

**Bureau of Land Management
Winnemucca District Office**

Field Office(s) : HRFO BRFO

**Categorical Exclusion
Team Review**

Applicant: NDOT
Proposal: SR293 ROW Amendment
CX#: DOI-BLM-NV-W010-2015-0024-CX

Prepared By: Khatlyn Micheli, NEPA Technician

Date: April 30, 2015

Name /Title	Resource/Agency Represented	Signature/Date	Comments (Attach if more room is needed)
Matt Yacubic/Archeologist	Cultural Resources	\s\Matt Yacubic 4/30/15	
Debra Dunham/Realty Specialist	Realty	\s\Debra Dunham 4/30/15	
Elise Brown/Wildlife Biologist	T&E (plants and animals)	\s\Elise Brown 4-30-15	
Amanda Smith/Rangeland Management Specialist	Range	\s\ Amanda Smith 4/30/15	
Daniel Atkinson/Geologist	Minerals	\s\Daniel Atkinson 4/30/15	

43 CFR 46.215
Categorical Exclusions: Extraordinary Circumstances

CX#: DOI-BLM-NV-W010-2015-0024-CX

- | <u>Yes</u> | <u>No</u> | | |
|--------------------------|-------------------------------------|-----|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (a) | Have significant impacts on public health or safety |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (b) | 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. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (c) | Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (d) | Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (e) | Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (f) | Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (g) | Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (h) | 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. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (i) | Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (j) | Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (k) | 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). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (l) | 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). |

All of the above questions must be answered negatively before the Categorical Exclusion may be approved. This checklist is taken from 43 CFR 46.215

Prepared By: Khatlyn Micheli Date April 30, 2015

**Bureau of Land Management
Winnemucca District Office
HRFO (W010)**

Categorical Exclusion/Cultural Resources Inventory Needs Assessment Form

CX#: DOI-BLM-NV-W010-2015-0024-CX

Date: 4/14/2015

Lease / Case File / Serial #: 002773

Regulatory Authority (CFR or Law): 43 CFR 2234

BLM Manual:

Subject Function Code: 2801

Is the project located within a Preliminary Priority Habitat? Yes No

Is the project located within a Preliminary General Priority Habitat? Yes No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? Yes No

1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Khatlyn Micheli

3. Project Title: NDOT SR293 Amendment

4. Applicant: NDOT

5. Project Description:

Nevada Department of Transportation (NDOT) proposes to amend their existing SR293 Right-Of-Way Grant by constructing a fence and removing one of the cattle guards along SR 293. NDOT would build a fence north of State Route 293. This fence construction project would be parallel to the existing state route and fence that was built under the Right-Of-Way Grant of August 1969. The cattle guard near mile post 20.70 would be removed and paved. The cattle guard at 17.05 would be maintained as needed. The fence with associated Missouri Gates would be constructed as per the details of the Nevada 4-Wire Fence Gate detail (Type -C-NV-4B) as described in the NDOT Standard Plans for Road and Bridge Construction. The Right-Of-Way was granted to the NDOT as of August 14, 1969 for the project area located in T. 44 N R. 35 E sec. 14 S2NW, N2SW, SWNE, N2SE; sec. 15 S2N2; Sec. 16 N2NW, S2N2; sec. 17 NENW, N2NE.

Construction of this project would begin in early May and take place within the granted Right-Of-Way. Construction is will not leave the Right-Of-Way in order to minimize surface disturbance. The fence would serve as a needed safety feature of SR 293 to limit vehicle-

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Applicant: NDOT

Project Title: NDOT SR 293 ROW Amendment

livestock impacts and to limit ingress and egress. Currently, SR293 in these sections proposed in the project are open to livestock entering the Right-Of-Way.

Project dimensions (length, width, height, depth): 3.191 miles

Total Acres:

BLM Acres:

Will the project result in new surface disturbance? Yes No

Has the project area been previously disturbed? Yes No N/A

If yes, what percent of the project area has been disturbed? 100%.

If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one): This is an established right of way that has a road already associated with it and this area has previously been burned. The fence would be built without machinery. The cattle guard removal would be mechanized but not outside of the preexisting roadway.

6. Legal Description: T.44 N., R. 35 E.,
sec. 14 S2NW, N2SW, SWNE, N2SE;
sec. 15 S2N2;
sec. 16 N2NW, S2N2;
sec. 17 NENW, N2NE

USGS 24k Quad name: Thacker Pass

100k map name: Mcdermit

Land Status: BLM Private Other: Right of Way

Part I: Plan Conformance Review

The Proposed Action is subject to the:

- Paradise-Denio Management Framework Plan
- Sonoma-Gerlach Management Framework Plan
- Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

L-4: To provide lands for rights-of-way on or across public lands.

