



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Schell Field Office
HC33 Box 33500 (702 N. Industrial Way)
Ely, Nevada 89301-9408

http://www.blm.gov/nv/st/en/fo/ely_field_office.html

In Reply Refer To:

2500 (NVL0200)
N-41040

Dear Reader,

In response to an application for a Desert Land Entry (DLE), from Kathy Smith, Ely, NV, the Bureau of Land Management (BLM), Ely District Office has prepared an Environmental Assessment to consider potential environmental impacts and mitigation measures regarding the proposed DLE. Based on the findings of the Environmental Assessment (EA) and proposed mitigation as identified in the EA, BLM has concluded that approval of the proposed action will not result in significant environmental impacts.

This letter is to notify you of a 30 day comment period ending February 18, 2010. The EA will be posted on the Ely BLM website. To access the EA on the web, the documents can be downloaded at: <http://www.blm.gov/nv/>. Click on the "Ely" District and choose the document you wish to download.

Persons wishing to provide BLM with comments may do so in writing to:

Bureau of Land Management
Attn: Brenda Linnell
HC 33 Box 33500
Ely, NV 89301
Phone (775) 289-1808

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 enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulation 43 CFR 2801.10 or 43 CFR 2881.10 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 43 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 you have any questions regarding these documents, please contact Brenda Linnell at (775) 289-1808 or e-mail to Brenda_Linnell@nv.blm.gov.

Sincerely,



Mary D'Aversa
Field Manager
Schell Field Manager

Enclosures

1. Form 1842-1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE NOTICE OF APPEAL	Bureau of Land Management, Schell Field Office HC 33 Box 33500, Ely, NV 89301
WITH COPY TO SOLICITOR	Office of the Solicitor Pacific Southwest Region, 2800 Cottage Way, Sacramento, CA 95825
3. STATEMENT OF REASONS	Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR	
4. ADVERSE PARTIES	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
5. PROOF OF SERVICE	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (43 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 other provided by law or other pertinent regulations, 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.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)

**U.S. Department of the Interior
Bureau of Land Management**

**Preliminary Environmental Assessment
DOI-BLM-NV-L020-2009-45-EA
July 28, 2009**

Desert Land Entry

White Pine County, Nevada

***Kathy Smith
dba***

***Tehama Creek Ranch, LLC
HC 33 Box 33620
Ely, Nevada 89301***

U.S. Department of the Interior
Bureau of Land Management
Ely District Office
Phone: 775-289-1800
Fax: 775-289-1910



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Appendix B	Agency Correspondence

ABBREVIATIONS AND ACRONYMS

BLM	U.S. Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	U.S. Code of Federal Regulations
DLE	Desert Land Entry
EA	Environmental Assessment
EO	Executive Order
NEPA	National Environmental Policy Act
NDOW	Nevada Department of Wildlife
VRM	Visual Resource Management

CHAPTER 1.0 INTRODUCTION

1.1 INTRODUCTION

The Desert Land Act, which was passed on March 3, 1877 and amended by the Act of March 3, 1891, allows for individuals to apply for up to 320 acres of arid and semi-arid public lands for the purposes of reclaiming for agricultural crop production.

On November 5, 1984, Charlcia B. Rosenlund submitted an application for a parcel totaling 302.5 acres, more or less, located within T. 22 N., R. 64 E., Sections 22 and 27, pursuant to the Desert Land Act of 1877, 43 U.S.C. 231 and 43 CFR 2400 and 2520. In order to process the application, the Desert Land Act requires that the parcels applied for be classified through a formal classification decision as to their suitability or unsuitability for agricultural purposes. Upon classification, the applicant is allowed to enter the land and develop the parcel into an agricultural property, ultimately converting the native desert plant community to an irrigated agricultural crop. This land was classified as suitable in a letter dated, May 24, 1985 (Appendix A). Once development, or “reclamation,” of the property has taken place, the entry person is conveyed title to the property at a monetary price of \$1.25 per acre.

Kathy Smith purchased the Rosenlund Ranch in 2005 and renamed the ranch Tehama Creek Ranch. The Tehama Creek Ranch is a horse facility for youth and adults. This facility houses cutting and roping horses, cutting cattle, and roping steers. On June 9, 2006, an application was presented to the Tri-County Meeting with White Pine, Lincoln, and Nye counties. The application has been assigned Case File No. N-41040 and Environmental Assessment (EA) No. NV-040-027. On July 9, 2007, a Desert Land Entry Assignment Claim was executed and Kathy R. Smith was designated as the assignee of this application.

Following completion of a cultural resources survey in 2008, the application was revised to split the area into two parcels totaling approximately 216.1 acres. The purpose was to exclude portions of the historic Lincoln Highway (see Section 3.3 below) from the Proposed Action.

This EA was prepared to analyze anticipated impacts of approving a Desert Land Entry (DLE) application, the possible subsequent agriculture development under the Desert Land Act, and future sale and patent of 216.1 acres of public lands in Steptoe Valley, White Pine County, State of Nevada. The document is intended to satisfy the requirements of the National Environmental Policy Act (NEPA) in accordance with Council of Environmental Quality guidelines and Bureau of Land Management (BLM) policy.

1.2 NEED FOR THE ACTION

The need for this action is to respond to a DLE application. The land was previously found suitable in 1985, but Charlcia Rosenlund was never granted entry. The applicant has indicated a need for more land to be put into agriculture and that these crops will be used for the horses and cattle on the existing Tehama Creek Ranch. At this time the existing ranch cannot supply adequate feed for the livestock; therefore, additional feed is being purchased elsewhere and trucked in.

1.3 RELATIONSHIP TO PLANNING AND CONFORMANCE WITH PLANS

The Proposed Action is consistent with the Ely District Record of Decision and Approved Management Plan published in August 2008 (pg. 69, Dispose of lands only in identified areas, See Appendix B). Exceptions will be Recreation and Public Purposes Act, Airport Conveyances, existing Desert Land entries, Carey Act and Indian Allotment, and disposal to resolve trespasses). This published plan provides for land transfers in Steptoe Valley under the Desert Land Act. This action is consistent with the terms, conditions, and decisions of the approved documents.

All vacant public lands, except those in Alaska, have been withdrawn from entry, selection, and location under the non-mineral laws by Executive Order (EO) 6910, November 26, 1934, and EO 6964 of February 5, 1935, and by the establishment of grazing districts under section 1 of the Act of June 28, 1934, as amended. Section 7 of the Act of June 28, 1934, authorizes the Secretary of the Interior in his or her discretion to examine and classify and open to entry, under applicable law, any lands withdrawn by the aforementioned EOs and laws. Classification under Section 7 is a prerequisite to the approval of all entries under the subpart CFR 2520, DLEs.

Regulations pertaining to land classifications are contained within 43 CFR 2400. Upon issuance of a "Final Classification Decision," the applicant will be issued an "Entry Allowed Decision," allowing the entry person to begin agricultural development. From that point onward germane regulations are found in 43 CFR 2520.

CHAPTER 2.0
PROPOSED ACTION AND ALTERNATIVES

2.1 PROPOSED ACTION

The Proposed Action is to allow entry to prove the land is eligible for patent under the Desert Land Act.

Township 22 North, Range 64 East, Mount Diablo Base and Meridian

Section 22: SW¹/₄ NW¹/₄,
NW¹/₄ SW¹/₄,
N¹/₂ SE¹/₄ NW¹/₄,
SW¹/₄ SE¹/₄ NW¹/₄,
NW¹/₄ SE¹/₄ SE¹/₄ NW¹/₄,
W¹/₂ NW¹/₄ NE¹/₄ SW¹/₄,
NE¹/₄ NW¹/₄ NE¹/₄ SW¹/₄,
N¹/₂ NW¹/₄ SW¹/₄ NE¹/₄ SW¹/₄;

Section 27: S¹/₂ NE¹/₄ NE¹/₄ NW¹/₄
S¹/₂ NW¹/₄ NE¹/₄ NW¹/₄
S¹/₂ NE¹/₄ NW¹/₄
SW¹/₄ NW¹/₄
SE¹/₄ NW¹/₄ NW¹/₄
E¹/₂ NE¹/₄ NW¹/₄ NW¹/₄
SW¹/₄ NE¹/₄ NW¹/₄ NW¹/₄
S¹/₂ SW¹/₄ NW¹/₄ NW¹/₄
S¹/₂ NE¹/₄ SW¹/₄ NW¹/₄ NW¹/₄
NE¹/₄ NE¹/₄ SW¹/₄ NW¹/₄ NW¹/₄;

containing 216.1 acres, more or less.

The applicant intends to grow alfalfa on the property after right of entry is granted. A water well will be drilled to supply a combination of wheel lines and partial pivots for irrigation. The application for the well has been submitted to the Nevada Department of Water Resources.

Individual rights of entry will be granted to the applicant after the parcel has been classified as suitable for agriculture development. Under the Desert Land Act, upon the entry person meeting final proof requirements for development as described in 43 CFR 2521.6, the BLM is required to transfer title.

The stages of development of a Desert Land Entry, after entry is allowed, consist of the following:

Congress, in the Act of March 3, 1981, made the requirement that a map be filed at the initiation of the entry showing the mode of contemplated irrigation and the proposed source of water supply; that there be expended yearly for 3 years from the date of entry not less than \$1 for each

acre of tract land entered, making a total of not less than \$3 per acre, in the necessary irrigation, reclamation, and cultivation of the land, in permanent improvements thereon; and in the purchase of water rights for the irrigation thereof; and that at the expiration of the third year a map or plan be filed showing the character and extent of the improvements placed on the claim. Said act, however, authorizes the submission of final proof at an earlier date than 4 years from the time entry is made in cases wherein reclamation has been effected and expenditures of not less than \$3 per acre have been made.

