

NYE COUNTY AGENDA INFORMATION FORM

Action Presentation Presentation & Action

Department: Nye County Board of Commissioners		Agenda Date:																				
Category: Timed Agenda Item – 10:45_a		June 1, 2010																				
Contact: Lorinda Wichman	Phone:	Continued from meeting of:																				
Return to:	Location:	Phone:																				
<p>Action requested: (Include what, with whom, when, where, why, how much (\$ and terms)</p> <p>1) Public Hearing, discussion, deliberation, and possible decision to adopt, amend and adopt, or reject Acknowledgment and Notice of Acceptance of R.S. 2477 Right-of-Way Grant for road number 994810 commonly referred to as Barrel Springs Road; and 2) Discussion, deliberation, and possible decision to adopt, amend and adopt, or reject Nye County Resolution 2010 - 25: A Resolution Designating a Minor Road Pursuant to Nevada Revised Statutes 403.170 and R.S. 2477 Right-of-Way.</p>																						
<p>Complete description of requested action: (Include, if applicable, background, impact, long-term commitment, existing county policy, future goals, obtained by competitive bid, accountability measures)</p>																						
<p>Any information provided after the agenda is published or during the meeting of the Commissioners will require you to provide 20 copies: one for each Commissioner, one for the Clerk, one for the District Attorney, one for the Public and two for the County Manager. Contracts or documents requiring signature must be submitted with three original copies.</p>																						
<p>Expenditure Impact by FY(s): (Provide detail on Financial Form)</p> <p><input type="checkbox"/> No financial impact</p>																						
<p>Routing & Approval (Sign & Date)</p> <table border="1"> <tr> <td>1. Dept</td> <td>Date</td> <td>6.</td> <td>Date</td> </tr> <tr> <td>2.</td> <td>Date</td> <td>7. HR</td> <td>Date</td> </tr> <tr> <td>3.</td> <td>Date</td> <td>8. Legal</td> <td>Date</td> </tr> <tr> <td>4.</td> <td>Date</td> <td>9. Finance</td> <td>Date</td> </tr> <tr> <td>5.</td> <td>Date</td> <td>10. County Manager</td> <td><input checked="" type="checkbox"/> Place on Agenda</td> </tr> </table>			1. Dept	Date	6.	Date	2.	Date	7. HR	Date	3.	Date	8. Legal	Date	4.	Date	9. Finance	Date	5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda
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2.	Date	7. HR	Date																			
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5.	Date	10. County Manager	<input checked="" type="checkbox"/> Place on Agenda																			
<p>Board of County Commissioners Action</p> <table border="1"> <tr> <td><input type="checkbox"/> Approved</td> <td><input type="checkbox"/> Disapproved</td> <td><input type="checkbox"/> Amended as follows:</td> </tr> <tr> <td colspan="2"></td> <td></td> </tr> <tr> <td>Clerk of the Board</td> <td>Date</td> <td></td> </tr> </table>			<input type="checkbox"/> Approved	<input type="checkbox"/> Disapproved	<input type="checkbox"/> Amended as follows:				Clerk of the Board	Date												
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Clerk of the Board	Date																					

ITEM # 10:45

1 **NYE COUNTY RESOLUTION NO. 2010-25**

2

3 **A RESOLUTION DESIGNATING A MINOR COUNTY ROAD PURSUANT TO NEVADA**

4 **REVISED STATUTES 403.170 AND R.S. 2477 RIGHT-OF-WAY**

5 WHEREAS, the Nye County Board of Road Commissioners has examined the documents
6 attached as Exhibit 1; and

7 WHEREAS, the Nye County Board of Road Commissioners has examined Nevada Senate
8 Concurrent Resolution No. 6, 75th Leg., 2009 Nv. Sess (2009) (enacted) and under 43 U.S.C. Section 932
9 (repealed Pub. L. 94-579, title VII, Sec. 706(a), Oct, 21, 1976, 90 Stat. 2793) (with provision recognizing
10 the validity of rights-of way already established) and is urged to map and document certain county roads
11 to preserve certain rights-of-way granted by Congress over public lands in Nevada; and

12 WHEREAS, on January 19, 2010, the Nye County Board of County Commissioners approved to
13 pursue the activities necessary to map and document all county roads over which historical jurisdiction
14 exists and Commissioner Lorinda A. Wichman was designated as point of contact for the project; and

15 WHEREAS, on May 17, 2010, the Nye County Board of County Commissioners adopted Nye
16 County Resolution No.2010-24 which located, determined the width, opened for public use, accepted,
17 acknowledged, and designated as a county public road Barrel Springs Road; Nye County Road Number
18 994810; United States Geological Survey(USGS) Reference Code: 38117-E4-TF-024;

19 WHEREAS, the Nye County Board of Road Commissioners pursuant to Nevada Revised Statutes
20 403.170 is authorized and required to lay out and designate county roads which are neither main or
21 general county roads but have been established by usage, or were constructed for use by the public as
22 minor county roads; and

23 WHEREAS, the Nye County Board of Road Commissioners pursuant to Nevada Revised Statutes
24 403.190 may cause a map to be made showing the county minor road and its designation and may cause
25 the map to be filed with the clerk of the Board of Road Commissioners, the Nevada Department of
Transportation, and the county recorder; and

WHEREAS, pursuant to Nevada Revised Statutes 403.180 a public hearing was held on June 1,
2010; and

NOW THEREFORE, IT IS HEREBY RESOLVED, that the Nye County Board of Road
Commissioners does hereby lay out and designate the public county road right-of-way known as Barrel
Springs Road; Nye County Road Number 994810; United States Geological Survey (USGS) Reference

1 Code: 38117-E4-TF-024; road length 3085.125 feet long (3/5 of one mile); road width approximately ten
2 (10) feet as a minor county road; and

