

**KINGMAN FIELD OFFICE SCOPING FORM**

**Proposal:**

DOI-BLM-AZ-C010-2013-0037-CX \_\_\_\_\_  
 NEPA Document Number RMP Implementation No.

S:/BLMshare:Diamond Bar Road/AZA28734B/CX  
 Document Location

**Land Description:**

Applicant: Hualapai Tribe  
 Authorization: Right-of-way

INVOLVEMENT: Indicate in the left column which disciplines need to provide information into the EA.

Needed Input (X)	Discipline	Signature
X	Lands	/s/ Andy Whitefield 06/07/2013
	Minerals	
	Range	
	Wild Horse and Burro	
	General Recreation	
X	Cultural and Paleontological Resources	/s/ Tim Watkins 06/06/2013
	Wilderness	
	Soils	
	Surface and Groundwater Quality/Water Rights	
	Air Quality	
X	Wildlife	/s/ Rebecca L. Peck 06/06/2013
X	Threatened and Endangered Plants and Animals	/s/ Rebecca L. Peck 06/06/2013
X	Migratory Birds	/s/ Rebecca L. Peck 06/06/2013
X	Surface Protection	/s/ Andy Whitefield 06/07/2013
	Hazardous Materials	
X	Areas of Critical Environmental Concern	/s/ Rebecca L. Peck 06/06/2013
	Visual Resources	
	Socio-Economics/Environmental Justice	
	General Botany/Noxious Weeds	
	Energy Policy	

Writer:  /s/ Andy Whitefield

Date:  06/06/2013

Environmental Coordinator:  /s/ Ramone B. McCoy

Date:  06/07/2013

Field Manager:  /s/ Ruben A. Sánchez

Date:  06/11/2013

# Categorical Exclusion Documentation Format for Actions Other Than Hazardous Fuels and Fire Rehabilitation Actions

## Project Name

NEPA Number DOI- BLM-AZ-C010-2013-0037-CX

### A. Background

BLM Office: Kingman Field Office                      Lease/Serial/Case File No.: AZA 28734B

Proposed Action Title/Type: Right-of-way (ROW) Grant to the Hualapai Tribe

Location of Proposed Action: NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> sec. 26, T. 29 N., R. 16 W., G&SRM.

Description of Proposed Action: Grant ROW AZA 28734B to the Hualapai Tribe to connect the existing Diamond Bar Road with the new Diamond Bar Road Bar Road alignment. The dimensions of the ROW would be 35 feet wide by 200 feet long and the term of the ROW would be 3 years.

### B. Land Use Plan Conformance

Land Use Plan Name: *Kingman Resource Management Plan/EIS*

Date Approved/Amended: March 1995

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions): RMP Decision number and narrative: **Decision LR13a**: Minor ROWs would be evaluated through the environmental review process and granted or rejected on a case-by-case basis. Existing ROWs would be used when possible to minimize surface disturbance (Kingman RMP, p. 66).

Comment: ROW AZA 28734B would be considered a minor ROW.

**C. Compliance with NEPA:** The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed (See Attachment 1), and none of the extraordinary circumstances described in 516 DM2 apply.

Diamond Bar Road Temporary Connector ROW DOI-BLM-AZ-C010-2013-0037-CX

I considered the effects of the proposed action and have determined that they are insignificant. The realignment of Diamond Bar Road was analyzed in the Final Environmental Impact Statement Diamond Bar Road Improvement (May 2002). Phase I of construction, which consisted of improving and/or realigning approximately 5 miles of the western portion of the road, was completed in late 2009 or early 2010. Phase II, which consists of realigning approximately eight miles of the road outside of the existing roadway, is currently underway and will continue regardless of the whether the ROW proposed herein is granted or not. Therefore the impacts of the proposed action would be the resumption of those occurring prior to June 4, 2013 whereupon public access was denied on the existing Diamond Bar Road alignment within private property located in section 27, T. 29 N., R. 16 W., G&SRM. Should the proposed ROW be denied, the same impacts resulting from the proposed action would eventually occur upon the completion of the realignment to where its location coincides with the existing Diamond Bar Road, which is approximately 1.7 miles east of the location of the proposed ROW. Therefore the impacts anticipated as resulting from the proposed ROW described herein are limited to those resulting from the construction, operation, maintenance, and termination of the road connecting the road to be realigned and the existing road. No new circumstances warrant further analysis.

#### **D. Signature**

Authorizing Official:  /s/ Ruben A. Sánchez      Date:  June 11, 2013 .  
(Signature)

Name: Ruben A. Sánchez  
Title: Field Manager, Kingman

#### **Contact Person**

For additional information concerning this CX review, contact Andy Whitefield, Environmental Protection Specialist, Kingman Field Office, 2755 Mission Blvd., Kingman, AZ 86401, 928-718-3746.

**Note:** A separate decision document must be prepared for the action covered by the CX. See Decision to Grant Right-of-Way AZA 28734B.

**Attachment 1: Extraordinary Circumstances Review**

Extraordinary Circumstances	Comment ( <b>Yes or No with supporting Rationale</b> )
<p>1. Have significant effects on public health or safety.</p>	<p>No. Public health and safety would not be significantly affected by the proposed temporary connector ROW. The new alignment for Diamond Bar Road is required to be constructed in accordance with the latest edition of Federal Highway Administration Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP-03) and Association of State Highway Transportation Officials guidelines. Handling and storage of explosives would conform to Section 205 of the FP-03 (Item 1, Exhibit D, ROW Grant AZA 28734). The applicant would have to adhere to these same guidelines for the construction, operation, and maintenance of the proposed connector ROW. The same effects, though not significant, existed prior to the portion of Diamond Bar Road being closed to public traffic on private lands on June 4, 2013 and would eventually resume once the new alignment is constructed to a point approximately 1.7 miles east of the proposed connector ROW where the new alignment meets the existing road, therefore the effects would occur regardless of the proposed ROW.</p>
<p>2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988) national monuments; migratory birds; and other ecologically significant or critical areas.</p>	<p>No. No impacts to historic or cultural resources would occur as a result of the proposed action. A class III cultural survey was conducted on June 5, 2013, within the proposed roadway and the surrounding area and no cultural resources were present within the area affected by the proposed action.</p> <p>The proposed action would expedite the resumption of uninterrupted traffic flow to and from the Grand Canyon Skywalk. This traffic would cross through the Grapevine Mesa Joshua Tree National Natural Landmark (GMJTNNL) located west of the proposed action area. The impacts to the GMJTNNL resulting from the proposed action would be the same as those occurring prior to the portion of Diamond Bar Road being closed to public traffic on private lands on June 4, 2013, and would resume upon the construction of the new road to a point approximately 1.7 miles east of the proposed connector ROW where its alignment coincides</p>

