

**DECISION RECORD
HUMBOLDT COUNTY MAYHEW DRIVE
ENVIRONMENTAL ASSESSMENT
DOI-BLM-NV-W030-2012-0048-EA**

Introduction

The Bureau of Land Management (BLM), Winnemucca District (WD), Humboldt River Field Office, received a right-of-way (ROW) application from Humboldt County seeking a perpetual ROW in order to extend Mayhew Drive and to upgrade Bronco Drive and Bruce Drive to County maintained roads, and to maintain these roads. The proposed ROW would be a total distance of approximately of 5,905 feet (approximately five acres) and the width would vary on each section of road. The project would be located on public lands off Highway 95, approximately 9 miles north of the city of Winnemucca, in Township 37 North, Range 38 East, section 9, SWSE, and section 16, W2NE, MDM.

Land Use Plan Conformance:

The proposed action is consistent with the Paradise-Denio Management Framework Plan (MFP), approved July 9, 1982. Although the Paradise-Denio MFP is silent on rights-of-way, this action is clearly consistent with the MFP's objectives, terms, conditions, and decisions. FLPMA Sec. 501(6) provides for authorizations of rights-of-way across public lands.

The Proposed Action is consistent with the plans and policies of neighboring local, county, state, tribal, and federal governments to the greatest extent possible. Under the Proposed Action, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

Decision

Based on the Humboldt County Mayhew Drive Environmental Assessment (EA) DOI-BLM-NV-W030-2012-0048-EA, and the attached Finding of No Significant Impact (FONSI) it is my decision to select the proposed action alternative for implementation, subject to all environmental protection measures identified in the EA and any additional standard terms and conditions under 43 Code of Federal Regulations (CFR) 2800. Implementation involves an authorization, via a ROW, in order for Humboldt County to extend Mayhew Drive and to upgrade Bronco Drive and Bruce Drive to County maintained roads and maintain these roads during the life of the ROW. The ROW authorization will remain in effect for perpetuity, as the roadway will be utilized daily.

The proposed action includes the following features:

Bronco Drive

- A 30 foot ROW on the north side of the street from the intersection of Bronco and Mayhew westward to the north-south border of BLM property near Highway 95, for a distance of approximately 1,375 feet.

- Conversion of Bronco Drive from a two-track road to a county maintained road for the entire length of the ROW. Method of construction is described below.
- Access to Highway 95 from Bronco Drive will not be created.

Mayhew Drive

- A 30 foot ROW on the west side of Mayhew Drive between Bronco Drive and Sarah Way, for an approximate distance of 1,325 feet.
- A 60 foot ROW between Sarah Way and Bruce Drive for a distance of approximately 2,665 feet in order to extend Mayhew Drive from Sarah Way to Bruce Drive. Method of construction is described below.

Bruce Drive

- A 30 foot ROW on the south side from the Highway 95 ROW eastward to the proposed Mayhew Drive extension for approximately 540 feet in length.
- Conversion of Bruce Drive from a two-track road to a county maintained road for the entire length of the ROW. Method of construction is described below.
- Access to Highway 95 from Bruce Drive will not be created.

Construction

Roads will be upgraded or constructed with crushed aggregate on the travel portion of the road with open v-ditch drainage structures on both sides of the roadway for the entire length. Gravel will be derived from local private sources. Eighteen inch drain pipes, culverts, corrugated metal pipe or high density polyethylene construction will be installed at all roadway intersections to facilitate the flow of water. The finished road widths will be 24 feet.

A permanent 50 foot wide radius for an approach will be constructed along Mayhew Drive at the intersections at Bronco Drive, Baker Lane, Sarah Way, Delaney Drive, Shirley Drive, and Bruce Drive, in order to accommodate the turning capacity for larger vehicles.

Construction equipment for all phases of the project will include a dozer, loader, backhoe, grader, water truck, and a dump truck. The construction time frame will be two years from the grant of the ROW.

Maintenance

Bronco, Bruce, and Mayhew roads will be placed on the County's routine maintenance schedule. Sand removal from the maintained roads will occur on an as-needed basis; with a minimum of three times per year. The road will be graded two to four times a year or as needed.

Environmental Protection Measures

Air Quality

During all phases of road construction a water truck will be provided by Humboldt County to supply water to the site to reduce fugitive dust.

Sensitive Plants

The BLM will conduct plant surveys at the appropriate season(s) prior to any disturbance activity. Humboldt County will notify BLM of proposed disturbance activities at least 30 days in

advance to allow BLM to schedule surveys. Any identified sensitive species within the proposed route will be transplanted by the BLM biologist or their representative. All vehicles and construction disturbance will be limited to areas within the ROW.

