

**FINAL ENVIRONMENTAL ASSESSMENT
FONSI and DECISION RECORD**

**Toll Road Canyon Acquisition
NVN 088191**

DOI-BLM-NV-C020-2012-0038-EA

U.S. Department of the Interior
Bureau of Land Management
Carson City District
Sierra Front Field Office
5665 Morgan Mill Road
Carson City, Nevada 89701
775-885-6000

January 2013



1.0 INTRODUCTION/PURPOSE AND NEED

1.1 Introduction, Purpose and Need

The Nevada Land Conservancy nominated the Toll Road Canyon Property for federal acquisition in 2007 during Round 9 of the Southern Nevada Public Land Management Act (SNPLMA) Environmentally Sensitive Land Acquisition Process. The purpose for the nomination was federal protection of the property's cultural, vegetative, wildlife, and scenic resources. As part of the Round 9 review process, there was a 45-day public comment period between April 18 and June 2, 2008. After successful completion of the screening and evaluation process involving the Departments of the Interior and Agriculture, the nomination was approved for acquisition funding by the Secretary of the Interior on August 16, 2008 (BL56, Priority 9-1).

The project area is located in the foothills of the Virginia Range between Reno and Virginia City, Nevada, within Washoe County and is approximately five miles northwest of Virginia City. Approximately 230.46 acres of the 502.12-acre Bain Springs Ranch have been proposed for acquisition by the United States under the authority of Section 205 of the Federal Land Policy and Management Act of 1976 (FLPMA), and pursuant to the SNPLMA. The legal description of the property is in Section 2.1 and the property is shown on the map in Figure 1. The subject property abuts public land administered by the Bureau of Land Management (BLM) to the north, west, and south. If acquired, the land would be administered by the BLM, Sierra Front Field Office (SFFO), Carson City District, located in Carson City, Nevada.

Acquisition and management by the United States would extend federal protection to the subject property's cultural, vegetative, wildlife, and scenic resources. The property includes a portion of the Old Geiger Grade between the Truckee Meadows and Virginia City, constructed in 1862 and utilized as the most direct connection between the Comstock Lode and the Truckee Meadows until it was replaced in 1936 by the present highway (State Route 341). The property contains habitat for four Nevada sensitive plant species as identified by Nevada Natural Heritage and for various game and non-game wildlife species. Washoe County has identified the area in which the property is located as a high value area for viewshed and scenic values. Acquisition would preclude the property from being developed. The subject property has been subdivided into a large-lot subdivision, and private lands to the east and west of the subject property have been subdivided and developed for residential purposes.

The purpose for the action is to analyze an approved acquisition nomination of 230.46+/- acres to implement BLM and Washoe County planning objectives for open space and natural resource protection, including cultural, vegetative, wildlife, and scenic resources.

The need for the action is to respond to and process the approved nomination in accordance with the FLPMA and the SNPLMA, and in compliance with the requirements of the National Environmental Policy Act of 1969, as amended (NEPA).

1.2 Land Use Plan Conformance Statement

The Proposed Action and No Action Alternative described below are in conformance with the Carson City Field Office Consolidated Resource Management Plan (CRMP), which incorporates decisions in the Southern Washoe County Urban Interface Plan Amendment (January 2001), and meets the following element of the plan amendment decisions:

Private lands in southern Washoe County that are designated as desired open space in the Reno, Sparks, and Washoe County Master Plans and the Washoe County Regional Open Space Plan would be considered for acquisition opportunities by the BLM. This includes the corridor of land on both sides of the Truckee River, east of Sparks. Acquisition opportunities may include acquisition of conservation easements or other interest in private lands (Page 4, Lands, Retention/Acquisition).

1.3 Decision to be Made

The Authorized Officer will decide whether to proceed with the proposed acquisition or to terminate the acquisition process.

2.0 PROPOSED ACTION AND ALTERNATIVES

2.1 Alternative A: Proposed Action

The Proposed Action is federal acquisition from a willing seller of 230.46+/- acres of private land located in the foothills of the Virginia Range, legally described below (see Figure 1).

Parcel 1

Parcel 10 of DIVISION OF LAND MAP NO. 81, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on December 12, 1985, as File No. 1039534. Washoe County Assessor's Parcel Number (APN) 050-030-10.

Parcel 2

Parcel 2 of DIVISION OF LAND MAP NO. 235, according to the map thereof, filed in the office of the County Recorder of Washoe County, State of Nevada, on June 18, 2009, as File No. 3772576. Washoe County APN 050-030-16.

