism into its history-filled area.

The median income for a household in the county was $33,203, and the median income for a family was $40,917. Males had a median income of $39,327 versus $25,469 for females. The per capita income for the county was $18,971. Average earnings per job in the county are lower than the state and the nation. 15.30% of the population and 7.50% of families were below the poverty line. Out of the total people living in poverty, 9.70% are under the age of 18 and 11.40% are 65 or older.

Highest Population Centers

	2000	2001	2002	2003	2004	2005	2006	2007	2008
Esmeralda County	**1,061**	**1,038**	**1,125**	**1,116**	**1,176**	**1,276**	**1,262**	**1,236**	**1,240**
Goldfield	424	498	438	439	453	438	430	448	415
Silver Peak	161	162	128	124	127	126	117	125	182

Growth Percentages

	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Esmeralda County	**8.4%**	**-0.8%**	**5.3%**	**8.5%**	**-1.1%**
Goldfield	-11.9%	0.2%	3.1%	-3.3%	-1.7%
Silver Peak	-20.9%	-3.5%	2.4%	-0.9%	-7.1%

Esmeralda County has not shown much growth over the past several years until 2006 when the amount of property sales more than doubled in the first 10 months of the year. Of the 98 property sales through October of 2006, 82 were for vacant land. Of those, 61 were in the Dyer/Fish Lake Valley area where a new subdivision is going in.

According to the 2000 Census, there are 833 housing units in Esmeralda County, Nevada. 455 are occupied; 378 are vacant; and 79 are available for seasonal, recreational, or occasional use. Of all property sales within Esmeralda County in 2006, 69% were in the Dyer/Fish Lake Valley area while 26% was in Goldfield. Goldfield has been declared an historic community and is striving to restore its old buildings. Silver Peak had little growth. It is virtually surrounded by government-owned or managed land. This greatly limits the amount of property available in the region.

3.8.2 Environmental Consequences

The predominate land use in Goldfield and surrounding areas is single-family, residential developments. While exact estimates are not easily determined, the current development of the

arsenic treatment facility, and subsequent land use would have no measurable impact to socioeconomics because the subject parcel would continue to be utilized.

3.9 Hazardous or Solid Wastes

3.9.1 Affected Environment

The subject parcel of public land recommended for transfer out of Federal ownership via direct sale in 2009 was inspected as part of the Environmental Site Assessment on November 12, 2010 by the Southern Nevada Las Vegas Field Office sales team. Existing records have been examined in accordance with Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (42 USC 9620(h)) (CERCLA). No evidence was found to indicate that any hazardous substance was stored for one year or more or disposed of or released on the property.

3.9.2 Environmental Consequences

The proposed action would not result in the use or storage of any hazardous or solid wastes in the proposed direct sale area.

A final HAZMAT review would be done on the land areas prior to issuance of a patent. Assuming no illegal activities resulting in a HAZMAT issue take place, there would be no adverse effects associated with the sale of the parcel from hazardous materials.

3.10 Wild Horses and Burros

3.10.1 Affected Environment

The proposed sale is within the Montezuma Peak Herd Management Area (HMA). The Montezuma Peak HMA is located just to the west of the Town of Goldfield, 26 miles south of Tonopah in Esmeralda County, Nevada. The area encompasses an area approximately 9 miles wide and 21 miles long. The majority of the HMA is dominated by shrubs with little grass, particularly in dry years. The area receives only 3 inches precipitation on average in the valley bottoms and 12 inches on the mountain tops. This HMA is in the transition zone between the Great Basin (cold desert) and the Mojave Desert (hot desert). Habitat in the Montezuma Peak HMA is well suited for wild burro use, but contains little forage suitable for wild horse use.

Given the size of the Montezuma Peak HMA, that a town fence is in place, that the proposed sale is within the Town of Goldfield, and the town fence, the potential for encounters between burros and local traffic is minimal.

3.10.2 Environmental Consequences

The sale of the public lands in this area would not affect the wild burros because of the small amount of acreage being conveyed when compared to the overall available forage in the HMA. The area of conveyance has been disturbed and consists of other ROWs that include pipelines, power lines, telephone lines, access roads, and fenced area surrounding the water tanks.

4.0 CUMULATIVE, INTERDEPENDENT, AND INTERRELATED IMPACTS

This section will address the cumulative impacts of the Proposed Action and No Action Alternative on the affected environment, past activities in and around the area, and any foreseeable future activities.