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):

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

- 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*)

- 516 DM 11.9, (BLM) #14 Amendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside the right of way boundary.

ESA and BLM Sensitive Status Species

Evaluation Criteria	Yes	No
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Table 1. Special Status Species that may occur in the project area:

ESA	BLM	Common (<i>Scientific</i>) Name	May Be Affected?	Mitigation for BLM Sensitive Species (The following stipulation(s) is/are recommended to be applied to the authorization) (Attach ESA Section 7 Compliance to Form, if applicable)
<input type="checkbox"/>	<input type="checkbox"/>	Greater Sage Grouse (<i>Centrocercus urophasianus</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Install vinyl fence markers on the top wire of fencing according to appropriate spacing. Restrict fence building activities from March 1 st through June 30th during early morning (before 10am) and late evening (after 4pm) hours.
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

Table 2. Migratory Bird Treaty Act Consideration

Potential MBTA Species w/in the Project Area Common (<i>Scientific</i>) Name	May Be Affected?	Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization)
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization): See attached

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

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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.

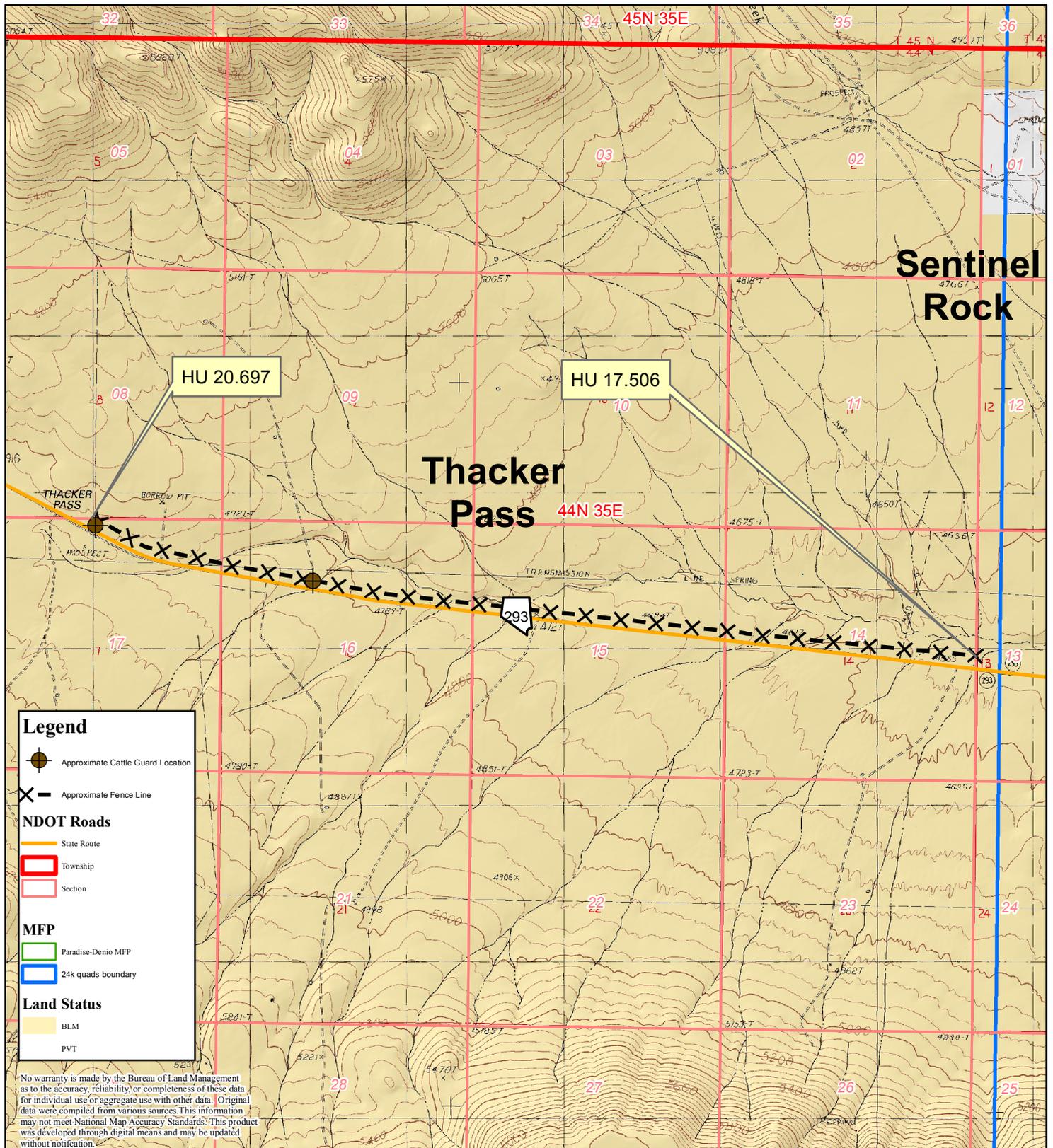
Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (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 the conclusion of any document that a 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)).