Yearly or annual proof of expenditures must consist of the statements of two or more credible witnesses, each of whom must have general knowledge that the expenditures were made for the purpose stated in the proof. Annual proofs must contain itemized statements showing the manner in which expenditures were made.

Acceptable expenditures would include, but not be limited to: Construction and maintenance of storage reservoirs, dams, canals, ditches, and laterals to be used by claimant for irrigating his land; for roads where they are necessary; for erecting stables, corrals, etc.; for digging wells, with the water there from to be used for irrigating the land; for leveling and bordering land proposed to be irrigated; for fencing all or a portion of the claim; and for the first breaking or clearing of the soil. The value to be attached to, and the credit to be given for, an expenditure for works or improvements is the reasonable value of the work done or improvement placed upon the land according to the market price therefore, or for similar work or improvements prevailing in the vicinity.

If the showing of final proof requirements is successful, the lands will be patented to the entry person.

If patented, the patent to the land would reserve to the United States:

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 USC 945.
2. All the oil and gas mineral deposits and sodium and potassium mineral deposits in the land subject to this conveyance, including without limitation, the disposition of these substances under the mineral leasing laws, and the rights of its permittees, licensees, and lessees to prospect for, mine, and remove the minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior may prescribe. This reservation includes all necessary and incidental activities conducted in accordance with the provisions of the mineral leasing laws in effect at the time such activities are undertaken, including, without limitation, necessary access and exit rights, all drilling, underground, or surface mining operation, storage and transportation facilities deemed necessary and authorized under law, and implementing regulations.
3. (N-47878) AT&T telephone line right-of-way.
4. (N-66289) AT&T telephone line right-of-way.

5. (N-5485) Mt. Wheeler Power, Inc. power line right-of-way.
6. (N-7321) Kathy Smith, Tehama Creek Ranch LLC, irrigation ditch right-of-way.
7. (N-81430) Kathy Smith, access road right-of-way.

Unless otherwise provided by separate agreement with the surface owner, permittees, licensees, and lessees of the United States shall reclaim disturbed areas to the extent prescribed by regulations issued by the Secretary of the Interior.

All causes of action brought to enforce the rights of the surface owner under the regulations above referred to shall be instituted against permittees, licensees, and lessees of the United States, and the United States shall not be liable for the acts or omissions of its permittees, licensees, and lessees.

2.2 SCOPING

BLM determined that the small size and scale of the project did not warrant public scoping meetings. However, resources agencies and Native American Tribes were consulted in preparing this document.

2.3 NO ACTION ALTERNATIVE

The No Action Alternative is required to be considered by NEPA and the Council of Environmental Quality implementing regulations (40 CFR 1500-1508). The No Action Alternative would be essentially the classification of this petition as “unsuitable for agricultural purposes.” An unsuitable classification would eliminate the probability of agriculture development under the Desert Land Act and future sale and patent of 216.1 acres of public lands.

CHAPTER 3.0 AFFECTED ENVIRONMENT

3.1 GENERAL SETTING

The subject lands are located in the northern end of Steptoe Valley approximately 22 miles north of McGill, Nevada. Elevations range between approximately 6,100 and 6,200 feet. The subject lands are shown on Figures 1 and 2.

Steptoe Valley is located between the generally north-south-trending Egan and Cherry Creek ranges on the west and the Schell Creek Range on the east. The center of the valley is approximately 3.3 miles west of the subject lands, which have direct access off U.S. Highway 93 via a well-maintained gravel road.

Ely, which is located at the south end of the valley, is the largest town in the area. The town of McGill is also located near the south end of the valley, approximately 12 miles north of Ely. Most of the valley is sparsely populated and is dominated by ranching and farming. Private lands are mostly developed as pastures or irrigated hay and alfalfa fields. Federal lands surrounding the privately owned lands are used mostly for livestock grazing, wildlife habitat, and recreation.

The climate of Steptoe Valley is characterized as semi-arid and cold. Annual precipitation at the Ely Airport on the lowlands generally is less than 9 inches. Annual precipitation may average as little as 6 inches in the other lowland areas toward the north end of the valley. Precipitation at the higher altitudes in both the Egan and Schell Creek ranges averages more than 20 inches and may exceed 30 inches locally. Steptoe Valley is characterized by a wide range in daily and seasonal temperatures. At McGill, the average annual temperature is 47.4°F. January and July have the lowest and highest average monthly temperatures. The average January temperature is 16.5°F, and the average July temperature is 71.2°F. Daily ranges in temperature commonly are 30° or more. The growing season for this area is about 105 days. However, the average growing season varies depending upon the relative topographic location in the valley. The growing season also varies substantially from year to year at a given location.

3.2 RESOURCES/CONCERNS CONSIDERED FOR ANALYSIS

The following items have been evaluated for the potential for significant impacts to occur, either directly, indirectly, or cumulatively, as a result of implementation of the Proposed Action. Consideration of some of these items is to ensure compliance with laws, statutes, or Executive Orders that impose certain requirements upon all Federal actions. Other items are relevant to the management of public lands in general, and to the Ely BLM in particular.

Table 3.1 Resources/Concerns Considered

Resource/Concern	Analyzed? (Y/N)	Rationale for Dismissal from Analysis or Issue(s) Requiring Detailed Analysis
Air Quality	N	Any increase in emissions and dust resulting from removal of native vegetation and preparation of the land for agriculture would be temporary and would not cause a material degradation of air quality.
Cultural Resources	Y	Potential impacts to cultural resources.
Vegetation/Soils/Watershed	Y	Potential effects to vegetation, soils, and watershed.
Migratory Birds	Y	Loss of habitat.
Native American Religious Concerns	Y	Potential impacts to sensitive areas.
FWS Listed or proposed for listing Threatened or Endangered Species or critical habitat.*	N	No listed, proposed, or candidate species were identified in U.S. Fish and Wildlife Service species list and none are known to be present.
Wastes, Hazardous or Solid	N	The subject lands have been physically inspected and existing records have been examined in accordance with Section 120(h) of the Superfund Amendments and Reauthorization Act of 1986. 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.
Water Quality, Drinking/Ground	N	Converting the subject lands from a native sagebrush shrubland community to an alfalfa-grass community would require some form of irrigation. It is unlikely that there would be an impact to the groundwater as a result of this action, and a detailed analysis is not required.
Wilderness	N	No designated Wilderness Areas would be affected by the Proposed Action.
Environmental Justice	N	The Proposed Action would not disproportionately affect a minority or low income population.
Floodplains	N	The Proposed Action would not affect a floodplain.
Wetlands/Riparian Zones	N	No wetlands or riparian zones have been identified.
Invasive Non-native Species	Y	Increase in susceptibility to weed infestation.
Special Status Animal Species, other than those listed or proposed by the FWS as Threatened or Endangered	Y	Pygmy rabbit and sage grouse loss of habitat and indirect effects of increased human activity.
Special Status Plant Species, other than those listed or proposed by the FWS as Threatened or Endangered	N	No special status plant species are known to be present.
Wild Horses	N	The Proposed Action would not affect a wild horse herd area.
Fish and Wildlife	Y	Potential effects on game and non-game species.
Special Designations other than Designated Wilderness	N	No Special Designations have been identified.

Resource/Concern	Analyzed? (Y/N)	Rationale for Dismissal from Analysis or Issue(s) Requiring Detailed Analysis
VRM	Y	Potential impacts on visual resources.
Range	Y	Loss of rangeland.
Land Uses	N	The Proposed Action would comply with White Pine County and BLM land use plans.
Recreation Uses	N	No unique or important recreational uses have been identified.
Paleontological Resources	N	No paleontological resources are known to be present.
Water Resources (Water Rights)	N	On July 3, 2007, the Department of Conservation and Natural Resources, Division of Water Resources updated ownership of Application No. 49505 for 640 acre-feet annually at a diversion rate of 2.7 cubic-feet per second and Application 49506 for 640 acre-feet annually at a diversion rate of 2.7 cubic-feet per second, both appurtenant to this acreage for irrigation and domestic purposes in the name of Tehama Creek, LLC. The status of these rights is “ready for action” upon the right of entry of this acreage. No further analysis is required.
Mineral Resources	N	No mineral resources are known to be present.
Vegetative Resources (Forest or Seed Products)	N	No unique or important vegetative resources are known to be present.

*Consultation is required unless a “not present” or “no effect” finding is made.

3.3 CULTURAL RESOURCES

A cultural resources inventory for the original 302.5-acre DLE boundary was completed by Kautz Environmental Consultants, Inc. The inventory identified a total of 11 archaeological sites, both historic and prehistoric. Only one of the sites, two segments of the Lincoln Highway dating from 1913 and 1930, is recommended eligible for the National Register of Historic Places. As noted in Section 1.1, the DLE boundary was changed following the cultural resources survey to exclude the segments of the Lincoln Highway from the Proposed Action.

3.4 VEGETATION, SOILS, AND WATERSHED

There are no forested areas in the subject lands and no riparian species or noxious weeds were observed during the field visit. Vegetation in the subject lands is predominantly big sagebrush (*Artemisia tridentata* ssp. *tridentata*) and Wyoming big sagebrush (*A. t.* ssp. *wyomingensis*) with scattered spiny hopsage (*Grayia spinosa*), greasewood (*Sarcobatus vermiculatus*), and green rabbitbrush (*Chrysothamnus viscidiflorus*). The understory is sparse.