3 NOW THEREFORE, IT IS HEREBY RESOLVED, that the Nye County Board of Road
4 Commissioners does hereby determine and declare that the minor county road known as Barrel Springs
5 Road; Nye County Road Number 994810; United States Geological Survey (USGS) Reference Code:
6 38117-E4-TF-024; road length 3085.125 feet long (3/5 of one mile); road width approximately ten (10)
7 feet as more fully described in the attached map Exhibit 1, Attachment 3 has been established by usage or
8 was constructed for use by the public and was constructed mechanically, or by continuous use as a public
9 highway for a period of at least one hundred forty-seven (147) years over public lands and prior to the
earlier of (a) October 21, 1976 repeal of R.S. 2477 and/or (b) Date of reserved status by the USFS of
10 1908; and

11 NOW THEREFORE, IT IS HEREBY RESOLVED, that the Nye County Board of Road
12 Commissioners does hereby acknowledge and determine that the county minor road known as Barrel
13 Springs Road; Nye County Road Number 994810; United States Geological Survey (USGS) Reference
14 Code: 38117-E4-TF-024; road length 3085.125 feet long (3/5 of one mile); road width approximately ten
15 (10) feet applies only to the segments of the road that traverse land reserved by the United States Forest
16 Service, Department of Agriculture and land managed by the Bureau of Land Management, United States
17 Department of the Interior, and does not apply to segments of the road that traverse land owned by any
18 other person or entity; and

19 NOW THEREFORE, IT IS HEREBY RESOLVED, and hereby ordered that the minor county
20 road known as Barrel Springs Road; Nye County Road Number 994810; United States Geological Survey
21 (USGS) Reference Code: 38117-E4-TF-024; road length 3085.125 feet long (3/5 of one mile); road width
22 approximately ten (10) feet shall be represented on the Nye County Road Inventory as a minor road; and

23 NOW THEREFORE, IT IS HEREBY RESOLVED, and hereby ordered that the map, Exhibit 1,
24 Attachment 3 designating county minor road known as Barrel Springs Road; Nye County Road Number
25 994810; United States Geological Survey (USGS) Reference Code: 38117-E4-TF-024; road length
3085.125 feet long (3/5 of one mile); road width approximately ten (10) feet shall be filed with the clerk
of the Nye County Board of Road Commissioners, the Nevada Department of Transportation, and the
county recorder; and

26 NOW THEREFORE, IT IS HEREBY RESOLVED, that the Nye County Board of Road
27 Commissioners pursuant to Nevada Revised Statutes 403.190, does hereby declare the filing of the map,
28 Exhibit 1, Attachment 3 is evidence of the existence and location of the county minor road known as
29 Barrel Springs Road; Nye County Road Number 994810; United States Geological Survey (USGS)

1 Reference Code: 38117-E4-TF-024; road length 3085.125 feet long (3/5 of one mile); and

2 NOW THEREFORE, IT IS HEREBY RESOLVED, that the Nye County Board of Road
3 Commissioners pursuant to Nevada Revised Statutes 403.180 does hereby determine that no maintenance
4 is required on minor county roads and there will be no change in the maintenance schedule by the Nye
5 County Road Department until and at such time it is determined to be necessary; and

6 BE IT FURTHER RESOLVED, that the Nye County Board of Road Commissioners does hereby
7 determine that signs indicating the road number, lack of maintenance, common name or any other
8 informational message deemed appropriate by the Nye County Road Department may be placed on the
9 county minor road known as Barrel Springs Road; Nye County Road Number 994810; United States
10 Geological Survey (USGS) Reference Code: 38117-E4-TF-024; road length 3085.125 feet long (3/5 of
11 one mile).

12 APPROVED this _____ day of _____, 2010.

13
14 NYE COUNTY BOARD OF
15 ROAD COMMISSIONERS:

16 ATTEST:

17 Lorinda A. Wichman, Chair

18 Sandra "Sam" L. Merlino, Nye County Clerk
19 and Ex-Officio Clerk of the Board

1 **EXHIBIT 1**

2 Attachment 1: Expanded Map for location

3 Attachment 2: USFS 2009 Travel Management Plan map close-up.

4 Attachment 3: Map of the road or road segment #994810

5 Attachment 4: Current Water Ownership

6 Attachment 5: Assessors Inquiry

7 Attachment 6: Historical document filed for water rights with a priority date of 1863.

8 Attachment 7: Historical Survey Plat.

9 Attachment 7.5: 1904 Land Patent document

10 Attachment 8: Field Notes for USFS boundary 1926

11 Attachment 9: Photos 1 – 3

12 Attachment 10: Legal Description and Coordinates

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**Acknowledgment and Notice
of Acceptance of R.S. 2477
Right-of-Way Grant
Barrel Springs Road Co.#994810**

**NYE COUNTY
STATE OF NEVADA**

This Acknowledgment and Notice of Acceptance of RS 2477 Right-of Way grant made under Nevada Revised Statutes chapters 403 and 405, in accordance with Nevada Senate Concurrent Resolution No. 6, 75th Leg., 2009 Nv. Sec. (2009) (enacted) and under 43 U.S.C. Section 932 (repealed Pub. L 94-579, title VII, Sec. 706(a), Oct. 21, 1976, 90 Stat. 2793) (with provision recognizing the validity of rights-of way already established) is accepted for and on behalf of the State of Nevada and its political subdivision, Nye County as it pertains to the road located in Nye County known as Barrel Spring Road; County Road Number 994810; United States Geological Survey (USGS) Reference Code: 38117-E4-TF-024. Total road length is 3085.125 feet long (3/5 of one mile).

The intent of this Acknowledgment and Notice of Acceptance includes, but not limited to, the fact that the road was constructed, mechanically, or by continuous use as a public highway for a period of at least one hundred and forty seven (147) years over public lands and prior to the earlier of;

- (a) October 21, 1976 repeal of R.S. 2477 and/or
- (b) Date of reserved status by the USFS of 1908.