The Council on Environmental Quality (CEQ) regulations defines cumulative impacts as:

> "...[T]he impact on the environment which results from the incremental impact of the action when added to other past, present, or reasonably foreseeable future actions regardless of what agency (Federal or Non-Federal) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7)."

As required under the NEPA and the regulations implementing NEPA, this chapter addresses those cumulative effects on the environmental resources in the Cumulative Effects Study Areas (CESAs) which could result from the implementation of the Proposed Action and the No Action; past actions; present actions; and RFFAs. The extent of the CESA may vary with each resource, based on the geographic or biologic limits of that resource. As a result, any projects considered under the cumulative analysis may vary according to the resource being considered. In addition, the length of time for cumulative effects analysis may vary according to the duration of impacts from the Proposed Action on the particular resource.

Environmental consequences of the Proposed Action and the No Action were evaluated previously in the Affected Environment for the various environmental resources. Based upon the analysis of the environmental resources, the following resources could be impacted by the Proposed Action and No Action: land authorizations and migratory birds. The above resources are considered to have the potential to be cumulatively impacted by actions within the identified CESA for that resource. Based on the preceding analysis, the Proposed Action and No Action would not impact the following resources or they are not present and thus do not have cumulative impacts: air quality, areas of critical environmental concern; cultural resources; environmental justice; unique farmlands; Native American traditional values; noxious weeds; soils; vegetation; visual resources; wildlife; water quality; wetlands and riparian zones; wild and scenic rivers; wilderness; recreation; grazing/range; forestry; socioeconomics, and paleontological. Therefore, these resources are not further discussed in the cumulative impacts section.

For this cumulative impact analysis minerals, migratory birds, threatened and endangered species, wild horse and burros, and hazardous waste share the same CESA which is defined as an area which borders one mile to the east; one mile to the west; one mile to the north; and two miles to the south of the proposed action. This area is approximately 5,760 acres.

The CESA for socioeconomics and land use authorizations includes Esmeralda County's approximately 3,589 square miles.

4.1 Past Actions

The past actions have been associated primarily with mining, service, and government.

4.2 Present Actions, Including Proposed Actions

Present related actions include mining, recreation, service, government, and residential development.

The Proposed Action would remove approximately five acres of public land from public ownership. No cultural sites would be disturbed. Wildlife habitat, vegetation, or range resources have been altered by the disturbance action. No Threatened, Endangered animal or plant species would be affected by the Proposed Action.

The sale of the subject parcel would not set a precedent. The benefits of removing the parcel from Federal ownership would allow for community expansion and benefit Esmeralda County's wellhead protection program.

4.3 Reasonably Foreseeable Future Actions (RFFA's)

All resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible as a result of the proposed action.

4.4 Evaluation of the Potential Proposed Action Cumulative Impacts and Mitigation

4.5 Land Use Authorization

Past Actions – Federally managed lands make up 97% of the total surface area of Esmeralda County and the economy of the county is dependent on business carried out on these lands, and decisions regarding the management of these lands greatly impact the social and economic well-being of the county.

Present Actions – Government and Mining industries are increasing opportunities for employment. Seventy-one percent of the residents work in Esmeralda County and Nye County, realizing a commute time of less than 25 minutes to Tonopah.

Esmeralda County is unique in that all of its communities have strong transportation links to California. A transportation system stretches through central and southern Nevada, providing ideal locations from which to transport goods.

Professional off-road vehicle events, photography of the sweeping vistas and back roads, have attracted many major film producers and amateurs alike.

Esmeralda County has formed an Esmeralda County Land Use Advisory Committee. This committee is setting and reviewing policies for Esmeralda County and is writing a county-wide master plan which would also implement policy.

RFFAs – Esmeralda County Resolution No. 09-R-16, titled, "*Resolution Regarding Purchasing Property from the Bureau of Land Management for the Goldfield Water Treatment Facility*" passed in support of public sale of disposable lands would provide the land for implementation of the Goldfield arsenic treatment facility without further Bureau involvement. Rights-of-Ways for utilities would be increased to include power lines and upgrading or additional water pipelines, the addition of solar facilities to the proposed sale area, and whether to allow the conversion of valid and existing rights to perpetual rights-of-way or easements.

A Master Plan for Esmeralda County is in the developmental stage. Discussions have occurred with county residents as well as Esmeralda County forming an Esmeralda County Land Use Advisory Committee.

The potential cumulative impact from a sale of five acres when compared to the CESA for land use authorizations would be negligible.