The subject lands encompass two of the map units identified in the Soil Survey of Western White Pine County (Figure 2):

Map unit 801 – Broland very gravelly loam, 4 to 8 percent slopes

This map unit is found in approximately 68 acres of the north parcel of the subject lands. The depth to seasonal high water table is more than 60 inches, and permeability is moderately slow. The hazard of water and wind erosion is slight. The major component of this map unit is Broland

very gravelly loam (85 percent) and it has the following contrasting inclusions: Aridic Argixerolls gravelly loam (5 percent), Tulase silt loam (5 percent), Broyles very fine sandy loam (4 percent), and Aridic Durixerolls gravelly loam (1 percent).

Map Unit 1330 – Yody-Dewar Association

This map unit is found in the remainder of the subject lands. The depth to seasonal high water table is more than 60 inches, and permeability is moderate. The hazard of water and wind erosion is slight. This map unit has the following major components: Yody gravelly sandy loam (55 percent) and Dewar gravelly silt loam (30 percent). The following contrasting inclusions are present: Broland very gravelly loam (5 percent), Durixerollic Calciorthids gravelly loam (4 percent), Kunzler loam (3 percent), and Pyrat gravelly sandy loam (3 percent).

The subject lands are within the approximately 2,000-square-mile Steptoe Valley hydrologic unit. Surface water flows toward the valley center from the western slopes of the Schell Creek Range in numerous small drainages. A small ephemeral drainage (Tehama Creek) crosses the central portion of the subject lands. Larger drainages are located north (Schell Creek) and south (Whiteman Creek) of the subject lands.

3.5 MIGRATORY BIRDS

The subject lands provide nesting and foraging habitat for a variety of migratory birds. Birds normally found in sagebrush scrub vegetation include common species such as the Brewer's sparrow (*Spizella breweri*), sage sparrow (*Amphispiza belli*), and black throated sparrow (*Amphispiza bilineata*). Ravens (*Corvus corax*) and various raptors would also be expected to forage in the area. With the exception of transmission line structures, no outcrops or other features that might be used as raptor or raven nest sites are present in the area. Raptors that may regularly forage in the area include red-tailed and ferruginous hawks (*Buteo jamaicensis* and *B. regalis*, respectively), golden eagles (*Aquila chrysaetos*), prairie falcons (*Falco mexicanus*) and northern harriers (*Circus cyaneus*). Golden eagles, ferruginous hawks and prairie falcons are identified as sensitive species by the BLM. Bald eagles (*Haliaeetus leucocephalus*) occur in Steptoe Valley in the winter, but the lack of water and limited perch sites available in the Proposed Action area suggest use of the area by bald eagles is unlikely.

The Atlas of the Breeding Birds of Nevada (Floyd et al., 2007) was reviewed to assist in the identification of birds that may breed in the subject lands. This publication is a compilation of breeding bird surveys conducted between 1997 and 2000. Breeding Bird Atlas blocks were surveyed during the breeding season. Surveyors identified bird species present on the block, and attempted to determine whether those species bred on the block. Based on the results of these surveys, in combination with habitat mapping, maps depicting the occurrence of species on individual blocks and the probability of occurrence of bird species breeding throughout the state were developed.

Two four-square kilometer Atlas Blocks were established northeast of the subject lands. Survey results indicate habitats included on these blocks were more mesic than those of the project area, but the results provide additional information regarding species that may occur in the area. Species detected as breeding or probably breeding on these two blocks include mallard (*Anas platyrhynchos*), northern harrier (*Circus cyaneus*), willet (*Tringa semipalmata*), long-billed curlew

(*Numenius americanus*), long-eared owl (*Asio otus*), common raven (*Corvus corax*, a confirmed breeder on both Atlas Blocks located near the subject lands), horned lark (*Eremophila alpestris*, a confirmed breeder on one of the Atlas Blocks located near the subject lands), Brewer's sparrow (*Spizella breweri*, a confirmed breeder on one of the Atlas Blocks located near the subject lands), vesper sparrow (*Pooecetes gramineus*), Lark Sparrow (*Chondestes grammacus*, a confirmed breeder on one of the Atlas Blocks located near the subject lands), savannah sparrow (*Passerculus sandwichensis*), western meadowlark (*Sturnella neglecta*), and Brewer's blackbird (*Euphagus cyanocephalus*).

Possible breeders identified on the Atlas Blocks include the ferruginous hawk (*Buteo regalis*), golden eagle (*Aquila chrysaetos*), prairie falcon (*Falco mexicanus*), mourning dove (*Zenaida macroura*), short-eared owl (*Asio flammeus*), common nighthawk (*Chordeiles minor*), and sage thrasher (*Oreoscoptes montanus*).

3.6 NATIVE AMERICAN RELIGIOUS CONCERNS

The BLM contacted the Confederated Tribe of the Goshute Indian Reservation, the Ely Shoshone, and the Duckwater Shoshone through letters soliciting information and inviting the groups to enter into consultation for the Proposed Project. Consultation is complete.

3.7 INVASIVE NON-NATIVE SPECIES

No infestations of invasive non-native species were observed in the subject lands during the field visit.

3.8 SPECIAL STATUS ANIMALS

Several BLM sensitive animals are either known to be present or have potential to be present in the subject lands. Pygmy rabbits (*Brachylagus idahoensis*) as well as active burrows and other sign were observed during a field visit to the subject lands in September 2008. Pygmy rabbits were generally found in the taller sagebrush habitat found along ephemeral washes that cross the subject lands (Figure 2). The U.S. Fish and Wildlife Service is currently reviewing the status of the pygmy rabbit to determine whether to propose that it be listed under the Endangered Species Act.

The subject lands appear to be suitable habitat for the greater sage grouse (*Centrocercus urophasianus*), although no sage grouse or pellets were observed during the September 2008 field visit. The applicant also has reported that no sage grouse have been observed in the existing agricultural fields or surrounding area (Smith, 2009). Nevada Department of Wildlife (NDOW) online GIS data identify the subject lands as sage grouse summer, winter, and nesting habitat. Eastern Steptoe Valley and the subject lands are within the Schell/Antelope Sage Grouse Population Management Unit.

In a letter dated August 26, 2008, NDOW noted that two leks are located within a mile of the subject lands and gave the general location of the leks in relation to the subject lands (Appendix B). An active lek is approximately one mile south of the southern parcel and an inactive lek (last active in 2003) is approximately 0.5 mile east of the northern parcel. It appears that the northernmost lek is closer to the existing ranch and approximately 34 acres of cultivated private land than the subject lands would be (0.6 mile versus 0.7 mile). The southernmost lek appears to

be within approximately 1.2 miles of the existing ranch and cultivated private land, and would be within approximately 0.8 mile of the south-southeast corner of the subject lands (as stated in the NDOW letter).

No burrowing owls (*Athene cunicularia*) or sign were observed during the field visit. Loggerhead shrikes (*Lanius ludovicianus*) are probably present at times. There are no trees suitable for nesting ferruginous hawks (*Buteo regalis*), although they could forage in the area. Various BLM sensitive bat species would be expected to forage over the subject lands, but no roosting habitat for bats is available.

3.9 FISH AND WILDLIFE

No permanent water that could support aquatic species is present in the subject lands. A variety of small mammals such as black-tailed jackrabbits (*Lepus californicus*), mountain cottontail (*Sylvilagus nuttallii*), coyotes (*Canis latrans*), and badgers (*Taxidea taxus*) that are found in sagebrush scrub habitat are likely to be present. Reptiles such as the leopard lizard (*Gambelia wislizenii*), collared lizard (*Crotaphytus collaris*), fence lizard (*Sclerophorus occidentalis*), and Great Basin rattlesnakes (*Crotalus viridis*) are also likely residents.

Game animals such as pronghorn (*Antilocapra americana*), mule deer (*Odocoileus hemionus*), and elk (*Cervus canadensis*) forage in the subject lands to some degree. Tracks of all three of these species were observed in the subject lands during the September 2008 field visit. The Ely District Resource Management Plan (BLM, 2008) also identifies the subject lands as being habitat for these three species. The applicant reports that mule deer and elk have been seen in the fields but not for over three years and that game animal depredation in the fields has not been an issue (Smith, 2009).

Most of Steptoe Valley, including the subject lands, is classified as pronghorn habitat by NDOW. The subject lands are not classified by NDOW as mule deer winter range, although winter range is shown approximately 0.7 mile east. However, it is likely that mule deer would forage in the subject lands when forced by heavy snow to lower than normal elevations.

3.10 VISUAL RESOURCES

The BLM's Visual Resource Management (VRM) system provides a means to measure the scenic value of an area's visual resources so that the area can be appropriately managed (BLM, 1986a; BLM, 1986b; BLM, 1998a; BLM, 1998b). The Resource Management Plan establishes how public lands will be used and managed for different purposes. Visual resources are considered in development of a Resource Management Plan, and visual resources are assigned one of four VRM classes. The subject lands have been assigned to VRM Class III. The management objective of VRM Class III is to partially retain the existing character of the landscape. The level of change to the characteristic landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape.

3.11 RANGE

The north parcel (approximately 121.6 acres) of the subject lands is within the Schellbourne Allotment, which encompasses approximately 18,000 acres. The south parcel (approximately 94.5 acres) of the subject lands is within the Whiteman Creek Allotment, which encompasses an area of approximately 5,900 acres. Current permitted use on the allotments is shown in the tables below.