	<p>with the existing Diamond Bar Road. Those impacts were analyzed in the Final Environmental Impact Statement Diamond Bar Road Improvement (May 2002).</p> <p>Migratory birds would not be affected by the proposed action. The proposed action area is between the road's new alignment and the existing alignment of Diamond Bar Road which are approximately 200 feet apart. The new alignment is under construction with the presence of heavy equipment and, prior to the portion of the existing Diamond Bar Road being closed to public traffic on private lands on June 4, 2013, the existing road was being used heavily by traffic to and from the Grand Canyon Skywalk. Such activities occurring during the migratory bird breeding and fledging season (March through August) should have precluded migratory birds from building nests in the vicinity of the proposed action area.</p> <p>The proposed action is within the Joshua Tree Forest – Grand Wash Cliffs Area of Critical Environmental Concern (ACEC). The value of this area relative to this proposed action is described in the Kingman Resource Management Plan and Final Environmental Impact statement (March, 1995) as the ACEC's unique plant community dominated by Joshua Trees (<i>Yucca brevifolia</i>). The proposed ROW would eliminate one Joshua Tree. As many as 10,206 Joshua Trees were acknowledged to be impacted by the realignment of the Final Environmental Impact Statement Diamond Bar Road (May 2002) (p. 4-2), therefore the loss of one Joshua Tree as a result of the proposed action would not significantly impact the ACEC.</p> <p>No parks, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or national monuments are located within the proposed action area nor would they be affected by the proposed action.</p>
<p>3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].</p>	<p>No. The impacts that would result from the proposed action would be the same as with those occurring prior to the portion of Diamond Bar Road being closed to public traffic on private lands on June 4, 2013, and would resume upon the construction of the new road to a point</p>

	<p>approximately 1.7 miles east of the proposed connector ROW where its alignment coincides with the existing Diamond Bar Road. Those impacts were described in the Final Environmental Impact Statement Diamond Bar Road Improvement (May 2002).</p> <p>No unresolved conflicts concerning alternative uses of available resources would occur as a result of granting the proposed ROW.</p>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	<p>No. The resources that would be affected by the proposed ROW are common in this area and therefore the effects of constructing the proposed road in the proposed location are well known. These affects are the temporary elimination of vegetation and wildlife habitat within the proposed roadway area measuring approximately 0.16 acres.</p> <p>The proposed temporary connector ROW would allow for the resumption of the generation of fugitive dust by the use of the existing unpaved Diamond Bar Road. This would occur regardless of whether the proposed ROW is granted or not once the new road is constructed to a point approximately 1.7 miles east of the proposed connector ROW where its alignment coincides with the existing Diamond Bar Road.</p>
5. Establishes a precedent for future action or represents a decision in principle about future actions with significant environmental effects.	No. Future actions regarding this project, if any, would require processing in accordance with laws, regulations, and policy.
6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	No. Although the proposed ROW would have a direct relationship in allowing for uninterrupted flow of traffic to and from the Grand Canyon Skywalk, the impacts from that would resume upon the construction of the new alignment to a point approximately 1.7 miles east of the proposed temporary ROW where the new alignment coincides with the existing road. Therefore the impacts would be the same regardless of whether the proposed ROW is granted.
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.	No. No properties listed, or eligible for listing, on the National Register of Historic Places are within the project area nor would any properties be affected by the proposed ROW.
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	There would be no effect to any T&E species or designated critical habitat as none are found within the proposed action area. There is no suitable T&E species habitat within the project area.

<p>9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.</p>	<p>No. No laws would be violated as a result of granting the proposed ROW.</p>
<p>10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).</p>	<p>No. The proposed ROW would allow the Hualapai Tribe, which is a minority population and probably is considered as having a low income, to resume generating revenue at the Grand Canyon Skywalk sooner than if the road had to be constructed to a point approximately 1.7 miles east of the proposed connector ROW where the new alignment coincides with the existing road. This effect would not be adverse to the Hualapai Tribe.</p>
<p>11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).</p>	<p>No. No sacred sites are known to be in the vicinity of the proposed ROW.</p>
<p>12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).</p>	<p>No. The contractor that was selected to construct the new alignment of Diamond Bar Road, which would be the same contractor that would construct the proposed connector ROW, is required to wash its equipment at its facility prior to moving onto the construction area as required by Item 13, Exhibit D of ROW Grant AZA 28734. This condition would be included in the proposed ROW grant.</p>

**Approval**  
**Attachment 2**

**Compliance and assignment of responsibility:** Lands/Realty

**Monitoring and assignment of responsibility:** Lands/Realty

**Review:** *We have determined that the proposal is in accordance with the categorical exclusion criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.*

**Prepared by:** /s/ Andy Whitefield **Date:** 06/11/2013  
Andy Whitefield, Environmental  
Protection Specialist  
**Project Lead**

**Reviewed by:** /s/ Ramone B. McCoy **Date:** 06/11/2013  
Ramone McCoy  
**NEPA Coordinator**

**Reviewed by:** /s/ Ruben A. Sánchez **Date:** 06/11/2013  
Ruben A. Sánchez,  
Field Manager  
**Supervisor**

## DECISION MEMORANDUM

### Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with the Kingman Resource Management Plan (March 1995) and is categorically excluded from further environmental analysis. It is my decision to approve the action in full force and effect as proposed.