4.6 Socioeconomics

The total population of Esmeralda County in 2000 was officially 971.

Past actions that have occurred within the CESA that have impacted this resource include mining operations, and gravel pits, Rights-of-Ways for road, utilities, and recreation.

Present Actions – Esmeralda County is unique in that all of its communities have strong road transportation system links to California to support mining, light-industry, service, tourism, and government. A transportation system stretches through central and southern Nevada, providing ideal locations from which to transport goods.

Esmeralda County is located halfway between Reno and Las Vegas. It is the home to many mining communities and ghost towns; surrounded by rugged mountain wilderness, vast open basins and rich mines. Esmeralda County offers a variety of spectacular scenery, a comfortable lifestyle and an excellent business climate. Goldfield, the principal city of Esmeralda County, is in fact a gold field of opportunity for businesses. The area is in close proximity to Death Valley National Park and its endless recreational opportunities.

RFFAs - This parcel is already developed and has allowed for the expansion of the water treatment facility.

The sale of the subject parcel would not set a precedent. The sale would benefit Esmeralda County because there would be no rent for the site portion of the ROW or R&PP rent. Possible future developments to the site include a new access road, solar panels, chemical storage areas, telephone line, power line, back-up generators, additional fencing and piping.

In consideration of the parcel's size, proximity to the Town of Goldfield as compared to the whole analysis area, any Cumulative, Interdependent and Interrelated Impacts would be negligible. Thus, the potential for a cumulative impact on the analyzed resources would be minimal.

4.7 Migratory Birds, Minerals, Threatened and Endangered Species, Hazardous Waste, and Wild Horse and Burros.

Past actions that have occurred within the CESA that have impacted these resources include grazing, mining operations, sand and gravel pits, rights-of-ways for utilities, and recreation.

Present Actions – No known mining activities are occurring with the CESA. Because of the proximity to the Town of Goldfield numerous rights-of-ways exist. The exact number of ROWs and associated acreage is not available due to Agency economic constraints.

RFFAs - The Proposed Action would remove approximately five acres of public land. This represents less than 1% of the CESA. No cultural sites would be disturbed. Wildlife, migratory birds, vegetation, soils, minerals, visuals, threatened and endangered Species, hazardous waste, and wild horse and burros have been altered by presence of the existing ROW.

The BLM advises that ground clearing or other disturbance to vegetation during the migratory bird nesting season (roughly, March through July) risks a violation of the Migratory Bird Treaty Act by destroying the eggs or young of common shrub-nesting birds such as the sage thrasher, sage sparrow, Brewer's sparrow, horned lark and meadow lark. Almost every migratory bird, with the exception of a few species such as the starling and English sparrow, is covered by this law. For more information about the Migratory Bird Treaty Act, and how to avoid violations, contact the U.S. Fish and Wildlife Service regional office in Reno, Nevada at (775) 861-6300.

No Threatened, Endangered animal or plant species would be affected by the Proposed Action. Compared to the CESA for these resources and implementing individual resource mitigation measures, the cumulative impact to these resources would be negligible.

5.0 LIST OF PREPARERS AND REVIEWERS

BLM TONOPAH FIELD OFFICE	
Responsibility	**Name**
Supervisory Geologist, TFO	Alan Buehler
NEPA Coordinator and Compliance TFO	John Hartley
NEPA Coordinator and Compliance BMDO	Dave Davis
Cultural/Historical/Paleotological	Sue Rigby

Lands and Rights of Way, TFO	John Manzano
Lands and Rights of Way, BMDO, RECO, preparer	Wendy Seley
Supervisory Realty Specialist, SNDO, LV	Anna Wharton
Lands and Rights of Way, SNDO, LV	Manuela Johnson
Lands and Rights of Way, SNDO, LV	Jill Pickren
Recreation and Visual Resources, BMDO Recreation and Visual Resources, RECO	Todd Neville Wendy Seley
Hydro-geologist, BMDO, RECO	Larry Grey
Minerals, TFO	Leahandra Keevan
Wild Horse and Burro	Dustin Hollowell
Range Resources, Vegetation, TFO	Sheryl Post
Invasive, Non-native Species, TFO	Devin Englestead
Migratory Birds, Special Status Species, TFO	Devin Englestead
Wildlife, TFO	Devin Englestead

Interested Parties Mailing List
State of Nevada – State Clearinghouse

The proposed action supports coordination with State and local governments, interested individuals and appropriate quasi-governmental entities. No known Federal programs would be adversely affected by this proposed action. The BLM recognizes the need for orderly community development and infrastructure needs associated with development of both public and private lands.