This Acknowledgment and Notice of Acceptance applies only to the segments of the road that traverse land reserved by the United States Forest Service, Department of Agriculture and land managed by the Bureau of Land Management, United States Department of the Interior, and does not apply to segments of the road that traverse land owned by any other person or entity. The State of Nevada and its subdivisions reserve the right to make further acknowledgments and notices of acceptance with regard to road segments that traverses land owned by other entities, including the United States of America, through one or more of its agencies.

Pursuant to and in accordance with Nevada Revised Statutes 403.170 Combination Springs Road is hereby designated as a minor county road and will be represented on the Nye County Road Inventory as a minor road. Public Hearing was held on June 1, 2010 and Nye County Board of Road Commission approved the acceptance and designation of the minor road known as Barrel Spring Road with an effective date of _____, _____ pursuant to and in accordance with Nevada Revised Statute 403.170.

Although not required by Nevada Revised Statute 403.190, the Nye County Board of Road Commissioners will cause a copy of the map to be filed with the Nye County Clerk, a copy with the Nye County Recorder and a copy to the Nevada Department of Transportation with the designation of **minor** road made on each copy. The filing of the map is evidence of the existence and location of the road pursuant to and in accordance with Nevada Revised Statutes 403.190.

There will be no change in the maintenance schedule of the Nye County Road Department until and at such time it is determined to be necessary.

Signs indicating the road number, lack of maintenance, common name or any other informational message deemed appropriate by the Nye County Road Department may be placed on this road.

**Acknowledgment and Notice
of Acceptance of R.S. 2477
Right-of-Way Grant
Barrel Springs Road Co.#994810**

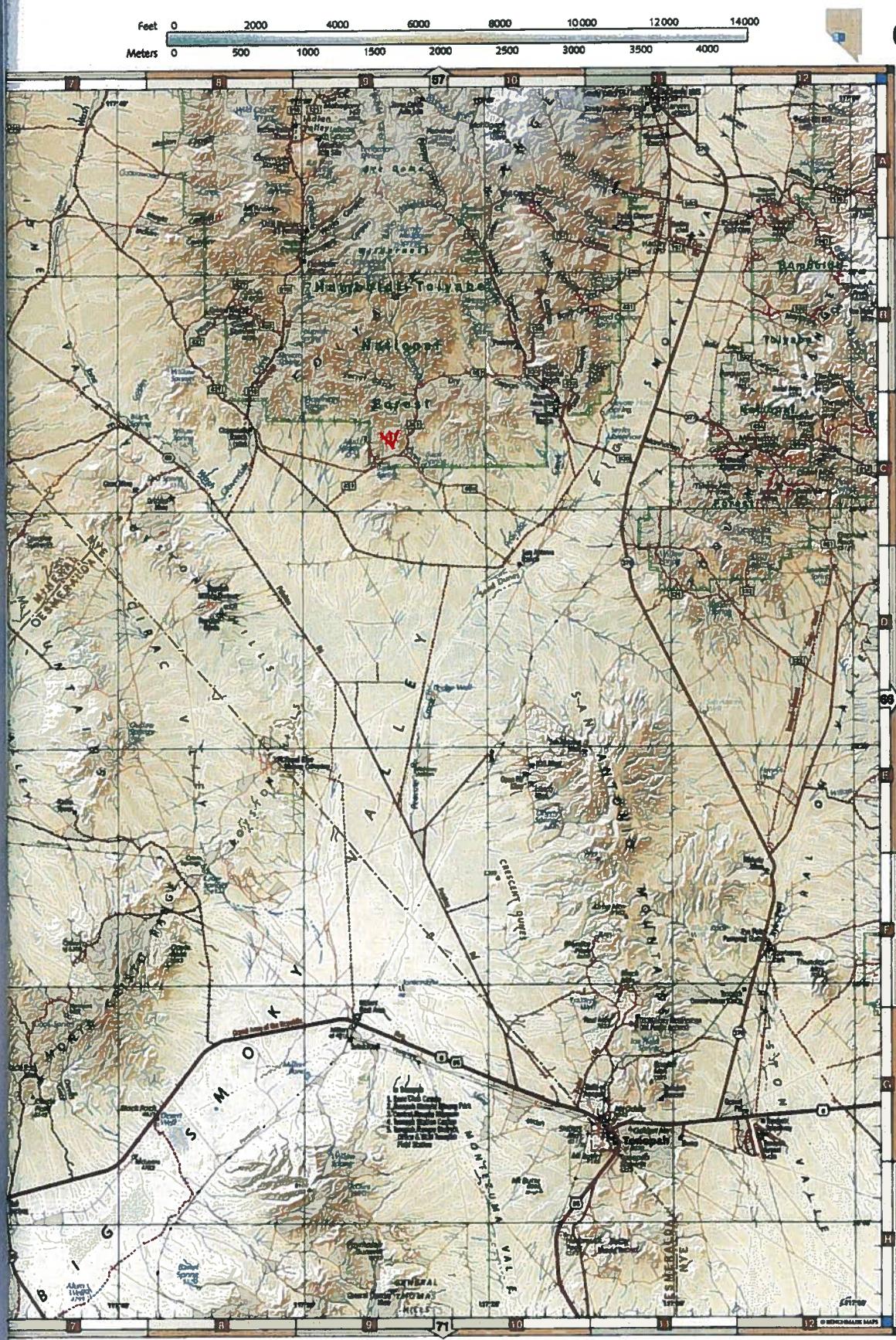
On January 19, 2010 the Nye County Board of County Commissioners approved to pursue the activities necessary to map and document all county roads over which historical jurisdiction exists and Commissioner Lorinda A. Wichman was designated as point of contact for the project.

