



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Egan 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:
2801 (NVL0100)
N-91288

DEC 06 2013

DECISION

Mt Hamilton LLC
4251 Kipling St., Ste 390
Wheat Ridge, CO 80033

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Decision Record
Access Road Right-of-Way
DOI-BLM-NV-L010-2013-0034-EA

I have reviewed the application and the Environmental Assessment (EA) and have made a Finding of No Significant Impact (FONSI) for *Mt. Hamilton LLC* who is requesting:

Authorization of Right-of-Way (ROW) Grant, N-91288, to provide legal access to private land and mining claims (located on National Forest System Lands) by way of two separate access roads. The Northern Road Segment consists of approximately 3,220 feet of existing road with a proposed ROW width of 100 feet. The Southern Road Segment consists of approximately 10,639 feet (2 miles) of existing road with a proposed ROW width of 32 feet. Both road segments connect to White Pine County Road 5, in Newark Valley. Based on that review and the record as a whole, I approve the *federal action* with the following stipulations derived from mitigation measures in the EA and FONSI.

Stipulations:

- During Project construction, the disturbed soil would be wetted, chemically treated, or treated by other means satisfactory to the Authorized Officer, sufficiently in order to effectively reduce airborne dust and reduce soil erosion. A regular maintenance program would include, but is not limited to, soil stabilization and reapplication of dust abatement methods as necessary. Additionally, prudent vehicle speeds would be maintained to minimize fugitive dust created by travel.
- Construction and maintenance activities would be conducted to minimize disturbance to vegetation.
- All disturbed areas not required for maintenance would be permanently reclaimed using methods approved by the BLM.
- All construction vehicle movement outside the ROW would be restricted to the extent practicable.
- All requirements of those entities having jurisdiction over air quality matters would be adhered to and any permits needed for construction activities would be obtained. Open burning of construction trash would not occur.

- Following Project construction, areas of disturbed land no longer required for operations would be reclaimed as required by the BLM to promote the reestablishment of native plant and wildlife habitat.

RATIONALE:

- The Proposed Action is in conformance with the Ely District Record of Decision and Approved Resource Management Plan signed in August of 2008.
 - Meets public, local, state, and federal agency needs for use authorizations such as rights-of-way, permits, leases, and easements while avoiding or minimizing adverse impacts to other resource values.
 - Respond to public, local, state, and federal agency needs for land for community development, utility and other associated rights-of-way, communication sites, and other allowed uses of BLM-administered lands.
- The Proposed Action is consistent with all other federal, state, local, and tribal policies and plans to the maximum extent possible.
- Implementation of the proposed action will meet the purpose and need for the action.

PUBLIC INVOLVEMENT:

The preliminary EA was posted on the National NEPA Register from September 19, 2013 to October 18, 2013, due to the Federal Government Shutdown the comment period was extended to November 12, 2013, to allow interested public to express any concerns not addressed in the document. Native American Tribal Consultation and Coordination was done and no comments were received.

APPEALS:

This decision may be appealed to the Interior Board of Land Appeals (Board), U. S. Department of the Interior (DOI) Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4. The appellant has the burden of showing that the decision appealed from is in error. If an appeal is taken, a notice of appeal must be filed at the Bureau of Land Management at the above address within 30 days of either of receipt of the decision if served a copy of the document, or otherwise within 30 days of the date of the decision. If sent by United States Postal Service, the notice of appeal must be sent to the following address:

Bureau of Land Management
Ely District Office
HC 33 Box 33500
Ely, NV 89301.

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing this appeal. At the same time the original documents are filed with this office, copies of the notice of appeal, statement of reasons,

and all supporting documentation also must be sent to the U. S. DOI Solicitor at the following address:

Regional Solicitor, Pacific Southwest Region
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, CA 95825-1890

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, VA 22203

This Decision will remain in effect during the appeal unless a petition for stay is filed. If the appellant wishes to file a petition pursuant to regulations at 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. If the appellant requests a stay, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

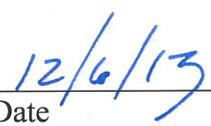
Except as otherwise provided by law or by other pertinent regulation, a Petition for a Stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- (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.

Approved by:



Jill A. Moore
Field Manager
Egan Field Office



Date

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

**Finding of No Significant Impact
DOI-BLM-NV-L010-2010-0034-DR
November 2013**

**Mt. Hamilton LLC
ROAD USE AND ROAD
IMPROVEMENT ROW**

White Pine County

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



**DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Egan Field Office**

**FINDING OF NO SIGNIFICANT IMPACT (FONSI)
MT HAMILTON ROAD USE AND ROAD IMPROVEMENT ROW**

INTRODUCTION

The Bureau of Land Management (BLM) prepared an Environmental Assessment (DOI-BLM-NV-L010-2013-0034-EA) which analyzes the effects of Mt. Hamilton LLC's proposal to upgrade by widening and maintain two access roads, near Ely, Nevada.