6.0 REFERENCES

Tonopah Resource Management Plan and Final Environmental Impact Statement (1994)
Tonopah Resource Management Plan and Record of Decision (1997)
Nevada Statewide Policy Plan for Public Lands, June 1985
Esmeralda County Assessor's Office, Tonopah, Nevada
Nevada Small Business Development Center – State of Nevada Demographer, Web Site
Esmeralda County, NV Homepage, Web Site
National Wetlands Inventory Web Site
Lumos & Associates – Goldfield Town Water – Wellhead Protection Program (2007)
Nevada State Clearinghouse
Esmeralda County Resolution No. 09-R-16, titled, "*Resolution Regarding Purchasing Property from the Bureau of Land Management for the Goldfield Water Treatment Facility*", October 6, 2009

DECISION RECORD
FOR
ESMERALDA COUNTY DIRECT LAND SALE

BLM EA Number: DOI-BLM-NV-B020-2010-154-EA
BLM Serial Number: N-88014

Introduction

Esmeralda County requested to purchase five (5) acres of public lands associated with the Goldfield Water Treatment Facility. The proposed sale area is currently being utilized as a water storage and distribution facility under a right-of-way (ROW), N-31308, issued for a period of 30 years. An amendment to the ROW authorized a new arsenic treatment facility to be constructed within the four acres of the existing ROW and the proposed sale area. This facility is to treat current high levels of arsenic found in the Goldfield water supply and bring Esmeralda County into compliance with the Safe Drinking Water Act.

Authority

The BLM goal in preparing its decision on the sale application is to provide authorizations for public and private uses while maintaining and improving resource values and public land administration. The objective of the BLM in making its decision, is to make available for disposal, public land meeting the disposal criteria contained in Section 203(a) of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713 and 1719), as stated in the Tonopah Resource Management Plan (RMP) and Record of Decision (ROD) (BLM, October 2, 1997), Appendix 14, pages A-46 thru A-49; the Code of Federal Regulations (CFR) at 43 CFR 2710 and 2720; and Section 209 of FLPMA for conveyance of minerals.

Compliance/Conformance

I have determined that the proposed action is in conformance with the approved land use plan and is consistent with the applicable plans and policies of county, state, tribal and Federal agencies. The proposed project is in compliance with the Federal Land Policy and Management Act (FLPMA) of 1976 and all BLM land uses in the Tonopah Resource Management Plan (RMP), the Endangered Species Act and the National Historic Preservation Act.

The Proposed Action is consistent with the goals of the *Esmeralda County Policy Plan for Public Lands* which states that "Public lands should continue to be made available for state and local government purposes." In addition to the Esmeralda County's Policy Plan, the proposed action is also consistent with the Bureau of Land Management's Washington Office Instruction Memorandum (IM) 2003-259, dated August 25, 2003, regarding non-competitive sale of public lands.

Decision

The decision under consideration by the BLM is whether or not to complete a direct land sale to Esmeralda County as described in the introduction.

This decision will mitigate increased liability to the BLM that would result from the Town of Goldfield's construction, operation and maintenance of an arsenic treatment facility; the public interests would be better served and protected by transferring title via a direct sale, rather than continuing administration of a right-of-way or R&PP patent. The direct land sale would not result in significant impacts to the environment and an Environmental Impact Statement (EIS) is not required.

The Proposed Action is described in detail in the EA. The sale will be subject to prior valid existing rights of record. There are no known minerals of value on the parcel. The United States would convey all mineral rights to Esmeralda County. Based on Esmeralda County Direct Land Sale, Goldfield Water Treatment Facility Environmental Assessment (EA) DOI-BLM-NV-B020-2010-154 and Finding of No Significant Impact (FONSI), it is my decision to implement the proposed action.

Selected Alternative

An EA was prepared in compliance with the National Environmental Policy Act (NEPA) to identify and evaluate alternative locations that would satisfy the project's purpose and need. The selected alternative is the Proposed Action.

Public Involvement

A 30-day notice was mailed to interested parties on April 26, 2011. The Nevada State Clearinghouse posted the EA to its website on April 26, 2011. The EA was posted to the Battle Mountain external website. No adverse comments were received.