### Administrative Review or Appeal Opportunities

This decision is final for purposes of appeal. Within 30 days from receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR Part 4.400 and the enclosed Form 1842-1, Information on Taking Appeals and Stays to the Board of Land Appeals. If an appeal is taken, your notice of appeal must be filed in this office (at the above address), and a copy is to be sent to the Field Solicitor (see Form 1842-1 for address) within 30 days from the 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 pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) 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 based upon the following standards:

1. The relative harm to you or other parties if the stay is granted or denied.
2. The likelihood of the success of your appeal.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

/S/ Ruben A. Sánchez  
Ruben A. Sánchez, Field Manager

June 11, 2013  
Date

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
RIGHT-OF-WAY GRANT

SERIAL NUMBER AZA 28734B

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1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Hualapai Tribe  
Post Office Box 179  
Peach Springs, Arizona 86434

receives a right to construct, operate, maintain, and terminate a road on public lands (or Federal lands for MLA Rights-of-Way) described as follows:

Gila and Salt River Meridian, Arizona

T. 29 N., R.16 W.,  
sec. 26, NW $\frac{1}{4}$  NW $\frac{1}{4}$

b. The right-of-way or permit area granted herein is 35 feet wide, 200 feet long, and contains 0.161 acres, more or less. If a site type facility, the facility contains n/a acres, more or less.

c. This instrument will terminate on June 7, 2016 unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise dispose of as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Exhibits A, B, and C, dated June 11, 2013 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.

- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

\_\_\_\_\_  
(Signature of Holder)

\_\_\_\_\_  
(Signature of Authorized Officer)

\_\_\_\_\_  
(Print Name)

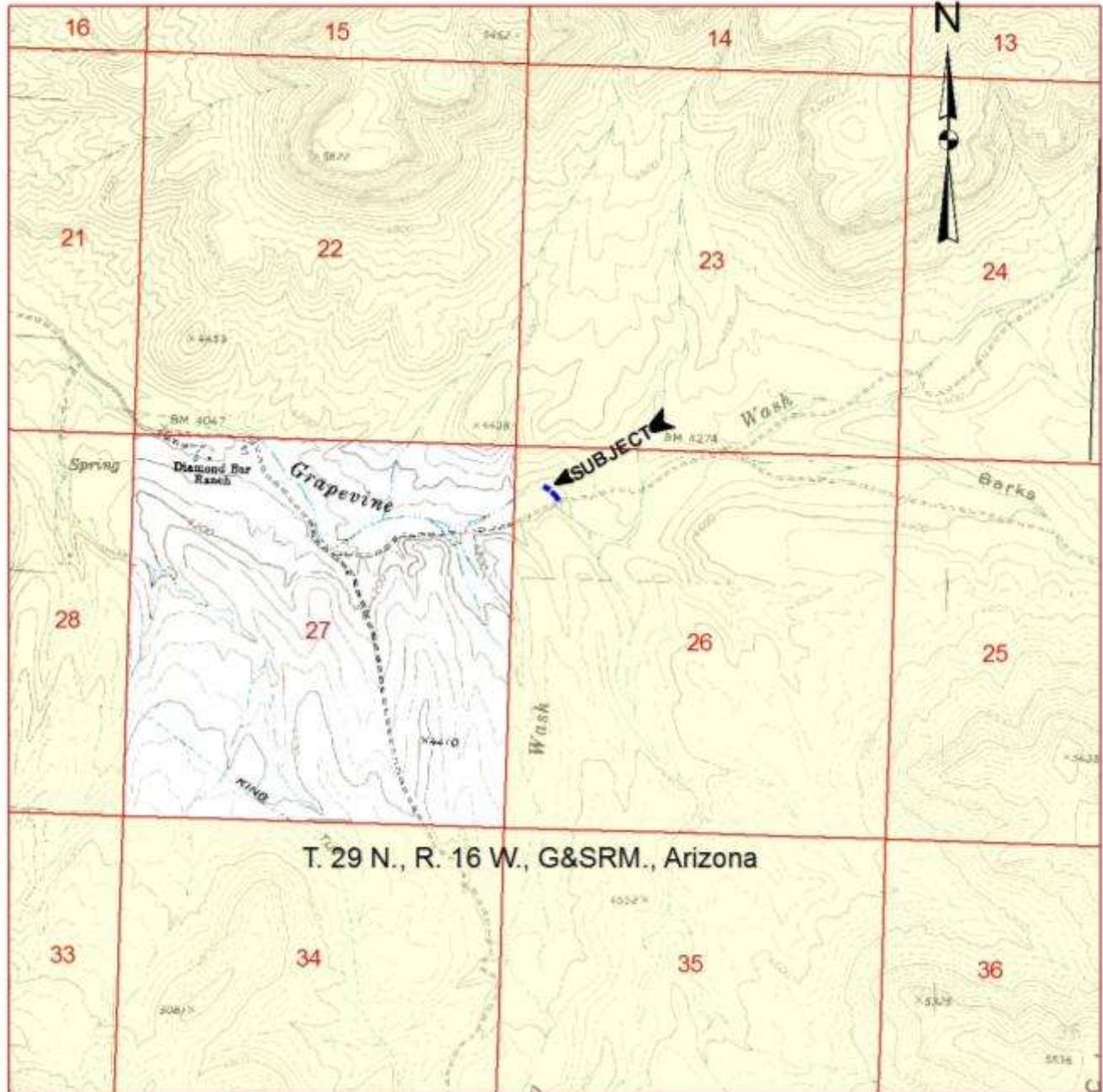
\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Effective Date of Grant)

\_\_\_\_\_  
(Date)

EXHIBIT A  
 AZA 28734 B  
 May 7, 2013



No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by the BLM.