Table 3.2 Current Permitted Use on Schellbourne and Whiteman Allotments

Allotment Name and Number	Livestock Number/Kind	Grazing Period Begin - End	Percent Public Land*	Type Use	AUMs**
Schellbourne(00407)	97 Cattle	03/01 – 05/15	100	Active	242
Schellbourne (00407)	98 Cattle	10/15 – 02/28	100	Active	441
Whiteman Creek (00408)	192 Sheep	05/01 – 02/28	100	Active	384

* Percent public land for billing purposes

** AUMs may differ from Active Use due to rounding differences

Table 3.3 Allotment Summary

Allotment Name and Number	Permitted Use AUMs	Suspended AUMs	Total Permitted Use AUMs
Schellbourne (00407)	683	767	1,452
Whiteman Creek (00408)	384	0	384

CHAPTER 4.0 ENVIRONMENTAL CONSEQUENCES

4.1 PROPOSED ACTION

The following sections describe the environmental consequences that could result from approval of the Desert Land Entry (DLE) application and subsequent agricultural development.

4.1.1 Cultural Resources

Two segments of the Lincoln Highway dating from 1913 and 1930 are recommended eligible for the National Register of Historic Places. These segments have been removed from the Proposed Action and would not be affected by the DLE.

4.1.2 Vegetation, Soils, and Watershed

No forest would be affected by the Proposed Action; however, 216.1 acres of sagebrush rangeland would be converted to alfalfa cropland that would be unavailable for grazing. The effect would last for the foreseeable future. Soils and existing native vegetation would be disturbed as a result of the Proposed Action. The Proposed Action could eventually result in 216.1 acres of public lands leaving federal ownership to be developed for agricultural production. The approximately 216.1 acres would be converted from a mature sagebrush shrubland to a non-native alfalfa-grass community. Some increase in wind erosion of soil is anticipated during the period in which the current vegetative overstory is removed, an irrigation system installed, and the alfalfa-grass is being planted. Once the alfalfa-grass becomes established, resistance to wind erosion would be restored.

4.1.3 Migratory Birds

The Proposed Action would result in the loss of 216.1 acres of sagebrush scrub habitat that is currently used by an unknown number of migratory birds for foraging and nesting. This acreage is a relatively small proportion of the amount of similar habitat that is available in Steptoe Valley. The direct effect of the Proposed Action on migratory bird populations in the valley would therefore likely be minimal. Conversion of the subject lands to agriculture may result in an increase in rodent populations on the agricultural lands, potentially increasing the prey base for raptors foraging in the area.

4.1.4 Native American Religious Concerns

Consultation with the Tribes has been completed. If information is received by BLM in the future related to Native American Religious Concerns, these concerns will be incorporated into planning and maintained as confidential. All information related to Native American Religious Concerns is considered confidential and is on file at the BLM Ely District Office.

4.1.5 Invasive Non-Native Species

Any disturbance of native vegetation increases the risk that invasive non-native plant species can become established. The risk can be minimized by using weed-free seed, performing frequent surveys for invasive species, and promptly treating any new infestations.

4.1.6 Special Status Animals

The Proposed Action would result in a loss of pygmy rabbit-occupied habitat due to the conversion of native sagebrush shrubland to cropland. The approximately 19 acres of occupied habitat in the subject lands is primarily along ephemeral washes where the soil is friable and additional moisture allows sagebrush to form taller and denser stands. Pygmy rabbits in the subject lands would be displaced to nearby habitat where they could face increased competition from resident animals. There appears to be extensive suitable habitat for pygmy rabbits on the lower slopes of the Schell Creek Range, but it is difficult to predict the overall effect of the Proposed Action on this population of pygmy rabbits.

The Proposed Action would result in the loss of approximately 216.1 acres of sage grouse habitat. However, because no sage grouse pellets were observed during the September 2008 field visit and sage grouse have not been observed by the applicant in the existing agricultural fields, there is no evidence that sage grouse are using the subject lands at present. The Proposed Action would have no known direct effect on a sage grouse lek, although indirect effects on the currently active lek identified by NDOW are possible. The most likely effect would result from human activity during the season and time of day that the lek is in use. It is possible that increased activity resulting from the Proposed Action would cause the active lek to be abandoned. However, activity at the existing ranch has not caused the lek to be abandoned and the Proposed Action might be compatible with continued lek use.

Other BLM sensitive species such as the ferruginous hawk, loggerhead shrike, and various bat species would be affected primarily by the replacement of approximately 216.1 acres of native sagebrush vegetation with cropland. The effect would likely vary depending on the species, but it is unlikely that any of these species would be measurably affected by the loss of foraging habitat.

The Proposed Action would tend to further fragment the existing wildlife habitat; however, the effect would be minor because of the acreage of intact contiguous habitat surrounding the subject lands.

4.1.7 Fish and Wildlife

Small mammals, reptiles, amphibians, and nesting passerine species would be displaced during land clearing for agricultural practices. Big game, upland, and small game species would also be displaced. However, once the land is producing an agricultural crop the area would again be attractive to at least some of the displaced wildlife. Game animals could be injured or killed by new fences if they are not designed to be compatible with wildlife. Depredation by game animals has not been a problem on the existing agricultural fields.

4.1.8 Visual Resources

The subject lands are on the gently sloping east side of Steptoe Valley and are surrounded by cultural disturbances such as roads, fences, and power lines. To the east, the slopes of the Schell Creek Range rise above the valley floor. Agricultural development would replace native vegetation with crops. Colors and textures would be altered and new forms and lines may be

introduced by structures, but the effect would be difficult to see because of surrounding vegetation. Agricultural development of the subject lands would be consistent with management objectives for VRM Class III because the changes would not dominate the view of the casual observer.

4.1.9 Range

Conversion of the subject lands from sagebrush scrub to alfalfa would reduce the amount of forage available for cattle on the Schellbourne Allotment and sheep on the Whiteman Creek Allotment. However, the existing understory cover of grasses and forbs is sparse, and the reduction would be small (0.7 percent of the Schellbourne Allotment and 1.6 percent of the Whiteman Creek Allotment). It is unlikely that the permittees' grazing preferences would be reduced.

4.2 NO ACTION ALTERNATIVE

The No Action Alternative would result in no new environmental effects because the subject lands would not be converted to agricultural use.

4.3 CUMULATIVE IMPACT ANALYSIS

Steptoe Valley was identified as the cumulative effects area of analysis because the Proposed Action is unlikely to have measureable effects outside this area. If the Proposed Action is followed through to completion, 216.1 acres of public land would be privatized and the land would be converted from a mature sagebrush community to alfalfa and grass. Steptoe Valley has seen a recent increase in agricultural development, and the Proposed Action would contribute to this trend.

Past and present natural processes in the cumulative effects area include wildfire and the spread of invasive and noxious weeds. These processes are expected to continue into the future. Commercial and residential development is limited and confined mainly to the south end of the valley near Ely and McGill. Several large reasonably foreseeable future projects in Steptoe Valley are currently in the planning stage. These include the White Pine County Airport expansion, the Egan Range Wind Generating Project, the On-Line 500 kV power line proposed NV Energy, the White Pine Energy Station proposed by LS Power, and the Southwest Intertie Project electric power transmission corridor, which follows the valley floor. If constructed, these projects could result in the loss of a large amount of undeveloped land that is currently used for grazing, wildlife habitat, and recreation. Sage grouse are likely to be affected by construction of energy and transmission line projects. Although the contribution of the Proposed Action is modest, there could be a considerable cumulative impact on wildlife, grazing, and recreation from these proposed large projects. Pumping groundwater to irrigate fields on the subject lands would contribute to some degree to cumulative effects on groundwater resources.

4.4 PROPOSED MITIGATION MEASURES

As a result of the Proposed Action the subject lands would enter into private ownership. White Pine County Zoning and Building Ordinances would be utilized to regulate development of these parcels. No other mitigation measures are proposed.

4.5 RESIDUAL IMPACTS

Upon classification of the subject lands as “Suitable for Agricultural Purpose”, 216.1 acres of public lands would be sold and patented to allow the applicant to enter the land and develop the parcel into an agricultural property. Residual impacts include the permanent conversion of the native desert plant community to an irrigated agricultural crop.

CHAPTER 5.0 LIST OF PREPARERS AND SOURCES

5.1 REPORT PREPARERS

This Environmental Assessment was prepared by the following individuals:

JBR Environmental Consultants, Inc.
Nancy Kang, Project Manager
Richard Duncan, Biologist
Dave Worley, Senior Biologist

Kautz Environmental Consultants, Inc.
Bob Kautz, P.E., Principal Archeologist
Barbi Malinky, Senior Archeologist

5.2 BLM PERSONNEL

Gary Medlyn, Hydrologist/Soil, Water and Air Specialist
Bonnie Million, Natural Resource Specialist, Weed Specialist
Chelsy Simerson, Rangeland Management Specialist
Shawn Gibson, Archaeologist
Benjamin Noyes, Wild Horse and Burro Specialist
Paul Podborny, Wildlife Biologist
Dave Jacobson, Planning and Environmental Coordinator/Wilderness Planner)
Elizabeth Townley, Outdoor Recreation Planner
Cynthia Longinetti, Realty Specialist
Brenda Linnell, Realty Specialist
Melanie Peterson, Environmental Protection Specialist
Elvis Wall, Native American Coordinator
John Longinetti, Natural Resource Specialist/Operations/Engineering
Chris Hanefeld, Public Affairs Specialist
Zachary Peterson, Forester/Planning & Environmental Coordinator

5.3 PERSONS, GROUPS, AND AGENCIES CONSULTED

Nevada Department of Wildlife (Wildlife concerns)
U.S. Fish and Wildlife Service (Listed species)
Nevada Natural Heritage Program (Sensitive species database records)

5.4 REFERENCES

Bureau of Land Management [BLM]. 1986a. Manual H-8410-1, Visual Resource Inventory. U.S. Bureau of Land Management.