A public meeting was held by the Esmeralda County Commissioners that addressed the proposed sale. Esmeralda County Resolution No. 09-R-16 was approved on October 6, 2009.

A Notice of Realty Action (NORA) for the proposed sale, as required by 43 CFR 2711.1-2, will be published and sent to all interested parties by the BLM. The NORA will be published for one time in the Federal Register, and once a week for three weeks in the local newspaper. The NORA will be sent to the Nevada Congressional Delegation and the Office of the Governor of the State of Nevada. If no objections are received, the parcel will be offered for direct sale to Esmeralda County.

Consultation and Coordination

Consultation and coordination was carried out with the Federal, State, local agencies, and interested parties, as follows:

- U.S. Fish and Wildlife Service
- Nevada State Clearing House
- Esmeralda County Commissioners

Rationale

1. The proposed action is consistent with promoting the utilization of public lands in common with respect to engineering and technological compatibility and land use plans [43 CFR 2801.2(c)].

2. The proposed action supports coordination with State and local governments, interested individuals, and appropriate quasi-governmental entities [43 CFR 2801.2(d)].

3. The recommendation to dispose of Federal lands meets the stated objective "Lands and Rights-of-Way" page 18, Tonopah Resource Management Plan, approved October 2, 1997, which states, "To make lands available for community expansion and private economic development and to increase the potential for economic diversity."

4. The direct sale is in accordance with the requirements of 43 CFR 2711.3-3 that allows for the direct sale of public lands, and meets criteria provided for in Section 203(a)(3) of the Federal Land Policy and Management Act of 1976 (43 USC 1713).

4. The proposed action is in conformance with the BLM Washington Office Instruction Memorandum No. 2003-259, dated August 25, 2003. This IM reinforces and clarifies the BLM's regulations regarding public notices for the direct (non-competitive) sale of public lands.

Administrative Remedies

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the attached Form 1842-1 (2006).

Thomas J. Seley, Field Manager
Tonopah Field Office

July 26, 2011
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANGEMENT
BATTLE MOUNTIAN DISTRICT/TONOPAH FIELD OFFICE

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed Environmental Assessment (EA) DOI-BLM-NV-B020-2010-0154-EA, dated April 2011. After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the proposed action with the project design specifications and mitigation identified in the EA will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as described in 40 CFR 1508.27. Therefore, preparation of an Environmental Impact Statement (EIS) is not required per Section 102(2)(c) of the National Environmental Policy Act.

I have determined the proposed action is in conformance with the approved Tonopah Resource Management Plan, approved October 2, 1997, and is consistent with the plans and policies of neighboring local, county, state, tribal and Federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context:

Esmeralda County requested a direct land sale by submission of Esmeralda County Resolution No. 09-R-16, titled, "*Resolution Regarding Purchasing Property from the Bureau of Land Management for the Goldfield Water Treatment Facility*" on October 6, 2009 to the Tonopah Field Office.

Esmeralda County requested to purchase five (5) acres of public lands associated with the Goldfield Water Treatment Facility. The proposed sale area is currently being utilized as a water storage and distribution facility under right-of-way (ROW) N-31308.

This right-of-way was issued to Esmeralda County in 1981, and subsequently amended, for approximately 34 acres which consists of a fenced, four (4) acre water facility site with appurtenances that includes pipelines, a well-site, pumping station, drying pond, one 100,000-gallon water tank, and one 75,000-gallon water tank.

A new water treatment facility is to be constructed to treat current high levels of arsenic found in the Goldfield water supply and bringing it into compliance with the Safe Drinking Water Act. Esmeralda County has indicated the arsenic treatment facility, if built, would expect to be completed by the end of August, 2011.

The Town of Goldfield has applied for, and received a 3-year extension for compliance with the Arsenic Rule for Well No. 1. Well No. 2 has been shut down and is not currently being utilized as a primary water source since it has arsenic levels in excess of the previously required EPA standards.

Intensity:

1) Impacts that may be both beneficial and adverse

The EA has considered both beneficial and adverse impacts of the proposed Esmeralda County direct land sale.

The sale of the lands will mitigate increased liability to the BLM that would result from the Town of Goldfield's construction, operation and maintenance of an arsenic treatment facility. The public interests would be better served and protected by transferring title via a direct sale, rather than continuing administration of a right-of-way or Recreation and Public Purposes (R&PP) patent.