LEGEND	
	Subject Right-of-Way
LAND OWNERSHIP/ADMINISTRATION	
	Bureau of Land Management
	Private

**AZA 28734 B**  
**Exhibit A**  
**June 7, 2013**

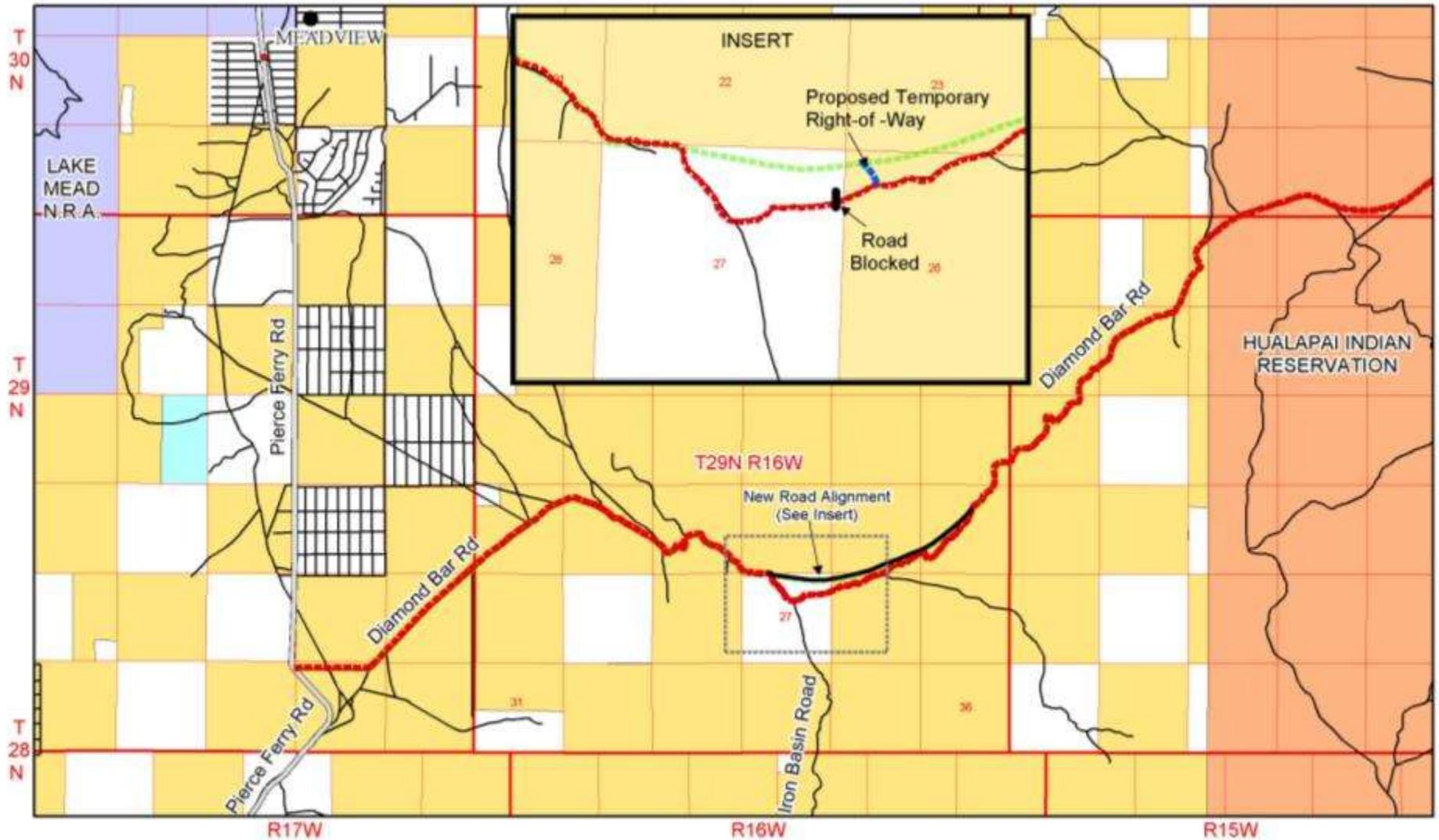
1. Any cultural and/or paleontological resource (historic or prehistoric site or object, or any human remains) discovered by the Holder during any activities associated with this project, or any person working on his behalf, on public or Federal land shall be immediately reported to the Authorized Officer and all work in that area is to stop immediately. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The Holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the Authorized Officer after consulting with the Holder.
2. All relevant terms, conditions, and stipulations contained in right-of-way grant AZA 28734, including but not limited to, those provisions regarding the prevention of noxious weeds and reclamation measures, will be adhered to during the construction, operation, maintenance, and termination of this right-of-way.
3. All earth-moving and hauling equipment would be washed at the contractor's storage facility prior to arriving on the construction site to prevent the introduction of weed seed. All earth-moving and hauling equipment would be washed prior to leaving the construction site to prevent weed seeds from leaving the site.
4. Road construction will conform to the latest edition of Federal Highway Administration Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects (FP-03) and Association of State Highway Transportation Officials guidelines. Handling and storage of explosives would conform to Section 205 of the FP-03.
5. Reflective marker and warning, information, direction, and mileage signs would be installed along the road as needed. All signing, marking, signals, and other means of regulating, warning, and guiding road users would conform to the FHWA Manual on Uniform Traffic Control Devices.
6. Upon abandonment, relinquishment, or termination of the right-of-way, the area affected by the roadway will be revegetated and reseeded using plans developed by the Hualapai Department of Natural Resources as is required in Right-of-Way AZA 28734.
7. The construction site will be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.
8. The road will be maintained so that user traffic remains within the right-of-way and erosion is mitigated.
9. Disposal of all liquid and solid waste produced during operation of this right-of-way shall be in an approved manner so it will not impact the air, soil, water, vegetation, or animals.

10. Holder shall not violate applicable air and water quality standards or related facility siting standards established by or pursuant to applicable Federal and State law.

11. The Holder of this right-of-way agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on this right-of-way (unless the release or threatened release is wholly unrelated to Holder's activity in this right-of-way). This agreement applies without regard to whether a release is caused by the Holder, their agent, or unrelated third parties.

12. The Holder(s) shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated. In any event, Holder(s) shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency or State government as a result of a reportable release of spill of any toxic substances shall be furnished to the Authorized Officer concurrent with the filing of the reports to the involved Federal agency or State government.