Bureau of Land Management [BLM]. 1986b. Manual H-8431-1, Visual Resource Contrast Rating. U.S. Bureau of Land Management.

Bureau of Land Management [BLM]. 1998a. Visual Resource Management (VRM) Policy Restatement, Information Bulletin No. 98-135. May 22, 1998.

Bureau of Land Management [BLM]. 1998b. Visual Resource Management (VRM) Policy Restatement, Information Memorandum No. 98-164. September 8, 1998.

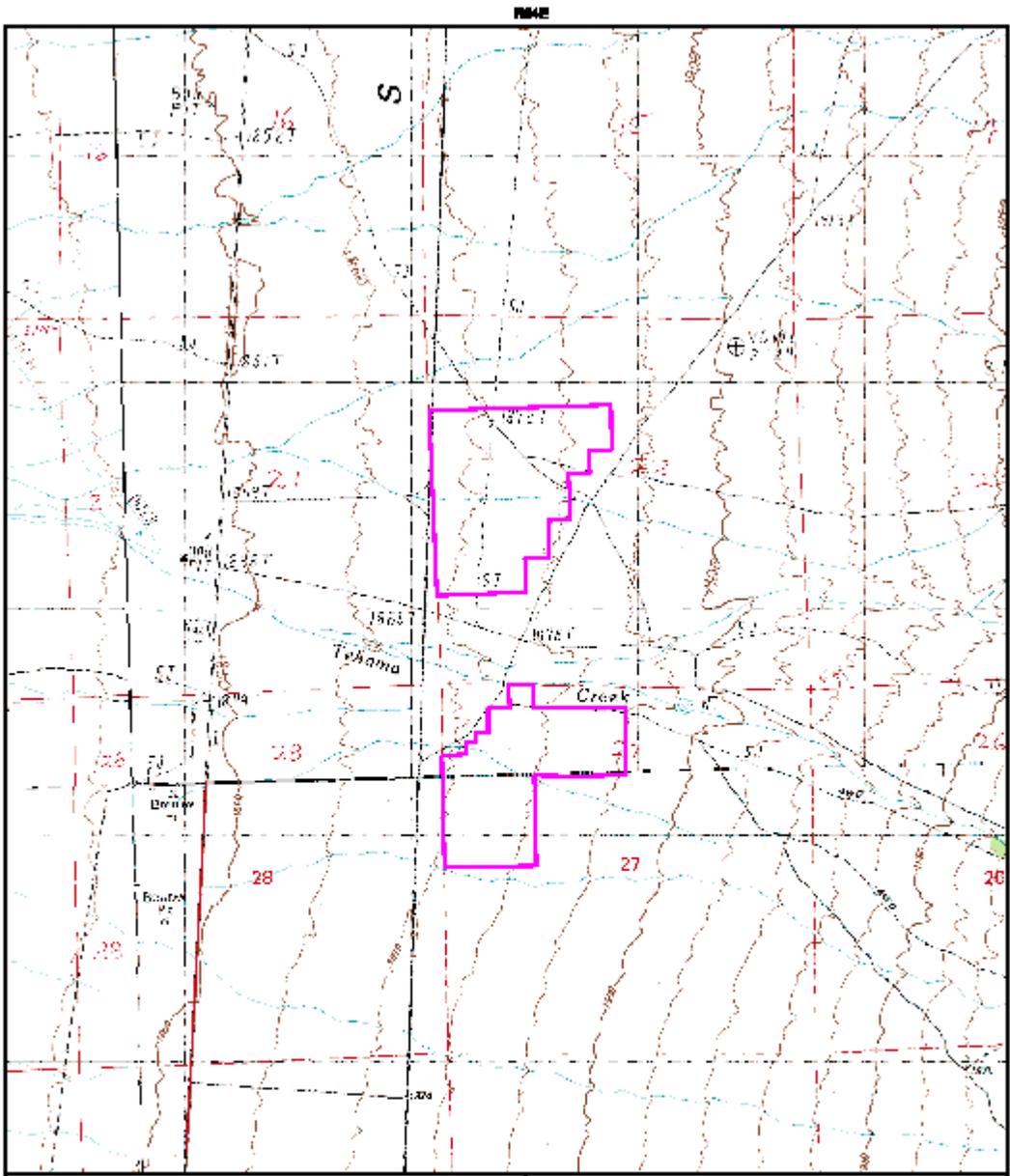
Bureau of Land Management [BLM]. 2008. National Environmental Policy Act Handbook H-1790-1. Published January 2008.

Bureau of Land Management [BLM]. 2008. Ely District Record of Decision and Approved Management Plan. Published August 2008.

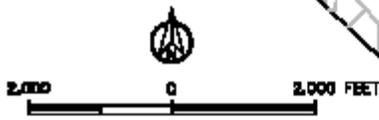
Floyd, T., C.S. Elphick, G. Chisolm, K. Mack, R.G. Elston, E.M. Ammon, and J.D. Boone. 2007. Atlas of the breeding birds of Nevada. University of Nevada Press. 579pp.

Smith, Kathy. 2009. Applicant for DLE. Personal communication with Nancy Kang of JBR Environmental Consultants, Inc. May 26, 2009.

FIGURES

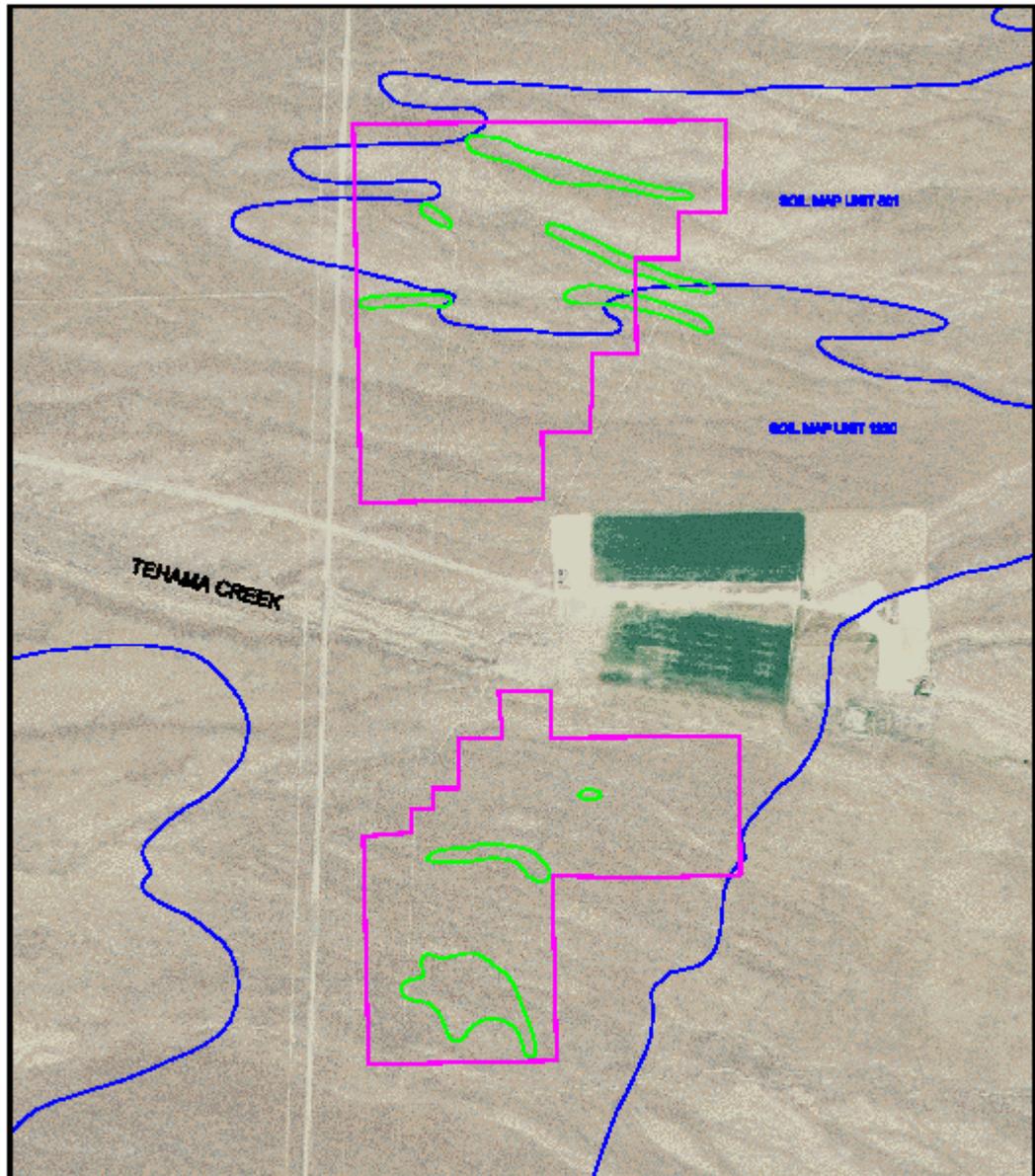


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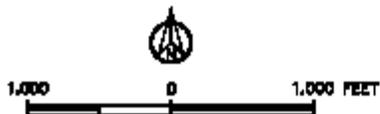


**TEHAMA CREEK RANCH
DESERT LAND ENTRY**

**FIGURE 1
GENERAL LOCATION**



BASE MAPS: USGS DNR 1:50K
 SUBJECT LANDS APPROXIMATE BOUNDARY
 OCCUPIED PINYON JUNIPER HABITAT
 SOIL MAP UNIT BOUNDARIES FROM USDA NRCS SOILS DATA FOR WESTERN WHITE PINE COUNTY AREA, NEVADA, JULY 24, 2008



**TEHAMA CREEK RANCH
 DESERT LAND ENTRY**

**FIGURE 2
 AERIAL PHOTOGRAPH**

APPENDIX A

Land Classification 1985 Determination

Handwritten notes:
Bates
Ref
of 9/22

N-41040
(NV-046)

MAY 24 1965

CERTIFIED MAIL # P 640 786 905
RETURN RECEIPT REQUESTED

Mrs. Charicla B. Rosenlund
Box 1, Box 18
Ely, Nevada 89301

Dear Mrs Rosenlund:

The enclosed Proposed Decisions have been prepared pursuant to the regulations in Title 43 CFR 2450.3(a). A list of the interested parties is enclosed.