To meet the purpose of and need for the proposed project and resolve the issues identified, the BLM has determined that only the Proposed Action and No-Action alternatives are necessary for detailed analysis in the EA. The EA is tiered to, and incorporates by reference the Ely District ROD and Approved RMP, (BLM 2008).

I have reviewed the Environmental Assessment (EA), for the Mt. Hamilton Road Use and Road Improvement Right-of-Way (DOI-BLM-NV-L010-2013-0034-EA), dated November 2013. After consideration of the environmental effects as described in the EA, I have determined that the Proposed Action with the project design features, including mitigation measures identified in the EA and outlined below will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required.

Mitigations

- During Project construction, the disturbed soil would be wetted, chemically treated, or treated by other means satisfactory to the Authorized Officer, sufficiently in order to effectively reduce airborne dust and reduce soil erosion. A regular maintenance program would include, but is not limited to, soil stabilization and reapplication of dust abatement methods as necessary. Additionally, prudent vehicle speeds would be maintained to minimize fugitive dust created by travel.
- Construction and maintenance activities would be conducted to minimize disturbance to vegetation.
- All disturbed areas not required for maintenance would be permanently reclaimed using methods approved by the BLM.
- All construction vehicle movement outside the ROW would be restricted to the extent practicable.
- All requirements of those entities having jurisdiction over air quality matters would be adhered to and any permits needed for construction activities would be obtained. Open burning of construction trash would not occur.
- All Project personnel and contractors would be educated on the dust control plan for the Project.
- All federal, state, and county laws, ordinances, rules, and regulations, which pertain to prevention, pre-suppression, and suppression of fires, would be strictly adhered to. All personnel would be advised of their responsibilities under the applicable fire laws and regulations. It would be the responsibility of MHLLC to notify the Ely Interagency

Communications Center at (775) 289-1925 and the Ely District Fire Officer at (775) 289-9395, if a Project-related fire occurs within or adjacent to the construction area.

- Fire extinguishers would be available in the construction area. Water from a water truck that may be used for construction and dust control would be available for firefighting.
- MHLLC would take aggressive action to prevent and suppress fires on and adjacent to the construction area, and would utilize its workers and equipment on the Project for fighting fires within the construction area.
- Cultural resources would continue to be considered during post-EA phases of the POD implementation. Any cultural resources (historic or prehistoric site or object) discovered by MHLLC, or any person working on their behalf on public lands, would be immediately reported to the BLM Authorized Officer. The Contractor would ensure that activities associated with the Project within 100 meters of the discovery are properly protected, until the BLM Authorized Officer issues a Notice to Proceed (BLM and NSHPO 2012). An evaluation of the discovery would be made by the BLM Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. MHLLC would be responsible for the cost of evaluation. The BLM Authorized Officer would make any decision regarding suitable mitigation measures after consulting with SHPO. MHLLC would be responsible for the resultant mitigation costs.
- Prior to construction, Project personnel would be instructed on the protection of cultural resources.
- During construction activities, MHLLC would avoid a historic livestock watering tank and replace the associated water pipeline located along the Southern Road Segment of the Project in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of T16N, R57E.
- Prior to surface disturbance being conducted during the avian breeding season (April 1 through July 31), MHLLC would provide a wildlife biologist to conduct a migratory bird nest survey of active working areas within the Project Area to verify that no nesting birds would be affected. The migratory bird nest survey would be conducted by an established protocol approved by the Wildlife Biologist in the BLM Egan Field Office. During the period from April 1 through May 15, all ground disturbing activities would be completed within fourteen days of the date on which the bird nest survey was performed. If activities begin or last more than fourteen days from the date of the most recent bird nest survey, another bird nest survey would be performed to ensure that no nests are disturbed and that no take of migratory birds occurs. A single migratory bird nest survey would be performed without the fourteen day time restriction for project activities occurring between May 15 and July 31 as most migratory bird species would have completed their nest building activities by then. If nests are located, or if other evidence of nesting (i.e., mated pairs, territorial defense, carrying nest material, transporting food) is observed, a protective buffer (300 feet for raptors and other migratory birds) would be delineated and the buffer area avoided to prevent destruction or disturbance to nests until they are no longer active.
- If noxious weeds are encountered within the construction area, mitigation measures would be instituted in consultation with the BLM weed specialist. ROW monitoring and weed abatement following construction would be conducted as required by the BLM. To avoid the spread of noxious weeds, invasive and nonnative species, all vehicles brought in from out of the area would go through high pressure washing of the undercarriages at a commercial carwash prior to arriving on site and before being used on the Project.