The above-described property consists of two contiguous parcels and is located within Section 1, T. 17 N., R. 20 E., Mount Diablo Meridian, Nevada.

The subject property is a portion of the Bain Springs Ranch. Ownership of the subject property is currently vested in Allan B. Tanner.

Acquisition by the United States would be subject to valid existing rights determined to be acceptable encumbrances by the Department of the Interior Office of the Solicitor. No water rights would be acquired by the United States, and there are no known water rights owned by the landowner or third parties within the property.

No development of the property is currently planned by the BLM. If acquired by the United States, the property would be managed in accordance with the CRMP and in accordance with the policies and guidance in Instruction Memorandum No. NV-2005-062, Management Issues for Lands Acquired by Purchase.

2.2 Alternative B: No Action

Under the No Action Alternative, the property would not be acquired by the United States. The property would remain in non-federal ownership and future uses of the property would be governed by the laws, regulations, and ordinances of the State of Nevada and Washoe County.

3.0 AFFECTED ENVIRONMENT

3.1 General Setting

The project area is located in the foothills of the Virginia Range between Reno and Virginia City, Nevada, and is approximately five miles northwest of Virginia City. The property is within Washoe County, but the eastern boundary of the property is the Washoe/Storey County line.

The property is legally described as two parcels, but the parcels are contiguous (see Figure 1). The 230.46 +/- acre property is a portion of the 502.12 acre Bain Springs Ranch. The property abuts public land to the north, west, and south. Privately-owned lands in the area and adjacent to the property have been subdivided and developed for residential purposes. Legal and physical access to the property is by the Toll Road which has been dedicated as a public (county) road in subdivision filings in both Washoe and Storey Counties.

The terrain is rugged with elevations from approximately 5,160 feet on the northwest boundary to approximately 6,280 feet on the eastern boundary. Vegetation is primarily sagebrush and pinyon-juniper woodland, although most of the property was affected by the Bain Fire in July 2011. The property contains habitat for four Nevada sensitive plant species (altered andesite buckwheat (*Eriogonum robustum*), altered andesite popcorn flower (*Plagiobothrys glomeratus*), Sierra Valley mousetails (*Ivesia aperta* var. *aperta*), and Steamboat monkeyflower (*Mimulus ovatus*)) as identified by Nevada Natural Heritage and for various game and non-game wildlife species. Newton Creek (intermittent) and other unnamed drainages cross the property. There are no permanent water sources on the property.

The property includes a portion of the historical Toll Road (Old Geiger Grade), constructed in 1862 and utilized for transportation between the Virginia City and the Truckee Meadows until it was replaced in 1936 by the present highway (State Route 341). A 23 kilovolt power line crosses the southeastern portion of the property. Remnants of an abandoned telephone line cross the northern and eastern portions of the property. There are no buildings on the property.

A Phase I Environmental Site Assessment (ESA) dated December 14, 2012, was prepared by the BLM SFFO. The Phase I report concluded there are no recognized environmental conditions on

the subject property, adjoining property, or surrounding property that could affect the subject property, no further inquiry is necessary, and the subject property is suitable for acquisition. One non-scope concern (disposed, broken, and burned cathode ray tube (CRT) type televisions) was identified on the subject property. Although used, broken CRTs are not generally regulated as hazardous waste, the report recommends that the CRT debris and burned residue be cleaned up. The landowner has indicated he intends to address that cleanup prior to acquisition by the United States.

3.2 Supplemental Authorities

Appendix 1 of BLM’s NEPA Handbook (H-1790-1) identifies Supplemental Authorities that are subject to requirements specified by statute or executive order and must be considered in all BLM environmental documents.

Table 1. Supplemental Authorities*.

Resource	Present Yes/No	Affected Yes/No	Rationale
Air Quality	Y	N	The proposed change of ownership would have no impact on air quality. Future BLM management of the site would be subject to project-specific NEPA analysis.
Areas of Critical Environmental Concern	N		Resource not present.
Cultural Resources	Y	N	Although cultural resources may be present on the property, this administrative action would have no effect on any such resources. Acquisition of these properties would encumber any cultural (or historic) resources present under the protection of the National Historic Preservation Act.
Environmental Justice	N		Resource not present.
Farm Lands (prime or unique)	N		Resource not present.
Floodplains	N		Resource not present.
Invasive, Nonnative Species	Y	N	Although invasive, non-native plant species may be present, this administrative action would not affect their presence or distribution. Future BLM management of the site would be subject to project-specific NEPA analysis.
Migratory Birds	Y	N	Although migratory birds may utilize habitat on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
Native American Religious Concerns	N		Resource not present.
Threatened or Endangered Species (animals)	N		Resource not present.
Threatened or Endangered Species (plants)	N		Resource not present.
Wastes, Hazardous or Solid	N		The Phase I ESA completed on December 14, 2012, concludes there are no recognized environmental conditions on the subject

			property, adjoining property, or surrounding property that could affect the subject property, no further inquiry is necessary, and the subject property is suitable for acquisition.
Water Quality (Surface/Ground)	N		Resource not present.
Wetlands/Riparian Zones	N		Resource not present.
Wild and Scenic Rivers	N		Resource not present.
Wilderness/WSA	N		Resource not present.