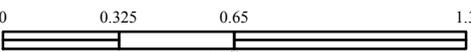
NDOT SR 293 ROW Amendment





Winnemucca District
Bureau of Land Management
5100 E. Winnemucca Blvd
Winnemucca, NV. 89445

Thacker Pass, NV
USGS 34k Quadrangles
T.44 N., R.35 E., sec. 14 15, 16, 17

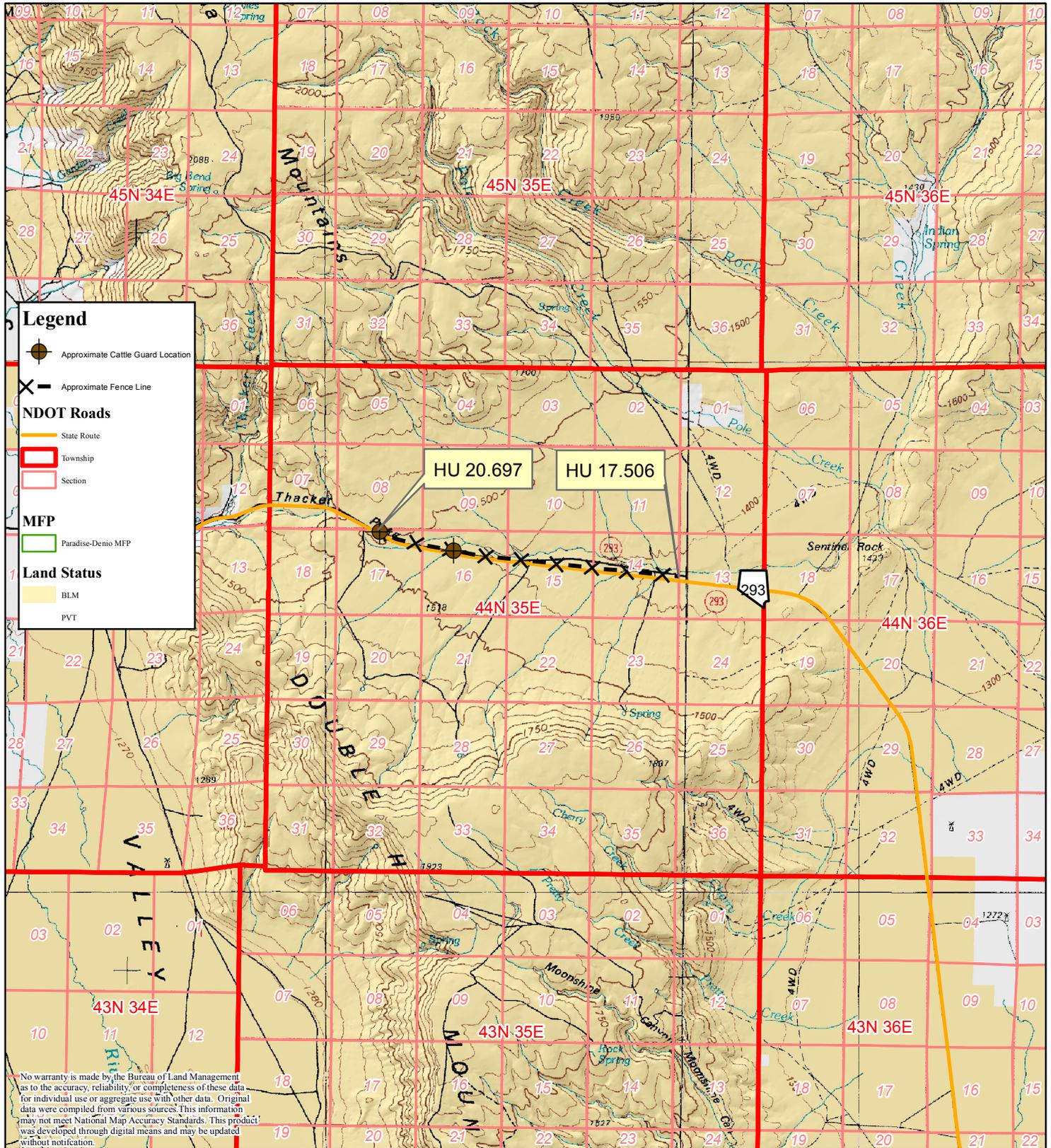




1:34,000
Date: 4/20/2015



NDOT SR 293 ROW Amendment





Winnemucca District
Bureau of Land Management
5100 E. Winnemucca Blvd
Winnemucca, NV. 89445