The purpose of these Proposed Decisions is to classify certain lands in Steptoe Valley as either suitable or unsuitable for agricultural entry. The data supporting this decision is documented in an official Environmental Assessment (EA) and associated Land Reports. The EA was mailed to interested parties in March for review and comment. Comments to this EA were considered in preparing these proposed decisions.

The Proposed Decision relates to the proper classification or disposition of the public lands described therein and summarizes the factors upon which the decision is based.

In accordance with 43 CFR 2450.4(a), you have a period of 30 days from the date of receipt of this letter in which to protest or comment to the Ely District Manager on the Proposed Decision. No particular form of protest or comment is required. You may present any information which you believe will affect this Proposed Decision.

Sincerely yours,

Merrill L. Deppain
Merrill L. Deppain
District Manager

Enclosures

RES:jgren:jro

APPENDIX B

Agency Correspondence



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office

1340 Financial Blvd., Suite 234

Reno, Nevada 89502

Ph: (775) 861-6300 ~ Fax: (775) 861-6301

August 26, 2008

File No. 2008-SL-0461

Mr. Richard Duncan
JBR Environmental Consultants, Inc.
5355 Kietzke Lane, Suite 100
Reno, Nevada 89511

Dear Mr. Duncan:

Subject: Species List for the Tehama Creek Ranch, Desert Land Act Application Project, White Pine County, Nevada

This responds to your request received August 12, 2008, for a species list pertaining to the Tehama Creek Ranch, Desert Land Act Application Project (JBR Project 08.00413.01). To the best of our knowledge, no listed, proposed, or candidate species occur in the subject project area. This response fulfills the requirement of the Fish and Wildlife Service (Service) to provide a list of species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended, for projects that are authorized, funded, or carried out by a Federal agency.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern are also on the sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we are adopting Heritage's sensitive species list and partnering with them to provide distribution data and information on the conservation needs for sensitive species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or in serious decline. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

For a list of sensitive species by county, visit Heritage's website (www.heritage.nv.gov). For a specific list of sensitive species that may occur in the project area, you can obtain a data request form from the website or by contacting Heritage at 901 South Stewart Street, Suite 5002,

**TAKE PRIDE
IN AMERICA** 

Carson City, Nevada 89701-5245, (775) 684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the Act. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address. Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (<http://www.leg.state.nv.us/NAC/NAC-503.html>). Before a person can hunt, take, or possess any parts of wildlife species classified as protected, they must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (visit <http://www.ndow.org> or call (775) 777-2300).

We are concerned that the project may impact the sage grouse (*Centrocercus urophasianus*), a species listed as sensitive under the Heritage Program. On February 26, 2008, the Service published in the Federal Register an initiation of a status review for the species as threatened or endangered under the Act. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect sage grouse and their habitats in the Wildlife Society Bulletin (Connelly *et al.* 2000). We ask that you consider incorporating these guidelines (<http://ndow.org/wild/sg>) into the proposed project. On a more local level, the Sage Grouse Conservation Plan for Nevada and Portions of Eastern California was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/sg/plan/index.shtm>. We encourage you to adopt all appropriate management guidance from this Plan as you implement your proposed action.

We are concerned that the project may impact the pygmy rabbit (*Brachylagus idahoensis*). On January 8, 2008, the Service published a substantial 90-day finding on a petition to list the pygmy rabbit as threatened or endangered under the Act, thus initiating a status review of the species. Draft survey guidelines have been developed for this species and are available upon request from the Nevada Fish and Wildlife Office. We encourage you to survey the proposed project area for pygmy rabbits prior to any ground disturbing activities and to consider the needs of this species as you complete project planning and implementation. The Bureau of Land Management State Director for Nevada has directed all Field Office staff in Nevada to address the pygmy rabbit in all upcoming Land Use Plan revisions.

Because wetlands, springs, or streams are present in the vicinity of the project area, we ask that you be aware of potential impacts project activities may have on these habitats. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (Corps) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the Corps' Regulatory Section [300 Booth Street, Room 2103, Reno, Nevada 89509, (775) 784-5304] regarding the possible need for a permit.

Furthermore, the springs on or near the project area are sensitive to a wide variety of activities and may be occupied by rare aquatic organisms (macroinvertebrates) that may be affected by the proposed action. Recent studies have found approximately 100 species of aquatic macroinvertebrates in springs and springbrooks throughout the western United States, including springsnails, caddisflies, beetles, true bugs, and crustaceans. There is concern for these species because some are narrowly distributed and, in many cases, their habitats have become highly degraded. Many springs in Nevada have not yet been surveyed to determine if they are occupied by macroinvertebrates. For those which have been surveyed, gravel substrate, flowing high

Mr. Richard Duncan

File No. 2008-SL-0461

quality water, and minimal disturbance are believed to be important habitat components to maintain viable populations of these species. We ask that you include measures to protect the springs and macroinvertebrates during project planning and implementation.

Based on the Service's conservation responsibilities and management authority for migratory birds under the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 *et seq.*), we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (*i.e.*, mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Please reference File No. 2008-SL-0461 in future correspondence concerning this species list. If you have any questions or require additional information, please contact me or David Potter at (775) 861-6300.

Sincerely,



 Robert D. Williams
Field Supervisor



JIM GIBBONS
Governor

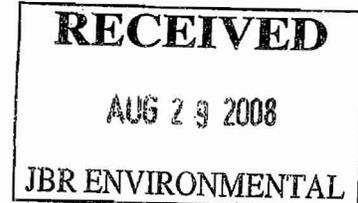
STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
Reno, Nevada 89512
(775) 688-1500 • Fax (775) 688-1595

KENNETH E. MAYER
Director

DOUG HUNT
Deputy Director

August 26, 2008



Richard Duncan
JBR Environmental Consultants, Inc.
5355 Kietzke Lane, Suite 100
Reno, NV 89511

RE: Tehama Creek Ranch, Desert Land Act Application
JBR Project 08.00413.01

Dear Mr. Duncan,

We are in receipt of your request for comments or recommendations concerning a Desert Land Act Application for public lands in the vicinity of Tehama Creek Ranch. The entire bench above the old highway is important winter range for sage grouse. There is a substantial lek .8 miles SSE of the SE corner of the proposed DLE (Whiteman Creek). NDOW documented a smaller lek over a series of years .7 miles E of the northern block of the proposed DLE. Due to the potential impacts to sage grouse habitats in addition to concerns with depredation from elk, antelope and deer, NDOW is opposed to the transfer or development of these lands through the Desert Land Act. We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in cursive that reads "Steve Foree".

Steve Foree
Supervising Habitat Biologist
60 Youth Center Road
Elko, NV 89801
775.777.2306

Cc: Curt Baughman, NDOW-Ely
Jeff Weeks, BLM-Ely

ALLEN BIAGGI
Director

Department of Conservation
and Natural Resources

JENNIFER E. NEWMARK
Administrator

JIM GIBBONS
Governor



Nevada Natural Heritage Program
Richard H. Bryan Building
901 S. Stewart Street, suite 5002
Carson City, Nevada 89701-5245
U.S.A.

tel: (775) 684-2900
fax: (775) 684-2909



STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
Nevada Natural Heritage Program
<http://heritage.nv.gov>

12 August 2008

Richard Duncan
JBR Environmental Consultants, Inc.
5355 Kietzke Lane, Suite 100
Reno, NV 89511

RE: Data request received 11 August 2008

Dear Mr. Duncan:

We are pleased to provide the information you requested on endangered, threatened, candidate, and/or At Risk plant and animal taxa recorded within or near the Tehama Creek Ranch Project area. We searched our database and maps for the following, a five kilometer radius including:

Township 22N Range 64E Sections 22 and 27

There are no at risk taxa recorded within the given area. However, habitat may be available for, the relict dace, *Relictus solitarius*, a Nevada Bureau of Land Management (BLM) Sensitive Species, and the White River wood nymph, *Cercyonis pegala pluvialis*, a Nevada BLM Sensitive Species. We do not have complete data on various raptors that may also occur in the area; for more information contact Ralph Phenix, Nevada Department of Wildlife at (775) 688-1565. Note that all cacti, yuccas, and Christmas trees are protected by Nevada state law (NRS 527.060-.120), including taxa not tracked by this office.