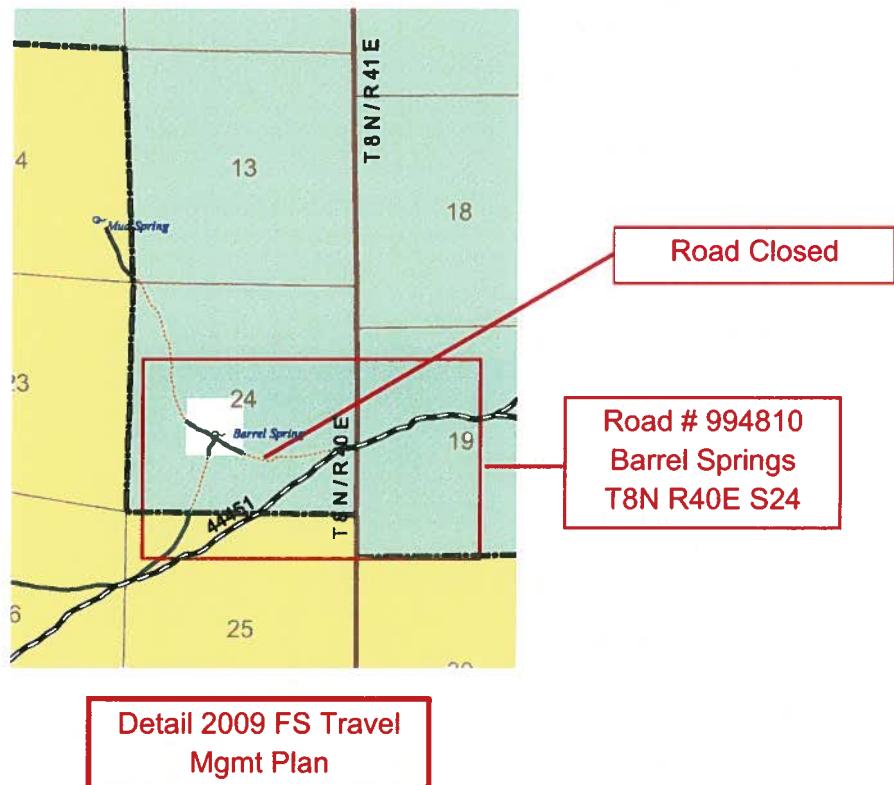
IN WITNESS WHEREOF, I, Lorinda A. Wichman, the designee and point of contact for the project of mapping and documenting all county roads which historical jurisdiction exists and Chairman of the Nye County Road Commission, in conformity to the laws of the State of Nevada, have caused this Acknowledgment and Notice of Acceptance to be made.

Signed by my hand the _____ day of _____ 20__.

Lorinda A. Wichman
Nye County Road Commission, Chair

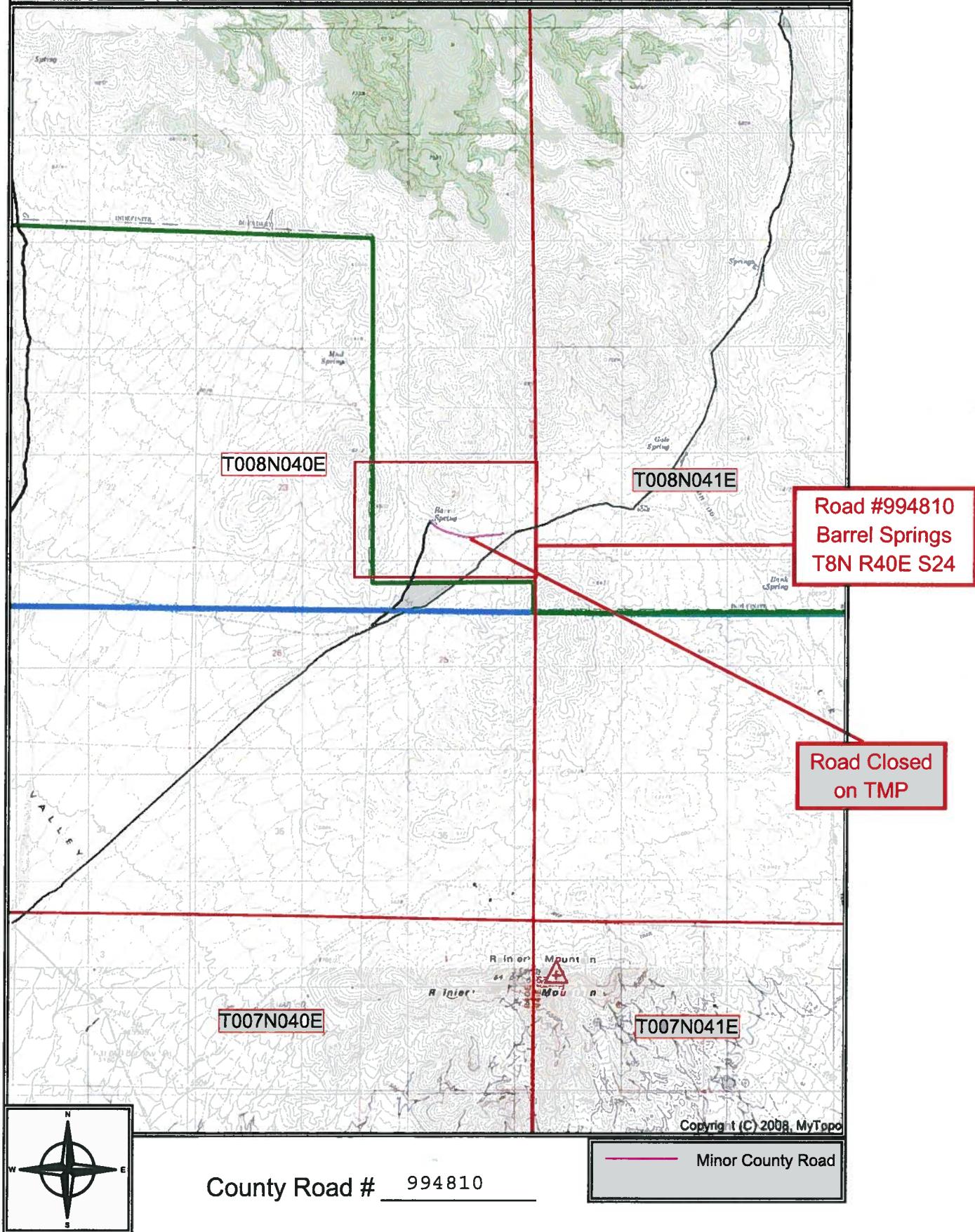
- Attachment 1: Expanded Map for location
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- Attachment 3: Map of the road or road segment #994810
- Attachment 4: Current Water Ownership
- Attachment 5: Assessors Inquiry
- Attachment 6: Historical document filed for water rights with a priority date of 1863.
- Attachment 7: Historical Survey Plat.
- Attachment 7.5: 1904 Land Patent document
- Attachment 8: Field Notes for USFS boundary 1926
- Attachment 9: Photos 1 – 4
- Attachment 10: Legal Description and Coordinates
- Attachment 11: Nevada Revised Statutes 403.170, 403.190, 405.191, 405.19
- Attachment 12: Senate Concurrent Resolution #6