# DIAMOND BAR ROAD



## Land Management Legend

- Bureau of Land Management (BLM)
- Private Lands
- Hualapai Indian Reservation
- Lake Mead National Recreation Area
- State Lands

## Road Legend

- New Alignment Under Construction
- Existing Alignment
- Subject Connector ROW
- Major Roads
- Other Existing Roads

SCALE 1:100,000



The Bureau of Land Management (BLM) makes no representations or warranties regarding the accuracy or completeness of this map. This map does not address encroachments or questions of location, boundary, and area, which an accurate survey may disclose. This map is intended and is to be used as an illustration only. The map is merely representational, it and the data from which it was derived are not binding on the BLM and may be revised at any time in the future. The BLM shall not be liable under any circumstances for any direct, indirect, special, incidental, or consequential damages with respect to any claim by any user or any third party on account of or arising from the use of this map or the data from which it was derived.

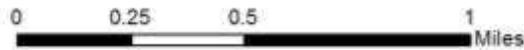
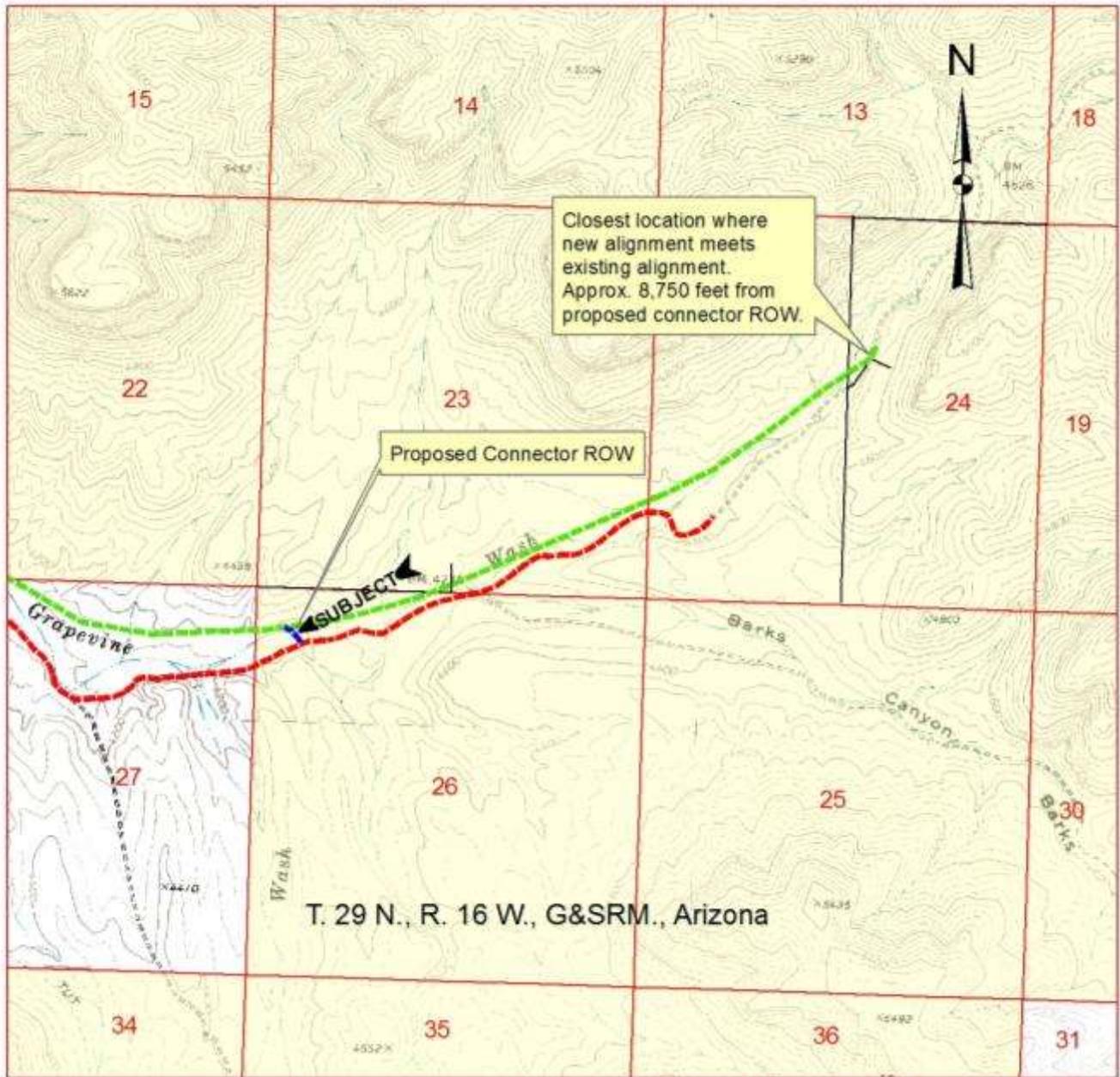
United States Department of the Interior  
Bureau of Land Management  
Arizona State Office