October 2011

**See H-1790-1 (January 2008) Appendix 1 Supplemental Authorities to be Considered.*

Supplemental Authorities determined to be Not Present or Present/Not Affected need not be carried forward or discussed further in the document.

Supplemental Authorities determined to be Present/May Be Affected may be carried forward in the document.

3.3 Resources or Uses Other Than Supplemental Authorities

BLM specialists have evaluated the other potential impacts of the Proposed Action and No Action Alternative on these resources and documented their findings Table 2. Resources or uses that “may be affected” by the Proposed Action or No Action Alternative are further described in this EA.

Table 2. Resources or Uses Other Than Supplemental Authorities.

Resource or Issue**	Present Yes/No	Affected Yes/No	Rationale
BLM Sensitive Species (animals)	N		Although BLM sensitive species may utilize habitat on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
BLM Sensitive Species (plants)	N		Although migratory birds may utilize habitat on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
Fire Management/Vegetation	N		Resource not present.
Forest Resources	N		Resource not present.
General Wildlife	Y	N	Although wildlife may utilize habitat on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
Global Climate Change	Y	N	Resource not affected by this project.
Greenhouse Gas Emissions	N		Resource not present.
Land Use Authorization	Y	Y	Carried forward for analysis.
Lands with Wilderness Characteristics	N		Resource not present.
Livestock Grazing	N		Resource not present.
Minerals	N		Resource not present.
Paleontological	N		Resource not present.
Public Safety	N		Resource not present.

Recreation	N		Resource not present, although there may be opportunities for future dispersed recreation.
Socioeconomics	N		Resource not present.
Soils	Y	N	Although soil resources are present on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
Travel Management	N		Resource not present
Vegetation	Y	N	Although vegetation resources are present on the property, this administrative action would not affect their use of the site. Future BLM management of the site would be subject to project-specific NEPA analysis.
Visual Resources	Y	N	Upon acquisition and until the current Resource Management Plan revision is completed, the property would be classified as VRM Class III. Future BLM management of the site would be subject to project-specific NEPA analysis to ensure any actions are consistent with the VRM classification.
Wild Horses and Burros	N		Resource not present.

October 2011

***Resources or uses determined to be Not Present or Present/Not Affected need not be carried forward or discussed further in the document.*

Resources or uses determined to be Present/May Be Affected may be carried forward in the document.

4.0 ENVIRONMENTAL CONSEQUENCES/CUMULATIVE EFFECTS

4.1 Land Use Authorization

Affected Environment

A preliminary title report prepared by Ticor Title of Nevada, Inc., dated March 19, 2012, indicates the property is subject to the following easements:

- 50 feet wide easement for the Toll Road for ingress, egress, and public utility purposes. Affects Parcels 1 and 2;
- 50 feet wide easement for an electric transmission line (the portion of the line on public land within the SW¼SE¼ of Sec. 1 is authorized under BLM Right-of-Way Nev 065885). Affects Parcel 1;
- Abandoned overhead utility (no width specified) – The surveyor that prepared the plat noted that he was unable to find an easement document of record. The BLM survey plat for T. 17 N., R. 20 E., approved on April 12, 1951, identifies a telephone line corresponding to the same location. Contacts with the title company and AT&T Nevada to date have failed to find a recorded document to support this easement or its relinquishment/abandonment. Poles cut off about a foot above ground were found during a field tour of the property. Affects Parcels 1 and 2. Subsequently, AT&T Nevada executed a Disclaimer and Release of Easement recorded in the Washoe County records on June 18, 2012, as Document 4122880 that terminated this encumbrance;
- 50 feet wide drainage easement for Newton Creek. Affects Parcel 1;

- The restriction that the natural drainage shall not be impeded during development or improvement of the parcel. Affects Parcels 1 and 2;
- 25 feet wide public utility easement along the interior of all division lines. Affects Parcels 1 and 2;
- 50 feet wide drainage easement for an unnamed drainage in the northern portion of the property. Affects Parcel 2; and
- Public utility, drainage and cable TV easements granted within each lot as follows: 10 feet in width coincident with all street rights-of-way, 5 feet in width coincident with the exterior boundaries and 10 feet in width centered on all lot lines and a utility easement granted within each parcel for the exclusive purpose of installing and maintaining utility service facilities to that parcel and the right to exit that parcel with said utility facilities for the purpose of serving adjacent parcels at location mutually agreed upon by the owners of record at the time and the utility company. Affects Parcel 2.