Map Type: Topographic
Map Name: SECRET BASIN (NV)
USGS Reference Code: 38117-E4-TF-024

Scale: 1 inch = 4,000 ft.
Map Center: T008N R040E NV Mount Diablo
Date Published: 1980



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State of Nevada
 Department of Conservation & Natural Resources
Division of Water Resources
 Tracy Taylor, P. E. State Engineer

- [General Questions](#)[Website Questions](#)**Water Rights Database, Page 5**

Summary of Ownership

- [New Search](#)
- [General Information](#)
- [Maps and Due Dates](#)
- [Place of Use](#)
- [Abrogations/Protests/Rulings](#)
- [Owner Search](#)

Application No.: [V05346](#) Application Status: [VST](#) Certificate No.:

Current Ownership Information

Owner	Type	Div Rate	Duty	Acres	Change By	APN	County	Description
SALAZAR, GREGORY NATHAN C	C	0.004		3.0283	0			
TRUCKEE RIVER RANCH, LLC	C	0		0.2246	0			

Confirmed By:[EVS](#) Effective Date:09-14-2006

Original Owner(s)

Parcel Detail for Parcel # 012-051-04

Attachment 5

Location		Description		
Property Location	T8N R40E S24 NE SW 40AC	Total Acres	40.00 0	Ag Acres .00 0
Town				W/R Acre s .000
Subdivision	Lot	Single-fam Detached	1	Non-dwell Units 0
	Block	Single-fam Attached	0	MH Hookups 0
Property Name	T8N R40E S24 NE SW 40AC	Multi-fam Units	0	Wells 0
		Mobile Homes	0	Septic Tanks 0
		Total Dwelling Unit s	1	Bldg Sq Ft 672
				Garage Sq Ft 0
				Attch/Deth
				Basement Sq Ft 0
				Finished 0
Ownership		Appraisal Classifications		
Assessed Owner Nam	SALAZAR,GREGORY e NATHAN	Current Land Use Code	200	
Mailing Address	705 N CHURCH ST ALMA, GA 31510	Zoning		
Legal Owner Name	SALAZAR,GREGORY NATHAN	Re-appraisal Group	2	Re-appraisal Year 2007
Vesting Doc#, Date	609123 12/01/04 Book/Page /	Orig Constr Year	2005	Weighted Year
Map Document #s				

Serial No. 05346

STATE OF NEVADA

PROOF OF APPROPRIATION OF WATER FOR STOCK WATERING
OR WILDLIFE PURPOSES

(1) Name of claimant Store Safe Redlands Assoc., Ltd., a Partnership, dba Rock

Springs Ranch P O Box 2050 of King City

Street and No. or P.O. Box No. City or town

California 93930 State and Zip Code No.

(2) Source of water Barrel Spring Name of natural water source.

(3) The water is diverted by spring area
Dam, ditch, pipe line, natural channel, spring area, etc.(4) The water is diverted at the following point(s) NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 24, Township 8

Describe as being within a 40-acre subdivision of public survey, and by course and distance to a section corner. If on unsurveyed land it should be stated.

North, Range 40 East, M.D.B. & M., or at a point from which the Northwest
Diversion over a channel reach must be described by course and distance to a section corner for both the beginning and end of such reach.

corner of Said Section 24 bears North 34° 32' West, 4,530 feet. (See map

filed under application \$40118)

(5) The water is impounded in pools

Troughs, tanks, pools, reservoir, natural channel, etc.

(6) The construction of the ditch or other works was begun 1863

Date

and completed 1863
Date

(7) The nature of the claimant's title to the land upon which the source of water and place of use

are located is use of Public Domain in conjunction with the privately owned base
Patented, deeded, public domain with grazing permit, etc.properties continuously since 1863. See abstracts under numbers 05317, 05118,
05319, 05320, and 02225.

(8) The claimant's water right was (was not) recorded in the office of the County Recorder of

County, at Page of Book of.

NOTE—Failure to record in the county in no way invalidates a water right, but if water right was so recorded, supply full information under (8).

(9) The approximate number of animals watered by the claimant during the first year 1863, estimated to be more than Date
was.....50.....cattle.....5.....horses.....sheep or wildlife (describe)..... Other

The watering was conducted during each of the following months.....
March 1 through November 30 of each year

(10) The approximate number of animals watered by the claimant in subsequent years was as follows:

Prior to 1905 more than	cattle	horses	sheep
If water was not used, or used in reduced quantity at any time, full information as to causes and duration of non-use should be given.			
1) Indian Valley Ranch #05319)			
2) Cloverdale Ranch #05320) 3500	3500	50	0
3) San Antone Ranch #02225)			
TTAALS	3500	50	0

(11) The amount of water which has been necessary to be diverted for this purpose has been
~~02 .05~~ cubic feet per second.
448.83 gallons per minute equals 1 cubic foot per second.

(12) The works are located at..... NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 24, Township 8 North, Range 40 East, Describe as being within a 40-acre subdivision, section, township and range of public survey. If on unsurveyed
M.D.B. & M., or at a point from which the Northwest corner of Said Section 24
land, it should be stated.
bears North 34° 32' West, 4,530 feet. (See map filed under application #40118)

Remarks.....