A direct land sale to Esmeralda County would protect the existing equities already constructed on the land as well as proposed future construction on the site. Substantial investments were made through grants awarded by the United States Department of Agriculture to Esmeralda County for the purpose of financing the construction of a new water treatment facility. This new facility will bring the Town of Goldfield into compliance with the new EPA standards by 2011. In the event that the Town of Goldfield fails to comply with EPA standards by 2011, it could result in daily fines being levied against the Town for noncompliance. The benefits of this new water treatment facility to the Town of Goldfield, County of Esmeralda, and their residents far outweigh the current public use of the land being conveyed.

2) The degree to which the proposed action affects public health and safety.

The proposed action will not adversely affect public health or safety. The project and its potential effects on the human environment are not highly uncertain and do not involve unique or unknown risks.

Various options for mitigation are available for arsenic and all mitigation would be for health purposes as required by the State and Federal EPA. Esmeralda County has selected an arsenic mitigation solution that is the most economical and simple to implement and manage. Because of the continuing liability of the BLM of the hazards materials laws and the potential for long term expenses associated with EPA regulations, construction of appurtenant facilities of the site are used to mitigate the current high levels of arsenic found in the water supply and bring Esmeralda county into compliance with the Safe Drinking Water Act.

3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The project area does not contain any historic or cultural resources, park lands, prime farmlands, or wetlands. The project area is not considered an ecologically critical area. Cultural surveys as well as biological assessments conducted within the project area show that no critical habitats or unique characteristics of the area will be impacted by the proposed action.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

The sale of the lands are not expected to be controversial. A public meeting was held by the Esmeralda County Commissioners that addressed the proposed sale. Esmeralda County Resolution No. 09-R-16 was approved on October 6, 2009. No adverse comments were received from the public.

A 30-day notice for the EA was mailed to interested parties; the Nevada State Clearinghouse posted the EA to its website on April 26, 2011. The EA was also posted to the Battle Mountain external website. No adverse comments were received.

The proposed action is consistent with the goals of the Esmeralda County Policy Plan for Public Lands and consistent with development plans for the township of Goldfield. The proposed action will not be controversial as it provides the community of Goldfield with an opportunity to improve its water supplies and meet new EPA standards. The area and water facilities currently in place are covered under a pre-existing ROW (N-31308). Any new disturbance post-sale would be assessed for environmental impacts by Esmeralda County.

5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

Possible environmental effects are discussed in the EA (Chapter 3 and 4) and are highly certain. The risks from the proposed action are not unique or unknown. The risks are minimal and the environmental effects are considered to be positive.

6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

The proposed action for a direct land sale to Esmeralda County does not set a precedent for future actions with significant environmental effects. Each realty transaction is considered on its own merit and a separate site-specific environmental analysis is conducted on each proposed realty action.

Similar past actions have occurred in the recent past and future actions may occur for similar circumstances. Each proposed action would be evaluated based upon its unique land status, resource conflicts, and within the framework of BLM's multiple-resource management policy.

7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

No significant cumulative impacts were identified in the EA. This action is only connected to ROW N-31308 and would only serve to amend that ROW by selling part of the land to Esmeralda County and releasing BLM from any potential future liability for the water treatment facility and infrastructure to be located on the sale parcel. The sale of the parcel to Esmeralda County does not result in any increased environmental impacts.

Any future actions taken by Esmeralda County would be the responsibility of the County including any NEPA analysis. Any changes outside the five-acre parcel would need to be submitted to BLM for approval.

Cumulative impacts are evaluated in Chapter 4.0, page 28-31.

8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.

Cultural and biological surveys show that this area is highly disturbed from many pre-existing and pre-NEPA analysis activities (residential, town infrastructure, and recreation). The sale of this parcel to Esmeralda County will not adversely affect highways, cultural areas, districts, or structures eligible for NRHP listing. The proposed action will not cause loss or destruction of significant scientific, cultural, or historic resource, as demonstrated through the impact analysis presented in Chapter 3.3 of the EA.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.

Previous biological surveys showed that there are no endangered or threatened species within the project area. The EA (Chapter 3 and 4) identified that no significant or adverse impacts would result to any endangered or threatened species from implementing the proposed action. The proposed action has undergone consultation and coordination with the United States Fish and Wildlife Service. They have determined that the activities will not have an adverse affect on any endangered or threatened species or their critical habitat.

10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The proposed action will not violate or threaten any Federal, State, or local law or requirement imposed for the protection of the environment.

Thomas J. Seley
Field Manager, Tonopah

July 26, 2011
Date