Land Status updated as of November 2012  
Map Prepared: 6/6/2013



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# Diamond Bar Road



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06/15/2013

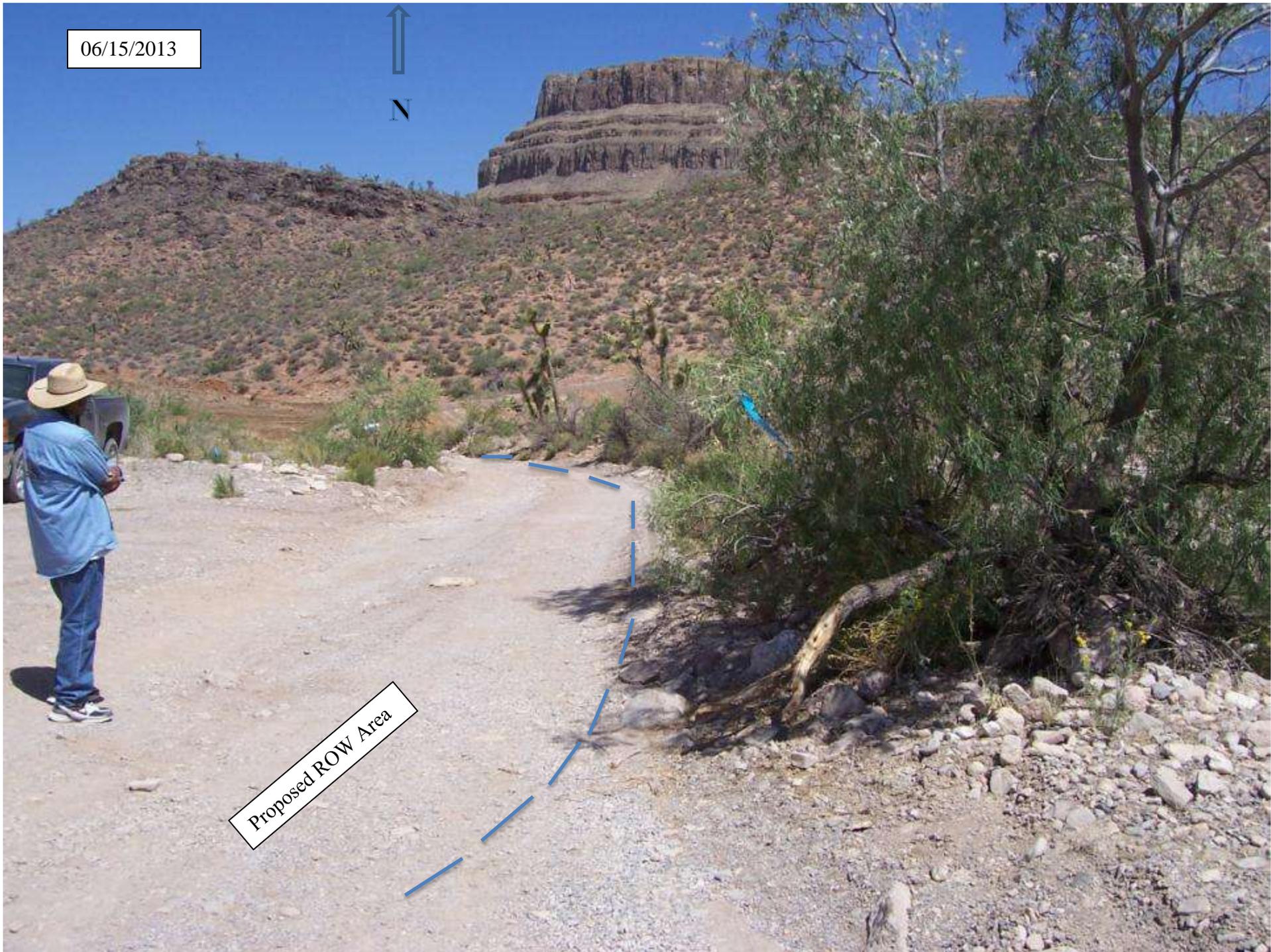


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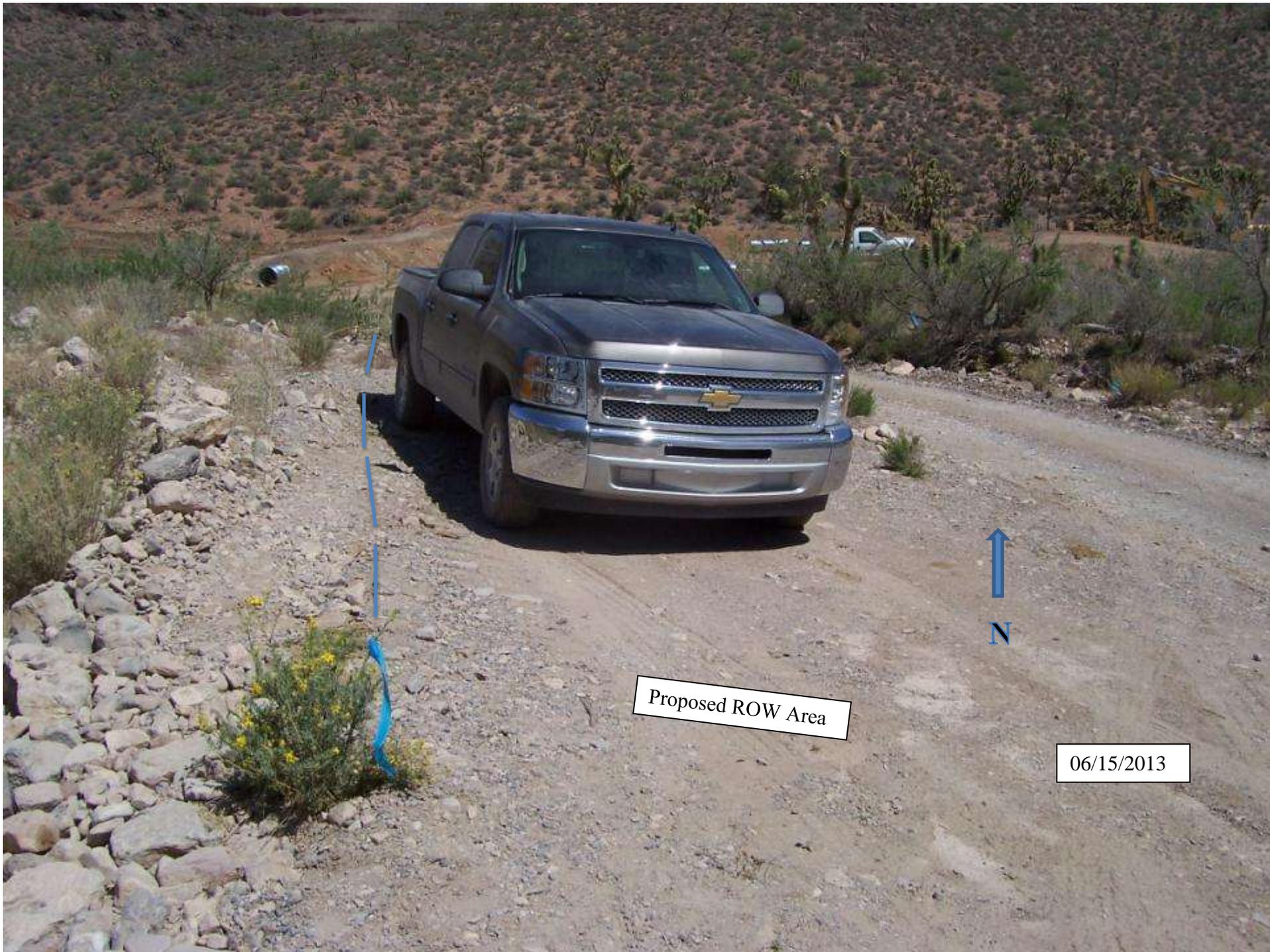
Proposed ROW Area