Please note that our data are dependent on the research and observations of many individuals and organizations, and in most cases are not the result of comprehensive or site-specific field surveys. Natural Heritage reports should never be regarded as final statements on the taxa or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.

Thank you for checking with our program. Please contact us for additional information or further assistance.

Sincerely,

Eric S. Miskow
Biologist /Data Manager

5/22/85
Kest
sp 5/22

N-41040
(NV-046)

MAY 24 1985

CERTIFIED MAIL # P 640 786 905
RETURN RECEIPT REQUESTED

Mrs. Charlcia B. Rosenlund
SR 1, Box 18
Ely, Nevada 89301

Dear Mrs Rosenlund:

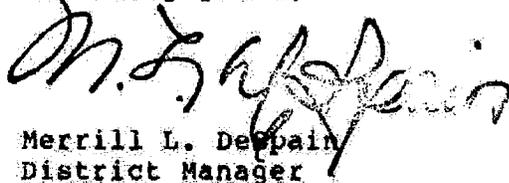
The enclosed Proposed Decisions have been prepared pursuant to the regulations in Title 43 CFR 2450.3(a). A list of the interested parties is enclosed.

The purpose of these Proposed Decisions is to classify certain lands in Steptoe Valley as either suitable or unsuitable for agricultural entry. The data supporting this decision is documented in an official Environmental Assessment (EA) and associated Land Reports. The EA was mailed to interested parties in March for review and comment. Comments to this EA were considered in preparing these proposed decisions.

The Proposed Decision relates to the proper classification or disposition of the public lands described therein and summarizes the factors upon which the decision is based.

In accordance with 43 CFR 2450.4(a), you have a period of 30 days from the date of receipt of this letter in which to protest or comment to the Ely District Manager on the Proposed Decision. No particular form of protest or comment is required. You may present any information which you believe will affect this Proposed Decision.

Sincerely yours,


Merrill L. Despain
District Manager

Enclosures

RES:jogren:jro

(Proposed)
CLASSIFICATION DECISION

N-41040

The following described land has been reviewed in accordance with a petition for classification submitted pursuant to the Desert Land Act (19 Stat. 377; 43 U.S.C. 231, as amended). This land is hereby classified by Bureau Motion as suitable for entry under the above mentioned agricultural land law and the Carey Act (28 Stat. 372, 422; 43 U.S.C. 641-647, as amended).

Mt. Diablo Meridian, Nevada

T. 22 N., R. 64 E.,
sec. 22, S²NW⁴, N²SW⁴, NW⁴SW⁴SW⁴,
SW⁴SW⁴SW⁴, W²W²SE⁴SW⁴SW⁴,
sec. 27, W²NW⁴, S²N²NE⁴NW⁴, S²NE⁴NW⁴;

Totalling 302.5 acres.

The determination is based on the following rationale:

1. The land is physically suited to the purpose for which it is classified, 43 CFR 2410.1(la).
2. This classification will provide the maximum benefit to the land while creating a minimum of disturbance to existing users, 43 CFR 2410.1(b).
3. This classification is consistent with state and local government programs, 43 CFR 2410.1(c).
4. No Federal programs will be adversely affected by this classification, 43 CFR 2410.1(d).
5. The agricultural development and the land's subsequent disposal if regulatory requirements are met, will have little significant adverse impact on the environment, will be beneficial to the economy of the area, and will represent the "highest and best use" of the land, 43 CFR 2430.5(a).

Leasable minerals will be reserved to the United States. ✓

Any AUM reduction required if this Desert Land Act application is allowed will be shared by the existing grazing permittees on the basis of their permitted use.

Allowance of entry on these lands, when and if approved and any future conveyance of the lands will be subject to valid existing rights then of record.

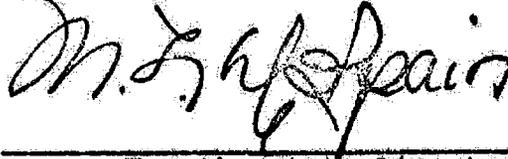
N-41040

The following petition-application is hereby approved:

Name of Petitioner: Charlcia B. Rosenlund (N-41040)

Type of Petition: Desert Land Entry

MAY 24 1985



Date

For the State Director



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office

1340 Financial Blvd., Suite 234

Reno, Nevada 89502

Ph: (775) 861-6300 ~ Fax: (775) 861-6301

August 26, 2008

File No. 2008-SL-0461

Mr. Richard Duncan
JBR Environmental Consultants, Inc.
5355 Kietzke Lane, Suite 100
Reno, Nevada 89511

Dear Mr. Duncan:

Subject: Species List for the Tehama Creek Ranch, Desert Land Act Application Project, White Pine County, Nevada

This responds to your request received August 12, 2008, for a species list pertaining to the Tehama Creek Ranch, Desert Land Act Application Project (JBR Project 08.00413.01). To the best of our knowledge, no listed, proposed, or candidate species occur in the subject project area. This response fulfills the requirement of the Fish and Wildlife Service (Service) to provide a list of species pursuant to section 7(c) of the Endangered Species Act of 1973 (Act), as amended, for projects that are authorized, funded, or carried out by a Federal agency.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern are also on the sensitive species list for Nevada maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we are adopting Heritage's sensitive species list and partnering with them to provide distribution data and information on the conservation needs for sensitive species to agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or in serious decline. Consideration of these sensitive species and exploring management alternatives early in the planning process can provide long-term conservation benefits and avoid future conflicts.

For a list of sensitive species by county, visit Heritage's website (www.heritage.nv.gov). For a specific list of sensitive species that may occur in the project area, you can obtain a data request form from the website or by contacting Heritage at 901 South Stewart Street, Suite 5002,

**TAKE PRIDE
IN AMERICA** 

Carson City, Nevada 89701-5245, (775) 684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the Act. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address. Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (<http://www.leg.state.nv.us/NAC/NAC-503.html>). Before a person can hunt, take, or possess any parts of wildlife species classified as protected, they must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (visit <http://www.ndow.org> or call (775) 777-2300).

We are concerned that the project may impact the sage grouse (*Centrocercus urophasianus*), a species listed as sensitive under the Heritage Program. On February 26, 2008, the Service published in the Federal Register an initiation of a status review for the species as threatened or endangered under the Act. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect sage grouse and their habitats in the Wildlife Society Bulletin (Connelly *et al.* 2000). We ask that you consider incorporating these guidelines (<http://ndow.org/wild/sg>) into the proposed project. On a more local level, the Sage Grouse Conservation Plan for Nevada and Portions of Eastern California was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/sg/plan/index.shtm>. We encourage you to adopt all appropriate management guidance from this Plan as you implement your proposed action.

We are concerned that the project may impact the pygmy rabbit (*Brachylagus idahoensis*). On January 8, 2008, the Service published a substantial 90-day finding on a petition to list the pygmy rabbit as threatened or endangered under the Act, thus initiating a status review of the species. Draft survey guidelines have been developed for this species and are available upon request from the Nevada Fish and Wildlife Office. We encourage you to survey the proposed project area for pygmy rabbits prior to any ground disturbing activities and to consider the needs of this species as you complete project planning and implementation. The Bureau of Land Management State Director for Nevada has directed all Field Office staff in Nevada to address the pygmy rabbit in all upcoming Land Use Plan revisions.

Because wetlands, springs, or streams are present in the vicinity of the project area, we ask that you be aware of potential impacts project activities may have on these habitats. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (Corps) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the Corps' Regulatory Section [300 Booth Street, Room 2103, Reno, Nevada 89509, (775) 784-5304] regarding the possible need for a permit.

Furthermore, the springs on or near the project area are sensitive to a wide variety of activities and may be occupied by rare aquatic organisms (macroinvertebrates) that may be affected by the proposed action. Recent studies have found approximately 100 species of aquatic macroinvertebrates in springs and springbrooks throughout the western United States, including springsnails, caddisflies, beetles, true bugs, and crustaceans. There is concern for these species because some are narrowly distributed and, in many cases, their habitats have become highly degraded. Many springs in Nevada have not yet been surveyed to determine if they are occupied by macroinvertebrates. For those which have been surveyed, gravel substrate, flowing high

Mr. Richard Duncan

File No. 2008-SL-0461

quality water, and minimal disturbance are believed to be important habitat components to maintain viable populations of these species. We ask that you include measures to protect the springs and macroinvertebrates during project planning and implementation.

Based on the Service's conservation responsibilities and management authority for migratory birds under the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 *et seq.*), we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (*i.e.*, mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Please reference File No. 2008-SL-0461 in future correspondence concerning this species list. If you have any questions or require additional information, please contact me or David Potter at (775) 861-6300.

Sincerely,



 Robert D. Williams
Field Supervisor



JIM GIBBONS
Governor

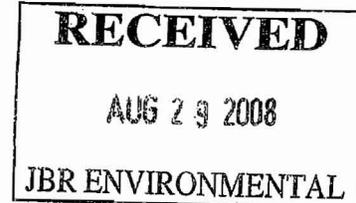
STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
Reno, Nevada 89512
(775) 688-1500 • Fax (775) 688-1595

KENNETH E. MAYER
Director

DOUG HUNT
Deputy Director

August 26, 2008



Richard Duncan
JBR Environmental Consultants, Inc.
5355 Kietzke Lane, Suite 100
Reno, NV 89511

RE: Tehama Creek Ranch, Desert Land Act Application
JBR Project 08.00413.01

Dear Mr. Duncan,

We are in receipt of your request for comments or recommendations concerning a Desert Land Act Application for public lands in the vicinity of Tehama Creek Ranch. The entire bench above the old highway is important winter range for sage grouse. There is a substantial lek .8 miles SSE of the SE corner of the proposed DLE (Whiteman Creek). NDOW documented a smaller lek over a series of years .7 miles E of the northern block of the proposed DLE. Due to the potential impacts to sage grouse habitats in addition to concerns with depredation from elk, antelope and deer, NDOW is opposed to the transfer or development of these lands through the Desert Land Act. We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in cursive that reads "Steve Foree".