This spring has been used exclusively and continuously by the following
predecessors of the claimant since 1863:

1) Indian Valley Ranch - for abstract and supporting documents see #05319

2) Cloverdale Ranch - for abstract and supporting documents see #05320

3) San Antone Ranch - for abstract and supporting documents see #02225

Remarks.....

The undersigned, being first duly sworn, deposes and says that the facts relative to the appropriation of water by..... Store Safe Redlands Assoc., Ltd., a Partnership, dba Rock Springs Ranch

are full and correct to the best of his knowledge and belief.

Agent

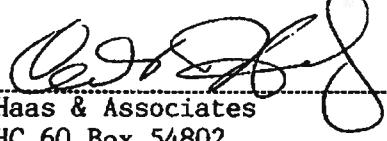
If proof is not made by claimant, deponent should state on this line by virtue of what authority he represents the claimant.

STore Safe Redlands, Assoc., Ltd.,
dba Rock Springs Ranch

Claimant

Telephone No. (408) 385-4412

By.....


Haas & Associates

HC 60 Box 54802

Street and No., or P.O. Box No.

Round Mountain, Nevada 89045

City, State, Zip Code No.

Telephone No. (702) 377-2388

Subscribed and sworn to before me this 23rd day of August, 1991.

Notary Public in and for the County of

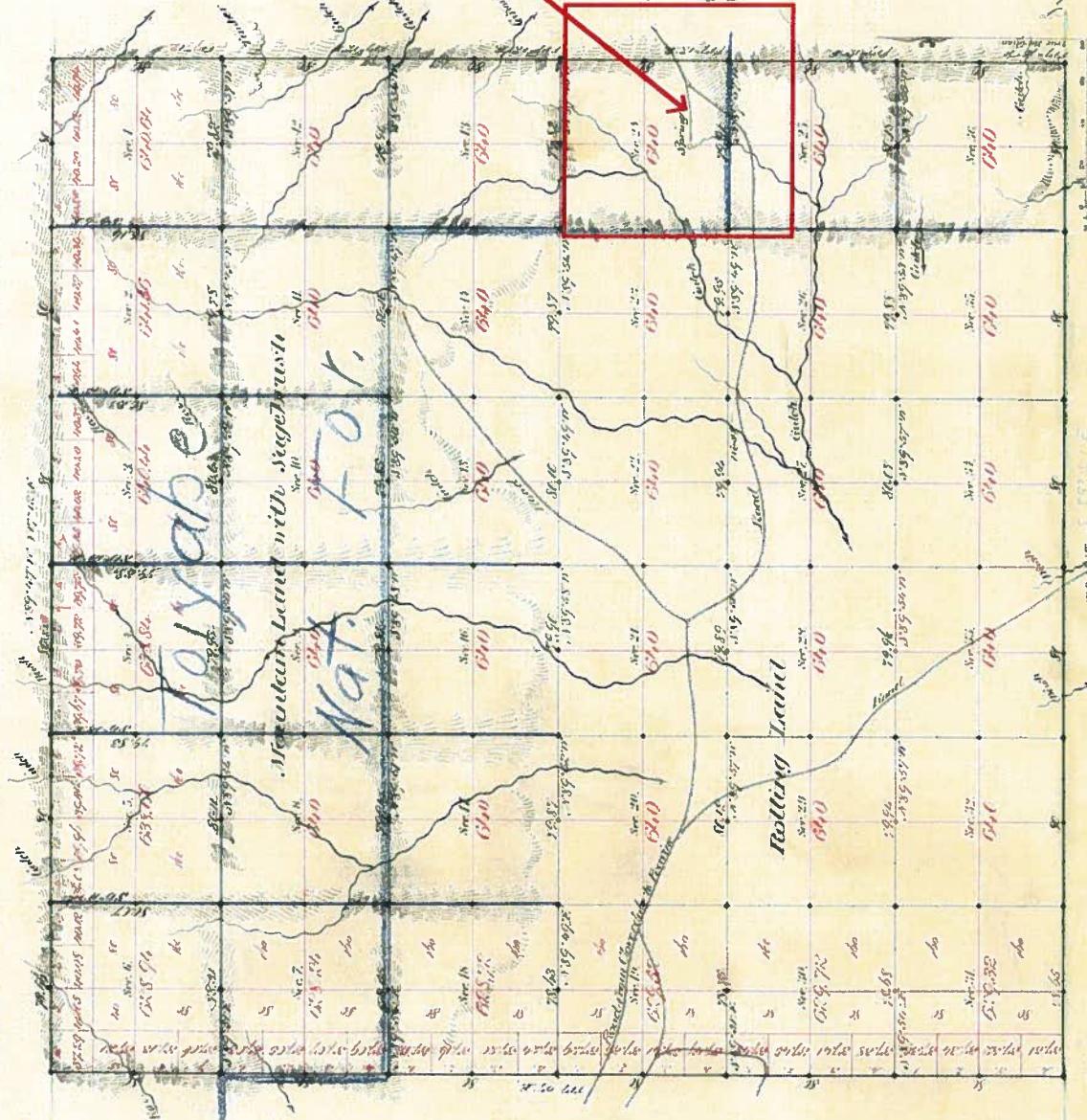
My commission expires

2000

\$50 FILING FEE MUST ACCOMPANY PROOF



MOUNT DIABLO MERIDIAN
TOWNSHIP No. 8 NORTH RANGE No. 40 EAST



Road # 994810
Barrel Springs
T8N R40E S24
1880 Survey Plat

Road
Closed on
TMP

Attachment 7

Mr. & Mrs. A. L. Smith, 300 W. 12th Street, New York, N. Y.
Dear Friends,
We are sending you a copy of the "New York Times" of the 10th inst., containing an article on the "Great Fire of New York" and a sketch of the "Great Fire of 1835" in Boston. We hope you will find it interesting.
Yours very truly,
John C. Smith.