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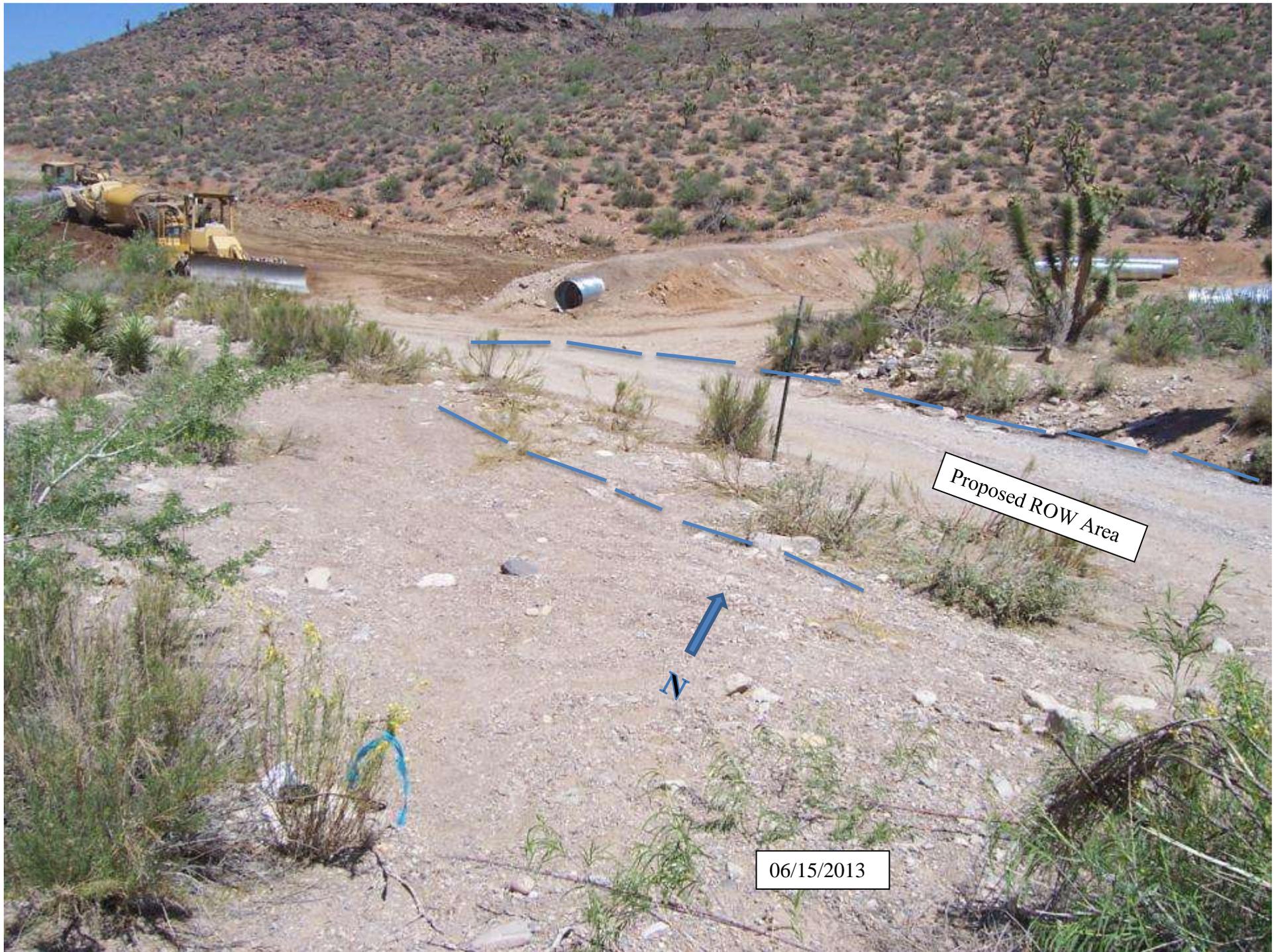


Proposed ROW Area



Proposed ROW Area

06/15/2013



AZA 028374 B  
2800 (LLAZC01000)

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

DECISION

Hualapai Tribe	:	Right-of-Way
Post Office Box 179	:	AZA 028734 B
Peach Springs, Arizona 86434	:	Granted

Right-of-Way AZA 028734 B Granted  
Dimensions Modified  
Term of Grant Modified  
Processing and Monitoring Fees Determined  
Rental Determined

On May 31, 2013, the Hualapai Tribe filed an application for a road right-of-way to connect the new alignment of Diamond Bar road, currently under construction, with the road's existing alignment in the NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub> of section 26, T. 29 N., R. 16 W., G&SRM., Arizona. This application was serialized as AZA 028734 B. The purpose of the right-of-way would be to allow for the resumption of the public to travel uninterrupted to and from the Grand Canyon Skywalk. The dimensions applied for in Item 7 of the application are for approximately 300 to 500 feet long and 24 feet wide. The term requested is for approximately one year. Upon termination of the right-of-way the area affected would be reclaimed to its former state.

Background

On May 7, 2008, Right-of-Way AZA 28734 was granted to the Bureau of Indian Affairs (BIA) for the realignment of the Diamond Bar Road, a county maintained road. The purpose of the realignment was to improve access to and from the Grand Canyon Skywalk and other tourist facilities on the Hualapai Indian Reservation. Diamond Bar Road traverses Section 27, T. 29 N., R. 16 W., G&SRM., Arizona, which is privately owned and prior to the granting of Right-of-Way AZA 28734 the owner of that land appealed to the Interior Board of Land Appeals (Board) the Record of Decision for the Final Environmental Impact Statement Diamond Bar Road Improvement (May 2002) (IBLA 2004-90). Subsequent to the filing of that appeal, the owner of said section 27 sought to have the matter resolved in U.S. District Court for the District of Arizona, Grand Canyon West Ranch v. Norton, No. CV 03 2496PCT EHC. With no objection from the Bureau of Land Management (BLM), the Board granted a stay pending the outcome of Grand Canyon West Ranch v. Norton.