Thacker Pass, NV
USGS 100k Quadrangles
T.44 N., R.35 E., sec. 14 15, 16, 17



0 1 2 4
Miles



1:100,000
Date: 4/15/2015



TERMS AND CONDITIONS

(Continued from Form 2800-14)

1. All terms and conditions of the original grant still apply.
2. The Holder is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites or for collection of artifacts.
3. Pursuant to 43 CFR 10.4(g), the Holder of this authorization must notify the Authorized Officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(c) and (d), the Holder must stop activities in the immediate vicinity of the discovery and protect it from all activities until notified to proceed by the Authorized Officer.
4. Any cultural and/or paleontological resource (historic or prehistoric site or object) or Native American human remains, funerary item, sacred object, or objects of cultural patrimony, discovered by the Holder, or any person working on their behalf, during the course of activities on public land, shall be immediately reported to the Authorized Officer by telephone, with written confirmation. The Holder shall suspend all operations in the immediate area of such discovery and protect it 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 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.
5. The Holder shall comply with all applicable federal, state, county, and municipal laws, regulations, Best Management Practices, and standards, including but not limited to, those for public health and safety, environmental protection, locating, construction, operation, and maintenance, existing or hereafter promulgated, in exercising the rights granted by this right-of-way. It is the Holder's responsibility to determine and to acquire State, Federal, and municipal permits and authorizations as required.
6. The Holder shall comply with all applicable Federal, State, county, and municipal laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous material, as defined in this paragraph, that will be used, produced, transported, or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance, or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant, or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9601 et seq., and its

regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas. The Holder is prohibited from discharging oil or other pollutants on federal land or into or upon waters on federal land. The Holder shall give immediate notice of any such discharge to the Authorized Officer and such other Federal and State officials as are required by law to the given such notice.

7. The Holder shall conduct all activities associated with the maintenance, operation, and termination of the right-of-way (ROW) within the authorized limits of the ROW and shall maintain the ROW in a safe, usable condition, as directed by the Authorized Officer. The ROW is 400 feet wide, 15.52 miles long, and contains 752.70 acres.
8. All operation, maintenance, design, material, and termination practices shall be in accordance with safe and proven engineering practices, and subject to the approval of the Authorized Officer.
9. Road and operations activities shall be conducted in a manner to avoid creating hazards to public health and safety.
10. The Holder shall remove only the minimum amount of vegetation necessary for all activities.
11. Maintenance, other motorized equipment, and all truck vehicles (including pickup trucks) using the R/W shall have a fire extinguisher, shovel, and axe or Pulaski at all times when on federal land. All operating equipment shall be equipped with appropriate exhaust spark arresters. Fire extinguishers shall be available on staging and other related construction sites.
12. The holder or any participant may be held accountable for suppression of a wild land fire determined to be directly caused by those associated with the authorized activity. Reimbursement shall be required from the Holder for Federal, State, and/or private costs as a result of suppression and rehabilitation incurred as a result of fires caused by related activities. An escaped fire or an observed wild land fire ignition shall be reported immediately by calling 911, notifying Central Nevada Interagency Dispatch Center (CNIDC) and/or emergency response personnel.

CNIDC: (775) 623-3444

Humboldt County Sheriff's Dispatch: (775) 623-6429

13. The Holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to: General Land Office (GLO) and BLM

Cadastral Survey Corners, reference corners, witness points, U. S. Coastal and Geodetic bench marks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the Holder shall immediately report the incident, in writing, to the Authorized Officer and the respective installing authority if known. Where GLO or BLM right-of-way monuments or references are obliterated during operations, the Holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The Holder shall record such survey in the appropriate county and send a copy to the Authorized Officer. If the Bureau cadastral surveyors or other federal surveyors are used to restore the disturbed survey monument(s), the Holder shall be responsible for the survey cost.