Migratory/ Sensitive Species Birds

Land clearing or other surface disturbance associated with the proposed action will be conducted outside of the migratory avian breeding season, whenever feasible, to avoid potential destruction of active bird nests. Nests are considered active if they contain eggs or young or if evidence of reproductive behavior (i.e. mated pairs, courtship displays, territorial defense, carrying nesting materials, transporting food, etc.) is observed (MBTA 1918). When surface disturbance must be created during the migratory avian breeding season, (March 1 – August 31), a survey performed by a BLM biologist following BLM protocols will be conducted for active nests. Humboldt County will notify BLM of disturbance activities at least 30 days in advance to allow BLM to schedule surveys. This survey will be conducted no more than 10 days prior to and no less than 3 days prior to proposed disturbance activities.

If active nests are located, a protective buffer, (the size of which will be depend upon the habitat requirement of the species, but no less than 260 feet) will be delineated and the entire buffer area avoided to prevent destruction or disturbance to the nest or reproductive behaviors until the nests are no longer active. The start and end dates of the seasonal restriction may be based upon site-specific information such as elevation and weather patterns which affect breeding chronology.

Any raptor nest located will be monitored during the nesting season (January 1 — August 31) for nesting activity by the BLM biologist following BLM protocols. Occupied nests are those nests repaired or tended in the current year by a pair of raptors. Presence of raptors (adults, eggs, or young), evidence of nest repair or nest marking, freshly molted feathers or plucked down, or current year's mute remains (whitewash) suggests site occupancy. Additionally, all nest sites within a nesting territory are deemed occupied while raptors are demonstrating pair bonding activities and developing an affinity to a given area (USFWS 2002). A nest remains occupied throughout the periods of initial courtship and pair bonding, egg laying, incubation, brooding, fledging, and post fledging dependency of the young. If present, active raptor nests will be avoided following temporal and spatial restrictions and recommendations specified in the Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances (USFWS 2002).

Sensitive Wildlife

Small Mammals

In order to protect dark kangaroo mouse and pale kangaroo mouse assumed to be present in the project area, the BLM will restore/reclaim BLM land adjacent to the disturbed areas and will include treatments to remove cheatgrass and other invasive and noxious plants to reduce competition with native plants present and seeding/planting efforts. Minimal disturbance methods (i.e. hand-seeding/planting, minimal soil disturbance, etc.) will be implemented in habitat restoration efforts in areas that are dominated by native plants. Restoration efforts and monitoring will continue for the duration of three (3) years post-construction, or less if the standards for the Ecological Site Description (ESD) are reached prior.

Vegetation

BLM will seed construction disturbance areas. Seeding of construction disturbance (the construction footprint that remains and is not part of the active roadbed) will include the seed mixes found in the EA in section 2.1.1.

Periodic inspections will be required and conducted by the BLM to assure the County is in compliance with the Terms and Conditions of the ROW grant.

Public Involvement

Preliminary EA

Scoping activities conducted in support of this project included sending out a Dear Interested Party Letter with a project overview map. These materials were sent to the project's mailing list for a 30-day public scoping period ending on October 5, 2012. Refer to Section 1.5 of the EA.

The preliminary environmental assessment was made available for public review and comment between August 29 through September 30, 2013. The document was available through the NEPA register, accessible through the BLM's website at:
http://www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa0.html.

Letters were sent to interested publics identified on the projects mailing list notifying them of the documents availability. No comments were received.

Native American Consultation

On August 29, 2013, letters providing information relating to the Proposed Action were sent to the Winnemucca Indian Colony and the Ft. McDermitt Paiute and Shoshone Tribe. To date, no traditional cultural properties or Executive Order (EO) 13007 sites have been identified within the project area that might be impacted by the Proposed Action or alternatives.

On August 29, 2013 letters and hard copies of the Preliminary Environmental Assessment were mailed to the above tribes notifying them the document was available for review and comment. No responses were received.

Rationale

My decision is based on the attached FONSI, the proposed action, which includes the environmental protection measures (provided in section 2.1.1 of the EA) and any standard terms and conditions applied to the authorization. Additionally, the proposed action will not result in any unnecessary or undue environmental degradation of public lands and is consistent with federal, state and local laws, regulations and plans.

The authority for this decision is contained in the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701) and 43 CFR 2800 and BLM Manual 2800.

Appeal

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR

4.411 and must file in the office of the officer who made the decision (not the board), in writing to Derek Messmer, Field Manager, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 (attached) provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401 (a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

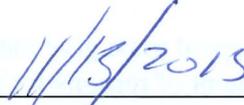
- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At conclusion of any document that party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).



Derek Messmer
Field Manager
Humboldt River Field Office



Date

Attachments:

EA
FONSI
Form 1842-1