- Pursuant to 43 CFR 3809.420(b)(8)(ii), MHLLC would notify the BLM Authorized Officer, by telephone, and with written confirmation, immediately upon the discovery of paleontological resources that are discovered as a result of surface disturbing activities. The item(s) or condition(s) would be left intact and immediately brought to the attention of the BLM. Further pursuant to 43 CFR 10.4 (c) and (d), the operator would immediately stop all activities in the vicinity of the discovery and not commence again for 30 days or when notified to proceed by the BLM Authorized Officer. If significant paleontological resources are found, avoidance, recordation, and data recovery would be required.
- To minimize erosion from storm water runoff, access roads would be maintained consistent with the BMPs applicable to development roads. BLM BMPs for storm water would be followed, as applicable.
- In order to mitigate for the permanent loss of Preliminary Priority Habitat (PPH) for greater sage-grouse by the road widening activities, MHLLC would agree to an off-site mitigation ratio of three acres to every one acre loss of PPH, and would include the clearing of piñon-juniper within an approximate nine acre area at a location determined by the BLM.
- No surface use will be allowed within 2 miles of an active sage-grouse lek from 1 hour before sunrise to 3 hours after sunrise during the period March 1 through May 15.
- All construction vehicles would be maintained in accordance with the manufacturers' recommendations. All vehicles would be inspected for leaks prior to entering the jobsite. All discovered leaks would be contained with a bucket of absorbent materials until repairs can be made.
- Pursuant to 43 CFR 8365.1-1(b)(3), no sewage, petroleum products, or refuse would be dumped from any trailer or vehicle.
- Hazardous material storage, equipment refueling, and equipment repair would be conducted at least 100 feet away from ephemeral drainages.
- Spilled materials of any type would be cleaned up immediately. A shovel and spill kit would be maintained on site at all times to respond to spills.
- If a spill of a petroleum constituent is considered to meet the reportable quantity per the NDEP's guidelines (greater than 25 gallons or greater than three cubic yards of impacted material or any quantity if released into a waterway), or a reportable quantity for hazardous waste is released based on Environmental Protection Agency (EPA) guidelines established under Title III List of Lists (40 CFR Part 302, Table 302.4), the NDEP would be notified within 24 hours, and the appropriate remedial actions and confirmation sampling would be conducted under direction of the NDEP.
- All sanitary wastes would be collected in portable, self-contained toilets at the construction staging area and other construction operation areas and managed in accordance with local requirements.
- All solid wastes would be disposed of in a state, federal, or local designated site.
- Following Project construction, areas of disturbed land no longer required for operations would be reclaimed as required by the BLM to promote the reestablishment of native plant and wildlife habitat.

This finding is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and the intensity of impacts as discussed in the EA.

Context

The BLM has the authority to authorize rights-of-way in accordance with Title II Section 501(a-b) of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761) and the regulations under 43 CFR 2800.

Intensity:

- 1) Impacts that may be both beneficial and adverse: The Environmental Assessment has analyzed and disclosed beneficial impacts but has found no adverse impacts of the Proposed Action.
- 2) The degree to which the Proposed Action affects public health or safety: The Proposed Action does not affect public health or safety significantly either adversely or in a beneficial manner.
- 3) Unique characteristics of the geographic area such as proximity to historical or cultural resources, parks lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas: There are no parks lands, prime farmlands, wild and scenic rivers, wetlands, or ecologically critical areas within the Proposed Action site.
- 4) The degree to which the effects on the quality of the human environment are likely to be highly controversial: Effects on the quality of the human environment from the Proposed Action are not likely to be controversial.
- 5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks: No unknown risk or potential risks have been identified.
- 6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration: The Proposed Action is in conformance with current BLM policies and management direction and is not expected to set a precedent or establish principals for future projects beyond those which are currently in place. Any future projects within the Proposed Action area or in surrounding areas will be fully analyzed as a separate action and independently of the Proposed Action.
- 7) Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts: Based on the conditions set forth in this Finding of No Significant Impact, no significant impacts will occur due to the Proposed Action.
- 8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources: Based on the analysis, this proposal will not adversely affect districts, sites, highways, structures, or other objects listed or eligible for listing. Nor will the proposed project cause loss or destruction of significant scientific, cultural, or historical resources. All proposed undertakings associated with authorizing this right-of-way, which could adversely impact an archaeological or historic resource, will be subject to full compliance with Section 106 of the National Historic Preservation Act.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973: Sensitive species from the Heritage Program Sensitive List known are not present on the parcels so will not be adversely affected.

10) Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment: This action is consistent with federal, state, local, and tribal laws and other requirements for the protection of the environment.

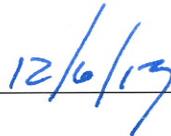
This document is available upon request from the Egan Field Office, HC 33 Box 33500, Ely, NV 89301.

Approved by:



Jill A. Moore
Field Manager
Egan Field Office

Date



12/6/13