In settlement of Grand Canyon West Ranch v. Norton, an easement across the private land for the realignment of Diamond Bar Road was secured and the rights for a public highway for the existing road were to be extinguished at some point in the future.

In late 2009 or early 2010 Phase I was completed and the road was improved to a point approximately one mile west of said section 27. Construction of Phase 2, which includes the portion of the realignment across said section 27, began in the spring of 2013.

On May 18, 2013, the owner of said section 27 began charging a toll for the passage across the land and on June 4, 2013 closed the road. Construction continued on the private land within the easement for realigning the road and within the adjacent public lands.

I understand there is some disagreement between the BIA and the owner of said section 27 regarding the settlement terms and I have considered whether or not this should have a bearing on this decision. I believe the time it would take to understand the essential points of disagreement between the parties would essentially deny the application. The public interest served by granting the right-of-way in an expedited manner outweighs further consideration of that dispute in relation to this decision.

#### Procedural Matters Regarding analysis Under the National Environmental Policy Act

In reviewing the application, I found the granting of Right-of-Way AZA 028734 B to be categorically excluded from analysis under the National Environmental Policy Act (NEPA) (42 U.S.C. 4371 *et seq.*). This finding was based on 1) the action could be categorically excluded under department policy and 2) no extraordinary circumstances exist.

In reviewing the proposed right-of-way, I concluded that it may be categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

In reviewing the extraordinary circumstances I concluded that there were none, therefore an environmental assessment or environmental impact statement is not required to be prepared for considering whether or not the right-of-way should be granted.

The Categorical Exclusion is posted at:

#### Regulatory Matters to be Considered

In reviewing regulatory guidance on whether a right-of-way may be granted or denied, I have reviewed the following:

43 CFR § 2804.26 Under what circumstances may the BLM deny my application?

(a) BLM may deny your application if:

- (1) The proposed use is inconsistent with the purpose for which BLM manages the public land described in your application;
- (2) The proposed use would not be in the public interest;
- (3) You are not qualified to hold a grant;
- (4) Issuing the grant would be inconsistent with the [Federal Land Policy and Management] Act, other laws, or these or other regulations;
- (5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate the facilities within the right-of-way;
- (6) You do not adequately comply with a deficiency notice (see § 2804.25(b) of this subpart) or with any BLM requests for additional information needed to process the application.

I find the following:

- 1) Based on the disposition of the lands involved with the application, the lands are not withdrawn from the ability to grant the right-of-way and consideration of granting the right-of-way is consistent with the Kingman Resource Management Plan (March 1995);
- 2) By allowing the resumption of uninterrupted traffic to and from the Grand Canyon Skywalk the public would be able to access a desirable tourist destination having outstanding and unique characteristics and such tourist traffic generates revenues for businesses along the route. Therefore granting Right-of-Way AZA 028734 B is in the public interest;
- 3) The Hualapai Tribe is qualified to hold property such as a right-of-way granted under the authority of the Federal Land Policy and Management Act;
- 4) Granting the right-of-way would be consistent with the Federal Land Policy and Management Act and applicable Federal regulations;
- 5) The road which would be constructed within the right-of-way would be constructed by the contractor currently constructing the realignment and that contractor, being selected through Federal contracting procedures by the BIA, has to be technically and financially capable of constructing the road authorized under Right-of-Way AZA 028734 B. Maintenance of the road would be done concurrently with that performed on the existing alignment until the new alignment is completed;
- 6) No deficiency exists precluding processing the application.

Furthermore, I find the BLM's objectives for granting rights-of-way under the authority of the Federal Land Policy and Management Act found at 43 CFR § 2801.2 would be met by granting Right-of-Way AZA 28734 B. The relevant objectives are that the control and use of rights-of-way are done in a manner that protects natural resources and prevents unnecessary and undue degradation to the public lands. Such objectives would be met because terms and conditions of the right-of-way such as preventing disturbance to cultural and paleontological resources, preventing the introduction of noxious weeds, restricting traffic to within the right-of-way area, mitigating erosion, and the reclamation

of the roadway upon the termination of the right-of-way would protect natural resources and prevent unnecessary and undue degradation of the public lands.

### Decision

Based on the above and in accordance with 43 CFR § 2800, Right-of-Way AZA 028734 B is granted effective as of the date of my signature. The dimensions of the right-of-way are modified from the dimensions for which application was made, being that a length of 300 to 500 feet is unnecessary since the distance between the old and new alignments of the Diamond Bar Road is only 200 feet, and upon visiting the area it would be reasonable that an additional 10 feet in width be included in the right-of-way given that the traffic use would be heavy. Also, the categorical exclusion under which this right-of-way has been reviewed to comply with the NEPA allows for this right-of-way to be granted for a term of up to three years. I find it reasonable to grant it for three years in case construction of the Diamond Bar Road is delayed or there becomes some other reason the right-of-way may be needed beyond the one year term applied for.

The processing of the application does not require processing and monitoring fees required since the Hualapai Tribe is a government entity (43 CFR § 2804.16(a)).

This right-of-way is exempt from rental charges in accordance with 43 CFR 2806.14 (a) (2).

This decision is final for purposes of appeal. Within 30 days from receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR Part 4.400 and the enclosed Form 1842-1, Information on Taking Appeals and Stays to the Board of Land Appeals. If an appeal is taken, your notice of appeal must be filed in this office (at the above address), and a copy is to be sent to the Field Solicitor (see Form 1842-1 for address) within 30 days from the 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 pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) 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 based upon the following standards:

1. The relative harm to you or other parties if the stay is granted or denied.
2. The likelihood of the success of your appeal.

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

Ruben A. Sánchez  
Field Manager

Enclosure