14. No future modifications, construction of improvements, expansion of the original ROW or major maintenance operations involving disturbance of the land shall occur until plans for such actions have been submitted and approved in writing by the Authorized Officer.
15. The Holder shall be responsible for weed control within the limits of the right-of-way. The Holder is responsible for consultation with the Authorized Officer and/or local authorities for acceptable weed control methods. Chemical weed control products shall not be used within 400 feet of any standing or flowing water body, or drainage, or slope on which the water can flow.
16. In case of change of address, the Holder shall immediately notify the Bureau of Land Management (BLM) Authorized Officer.
17. This grant is subject to all valid rights existing on the effective date of this right-of-way grant. The effective date of this right-of-way grant is the date of execution by the Authorized Officer.
18. The federal regulations incorporated in 43 CFR 2800 are inclusive within the terms and conditions.
19. The ROW is not for the exclusive use of the Holder. All existing and future Holders shall be responsible for maintenance, and determining the maintenance and respective responsibilities. Upon request, the Authorized Officer shall be provided with copies of any maintenance agreement entered into.
20. The Holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes, except for those specific areas designated as restricted by the Authorized Officer to protect the public, wildlife, livestock, or facilities constructed within the ROW.
21. The Holder is responsible for notification to existing and future ROW Holders on federal land should activities potentially affect their authorized use(s).

22. The Authorized Officer reserves the right to enter upon the right-of-way and inspect all facilities to assure compliance with conditions of this grant.
23. Subleasing authority or selling the right-of-way is not authorized.
24. In accordance with federal regulations in 43 CFR 2807.21, (a) With BLM's approval, you may assign, in whole or in part, any right or interest in a grant; (b) In order to assign a grant, the proposed assignee must file an application and satisfy the same procedures and standards as for a new grant, including paying processing fees (see §2804 of this part); (c) The assignment application must also include: (1) Documentation that the assignor agrees to the assignment; and (2) A signed statement that the proposed assignee agrees to comply with and be bound by the terms and conditions of the grant that is being assigned and all applicable laws and regulations; (d) the BLM will not recognize an assignment until it approves it in writing. The BLM will approve the assignment if doing so is in the public interest. The BLM may modify the grant or add bonding and other requirements, including additional terms and conditions, to the grant when approving the assignment. The BLM may decrease rents if the new holder qualifies for an exemption (see § 2806.14 of this part), or waiver or reduction (see §2806.15 of this part) and the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If the BLM approves the assignment, the benefits and liabilities of the grant apply to the new grant holder. (e) The processing time and conditions described at §2805.15 (c) of this part apply to assignment applications.
25. The Holder shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
26. Should the Holder fail to perform these and future terms and conditions requirements, within 60 days of receipt of the Authorized Officer's written notification to do so, the BLM may perform the requirements at the Holder's expense, including the administrative costs to the BLM to effect any such action.
27. If the Holder violates any of the terms and conditions of this grant, the Authorized Officer, after giving written notice, may declare the grant terminated. The Authorized Officer may consult with the Holder and, at the Authorized Officer's discretion, grant a period of time to cure the violation prior to declaring the grant terminated.
28. In the event that the public land underlying the right-of-way encompassed in this grant, or a portion thereof, is conveyed out of Federal ownership and administration of the right-of-way or the land underlying the right-of-way is not being reserved to the United States in the patent/deed and/or the right-of-way is not within a right-of-way corridor being reserved to the United States in the patent/deed, the United States waives any right it has to administer the right-of-way, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part [2800][2880], including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or

assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the United States in all matters relating to the right-of-way, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the right-of-way shall be considered a civil matter between the patentee/grantee and the right-of-way Holder.

29. The Holder shall seed disturbed areas within the authorized right-of-way resulting from grading and other activities. The Holder shall coordinate with the Authorized Officer for seeding methods, seed mix, and planting season.
30. Unless certified weed free seed is procured for the reclamation of this project, all seed shall be tested for purity, noxious, poisonous and or prohibited plant species, and the test results submitted to and approved by the BLM authorized officer.
31. The right-of –way shall be relinquished to the United States within 180 days if it is no longer needed for the use it was authorized to serve.
32. Prior to relinquishment of any portion of the right-of-way authorized by this grant and future amendments(s), the Holder shall contact the Authorized Officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The Authorized Officer must approve the plan in writing prior to the Holder's commencement of any termination activities. The Holder shall be responsible for the cost and implementation of the approved rehabilitation plan.

SPECIAL STIPULATIONS

33. Install vinyl fence markers on the top wire of fencing according to appropriate spacing.
34. Restrict fence building activities from March 1st through June 30th during early morning (before 10am) and late evening (after 4pm) hours.