Steve Foree
Supervising Habitat Biologist
60 Youth Center Road
Elko, NV 89801
775.777.2306

Cc: Curt Baughman, NDOW-Ely
Jeff Weeks, BLM-Ely

ALLEN BIAGGI
Director

Department of Conservation
and Natural Resources

JENNIFER E. NEWMARK
Administrator

JIM GIBBONS
Governor



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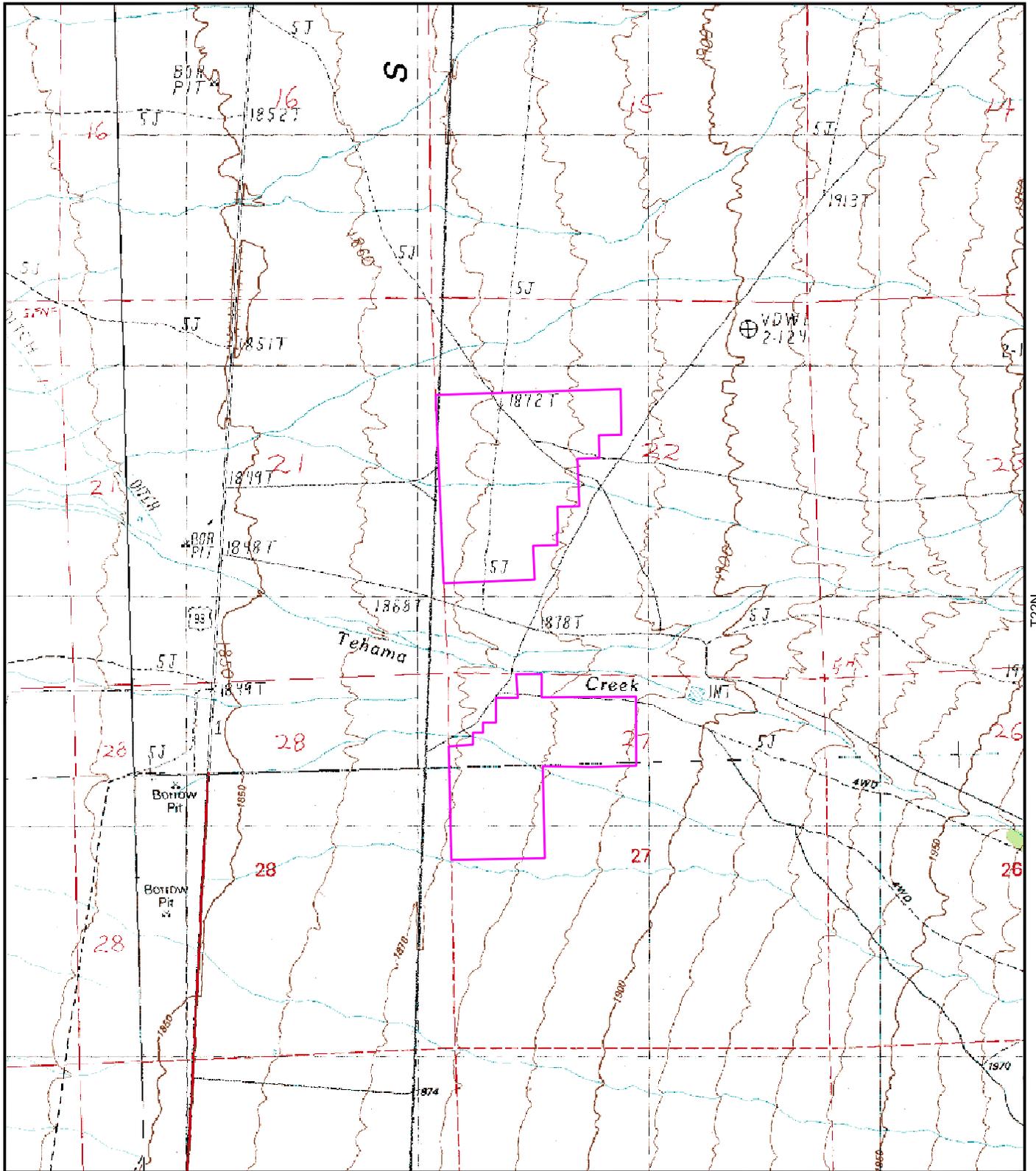
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Thank you for checking with our program. Please contact us for additional information or further assistance.

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Eric S. Miskow
Biologist /Data Manager



BASE IMAGE: USGS DRG 1:24K



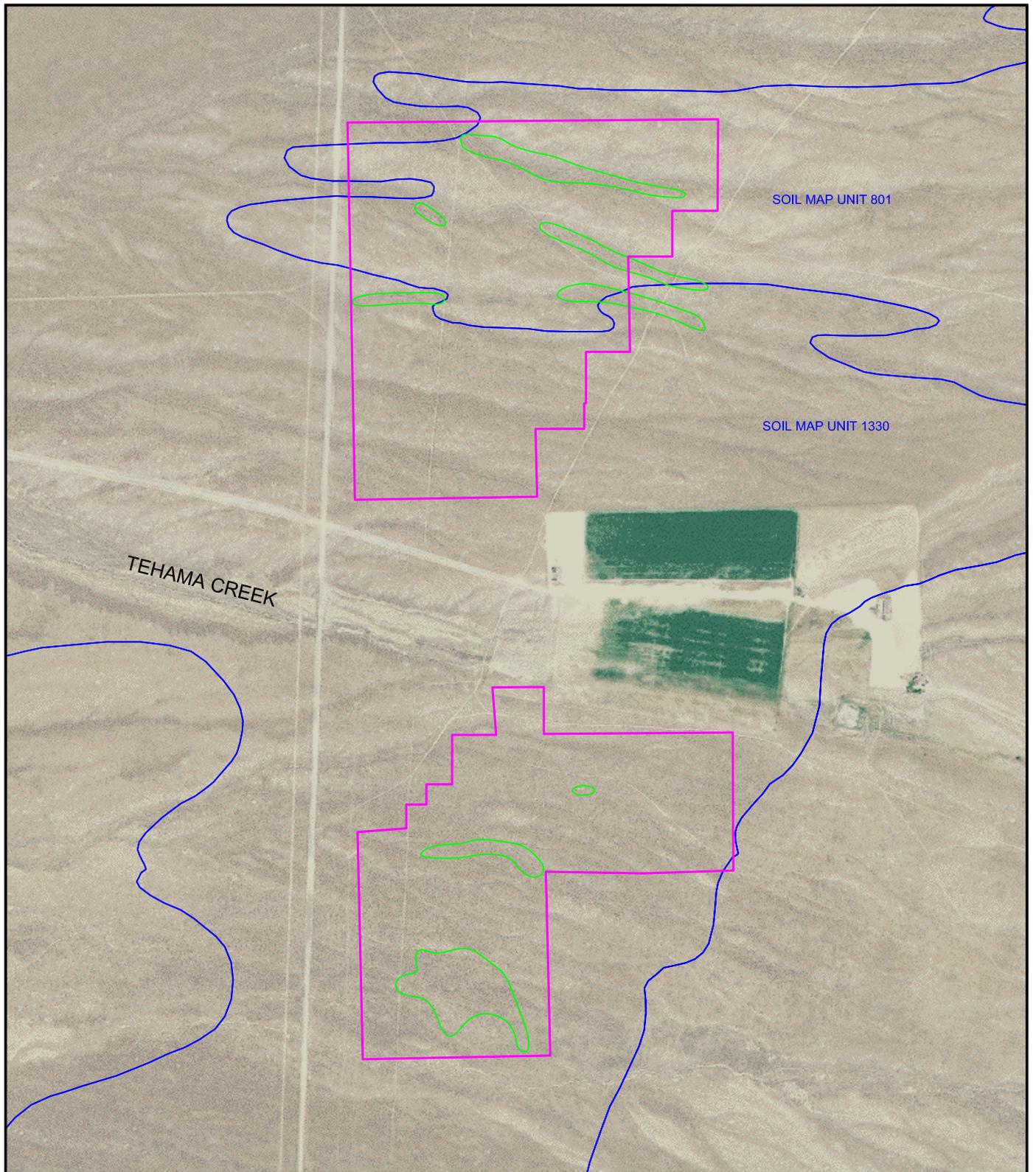
2,000 0 2,000 FEET

A graphic scale bar with markings for 0, 2,000, and 2,000 feet.

TEHAMA CREEK RANCH

DESERT LAND ENTRY

FIGURE 1
GENERAL LOCATION



BASE IMAGE: USGS DRG 1:250K

- SUBJECT LANDS APPROXIMATE BOUNDARY
- OCCUPIED PYGMY RABBIT HABITAT
- SOIL MAP UNIT BOUNDARIES FROM USDA NRCS SSURGO DATABASE FOR WESTERN WHITE PINE COUNTY AREA, NEVADA. JULY 24, 2006.



1,000 0 1,000 FEET

TEHAMA CREEK RANCH DESERT LAND ENTRY

FIGURE 2
AERIAL PHOTOGRAPH