TEN RODE

APPLICATION No.7207.

PATENT No.5272.

40 ACRES

THE STATE OF NEVADA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Whereas, Thomas J. Bell

of Nye

County Nevada has deposited with the Register of the State Land Office at Carson City the State Treasurer's receipt, whereby it appears that full payment has been made by the said Thomas J. Bell according to the provisions of an Act of the Legislature, approved March 12, 1885, entitled "An Act to provide for the selection and sale of lands that have been or may hereafter be granted by the United States to the State of Nevada," and the Acts amendatory thereof and supplementary thereto. For the North East quarter of the South West quarter of Section Twentyfour (24), township eight(8), North, range forty (40) east.

Mount Diablo base and meridian, containing Forty acres, according to the official plat of the survey of the Public Lands, as made by the United States Surveyor-General for the District of Nevada; which said tract has been purchased by the said Thomas J. Bell

Therefore, know ye, That the State of Nevada, in consideration of the premises, and in conformity with the Act of the Legislature in such cases made and provided, has given and granted, and by these presents does give and grant, unto the said Thomas J. Bell and to his heirs, the said tract above described,

To Have and to Hold the same, together with all rights, privileges, immunities and appartenances of whatever nature thereunto belonging, unto the said Thomas J. Bell and to his heirs and assigns forever; provided, that all mines of gold, silver, copper, lead, cinnabar and other valuable minerals that may exist in said tract, are hereby expressly reserved.

In Testimony Whereof, I, John Sparks

Governor of the State of Nevada, have caused these Letters to be made Patent, and the Great Seal of the State to be hereunto affixed. Given under my hand at Carson City, the Twelfth day of July 1904.



By the Governor.

John Sparks.

Governor.

W. G. Douglass. Secretary of State.

E. D. Kelly.

Land Register.

Recorded July 12th, 1904.

W. G. Douglass. Secretary of State.

By Deputy.

These Boundary Survey Notes reference the minor road which traverses N8N R40E Sections 24 and 25 exactly at the Forest Service Boundary (See TMP Detail, also in this road file).

That minor road intersects with Road #994810 (in Section 24) within 1 mile of the FS Boundary.

Toiyabe National Forest Boundary Survey

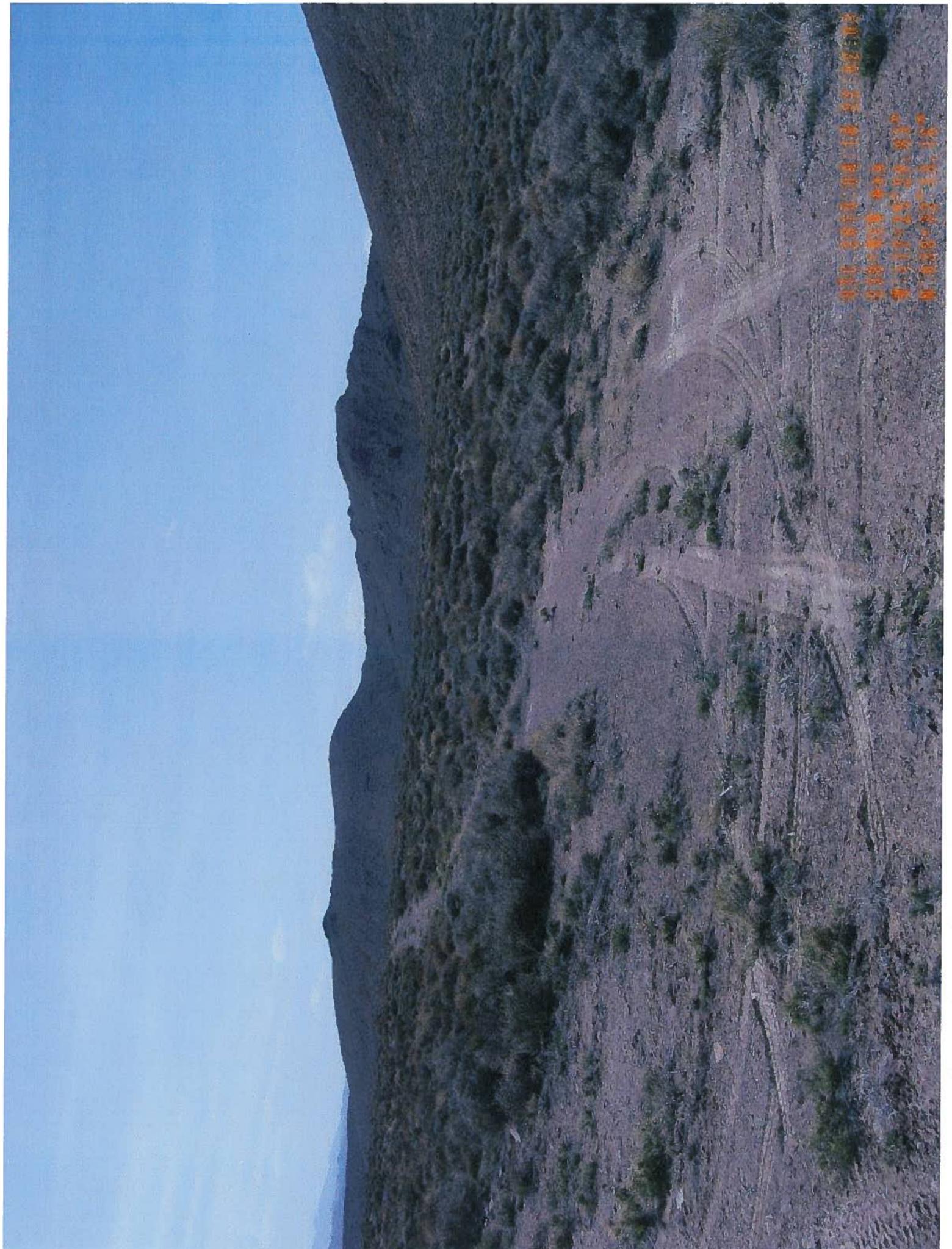
Notes 1926

C. J. Truscott, Chief

(From the National Archives-Pacific Sierra Region, San Bruno, CA)