Environmental Consequences

Proposed Action: The acquisition would transfer the property into public ownership and management. Acquisition of the property by the United States would be subject to the valid rights identified above existing at the time of transfer of ownership. The terms and conditions of the granting documents would control future use and maintenance of the facilities. For any proposed new land use authorizations, the BLM would manage the property in accordance with the CRMP and in accordance with the policies and guidance in Instruction Memorandum No. NV-2005-062, Management Issues for Lands Acquired by Purchase. At a minimum, the purchased lands would be considered as a right-of-way avoidance area and designation as right-of-way exclusion area may be considered. Any future land use or authorization (right-of-way, lease, or land use permit) that would not be considered to be a valid existing right would be allowed only if it could be shown that no adverse effects to the resource values for which the land was acquired would occur, and highly restrictive stipulations would likely be necessary if granting of use authorizations would be considered. Future land uses and any proposed changes in land use would be subject to public review through the BLM's land use planning process or through NEPA compliance for individual proposed projects.

No Action Alternative: The property would remain in private ownership. The property would continue to be subject to the valid rights identified above. Development could occur on the property subject only to local zoning, planning, and building requirements. Future land uses and any proposed changes in land use would be subject to public review as allowed in Washoe County's land use planning process.

Cumulative Effects

A cumulative effect is defined under NEPA as "the change in the environment which results from the incremental impact of the action, decision, or project when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other action". "Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" (40 CFR Part 1508.7).

Geographic Scope

The geographic scope of the Cumulative Effects Analysis is the subject property consisting of 230.46 acres of the Bain Springs Ranch located in Washoe County, Nevada.

Timeframe of Effects

The timeframe for the cumulative effects from the acquisition of the subject property would be indefinite, the properties would remain in federal ownership permanently unless changed by a future unanticipated Congressional action.

Proposed Action: Valid rights existing at the time of transfer of ownership would not be affected and future use and management of facilities would be continue to be subject to the terms and conditions of the granting documents. Authorization of additional land uses would be allowed only if it could be shown that no adverse effects to the resource values for which the land was acquired would occur, and highly restrictive stipulations would likely be necessary if granting of use authorizations would be considered. Overall, acquisition of the property would be a beneficial cumulative effect. Acquisition of the property would provide the BLM with an opportunity to manage all of the resources on the property and to enhance the conservation of the sensitive resource values which were documented during the SNPLMA nomination process.

No Action Alternative: Valid rights existing at the time of transfer of ownership would not be affected and future use and management of facilities would be continue to be subject to the terms and conditions of the granting documents. Residential development of the property may occur, and could result in the location of additional utility facilities in support of that development.

5.0 PERSONS, GROUPS, AND AGENCIES CONSULTED

5.1 List of Preparers

Bureau of Land Management

Name	Title	Project Expertise
Rex Wells	Realty Specialist (Contractor)	Lands and Realty
Dan Erbes	Geologist	Minerals
Brian Buttazoni	Planning and Environmental Coordinator	NEPA

6.0 FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis of potential environmental impacts contained in this EA, and considering the significance criteria found in 40 CFR 1508.27, I have determined that the Proposed Action, will not have a significant effect on the human environment. An environmental impact statement (EIS) is not required.

for 
Leon Thomas
Field Manager
Sierra Front Field Office

11/2/2013
Date

7.0 DECISION

It is my Decision to proceed with the land acquisition described as the Proposed Action in Environmental Assessment No. DOI-BLM-NV-C020-2012-0038-EA.



for
Leon Thomas
Field Manager
Sierra Front Field Office



Date

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4. If you appeal, your appeal must also be filed with the Bureau of Land Management at the following address:

Leon Thomas
Field Manager
BLM, Sierra Front Field Office
5665 Morgan Mill Road
Carson City, NV 89701

Your appeal must be filed within thirty (30) days from receipt or issuance 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 pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate Office of the Solicitor at the same time the original documents are filed with the above office.

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712

Sacramento, CA 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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 appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals. Electronically filed appeals will therefore not be accepted.