"2215 Road
NE-SW
(Cloverdale &
Peavine)"

"From 1/4 cor on
E. Bdy, S24 50
degrees 24'W
Cor T8N R40E
S24/25"



1998-03-10 11:03:12



UTC 2010:04:14 22:05:33
259.4 0.019
17.26700.042
0.03832.12.26



Beginning and Ending Points and Legal Description

Popular Name: Barrel Springs Road

County: Nye

County Road Number: 994810

Overall Average Disturbed Width: 10' (Ten Feet)

Overall Average Traveled Width: 8' (Eight Feet)

Total Road Length (Horizontal Distance): Approximately 3097' (3/5 of one mile)

Beginning Coordinate (WGS84): In Decimal Degrees 38.536940761 N, -117.424619576 W

Beginning Legal Description: Township 8 North, Range 40 East, Within Section 24

Ending Coordinate (WGS84): In Decimal Degrees 38.536557038 N, -117.435133386 W

Ending Legal Description: Township 8 North, Range 41 East, Within Section 24

Nye County Board of County Commissioners

405.191
405.193
405.195
244.155
244.157
Nevada Senate Concurrent Resolution No. 6,
75th Leg., 2009 Nv. Sess (2009)

Nye County Board of Road Commissioners

403.170
403.190
Nevada Senate Concurrent Resolution No. 6,
75th Leg., 2009 Nv. Sess (2009)

NRS 405.191 "Public road" defined; county roads and highways may be established on rights-of-way over certain public lands. As used in [NRS 405.193](#) and [405.195](#), "public road" includes:

1. A United States highway, a state highway or a main, general or minor county road and any other way laid out or maintained by any governmental agency.
2. Any way which exists upon a right-of-way granted by Congress over public lands of the United States not reserved for public uses in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932, commonly referred to as R.S. 2477), and accepted by general public use and enjoyment before, on or after July 1, 1979. Each board of county commissioners may locate and determine the width of such rights-of-way and locate, open for public use and establish thereon county roads or highways, but public use alone has been and is sufficient to evidence an acceptance of the grant of a public user right-of-way pursuant to former 43 U.S.C. § 932.
3. Any way which is shown upon any plat, subdivision, addition, parcel map or record of survey of any county, city, town or portion thereof duly recorded or filed in the office of the county recorder, and which is not specifically therein designated as a private road or a nonpublic road, and any way which is described in a duly recorded conveyance as a public road or is reserved thereby for public road purposes or which is described by words of similar import. (Added to NRS by 1979, 1174; A 1981, 923; 1993, 1427; 1997, 1615)

NRS 405.193 Public agency not required to maintain or accept road made public by prescriptive use; immunity of county from liability arising from use of certain public roads.

1. No public agency is required to maintain any public road which is so designated only because it meets the requirements set forth in subsection 1 or 2 of [NRS 405.191](#) nor is any public agency required to accept any public road as a main, general or minor county road.

2. No action may be brought against the county, its officers or employees for damage suffered by a person solely as a result of the unmaintained condition of a road made public pursuant to [NRS 405.195](#).

(Added to NRS by 1979, 1174; A 1993, 1428)

NRS 405.195 Petition to open, reopen, close, relocate or abandon road; hearings and orders by board of county commissioners regarding petition; legal actions authorized.

1. Five or more residents of this state may petition any board of county commissioners to open, reopen, close, relocate or abandon a public road within the county. The petition must be accompanied by proof of the petitioners' residency and adequate maps and documentation to justify a hearing on the petition. Upon receipt of such a petition and the required documentation, the board of county commissioners shall set a date to conduct a public hearing on the petition. The date selected must not be earlier than 30 days, nor later than 45 days, after the petition is submitted. In addition to any other notice required by law or ordinance, the board shall cause notice of the time, date and location of the hearing to be published at least once each week for 2 successive weeks in a newspaper of general circulation in the county.

2. Upon conclusion of the public hearing, the board shall determine whether the road in question has acquired the status of a public road because:

- (a) Construction of the improvement occurred while the land was unappropriated, unreserved public land;
- (b) The improvement was constructed by mechanical means which made the physical change to the natural area necessary for the customary or usual passage of traffic; and
- (c) The right-of-way was:
 - (1) Accepted by the state or local government for dedication as a road for public use and thereafter the road was used by the public at large; or
 - (2) Accepted by use as access to a mining claim or other privately owned property.

3. If the board concludes that the road is a public road, the board may order the public road to be opened, reopened, closed, relocated or abandoned, for all or part of the year. The board's decision must be based on specific findings, including, but not limited to:

- (a) The resulting benefit to the general public;
- (b) Whether any significant impairment of the environment or natural resources will result; and
- (c) Whether the decision will result in a significant reduction in the value of public or private property.

4. The order of the board must be reduced to writing, including a statement of any actions which must be taken to effectuate the decision and the person to whom each such action has been assigned. If possible, the order must be signed by any person who has agreed to take a specific action to effectuate the board's decision. The lack of such a signature does not invalidate the order.

5. If the order of the board is to close or abandon a public road, the board shall, upon the petition of five or more residents of the State, designate and provide an alternate route serving the same area. The closure or abandonment of a public road by the board does not prohibit or restrict the use of that road by a governmental agency or a public utility regulated by the Public Utilities Commission of Nevada for the maintenance, construction or operation of a facility of the agency or utility.

6. Any person or governmental agency may bring and maintain an action in the district court of the county in which the public road lies to prevent any person, including a public agency, from violating an order issued pursuant to subsection 3.

7. Nothing in this section affects the right of the Department of Transportation to regulate freeways or highways in this state. (Added to NRS by 1979, 1174; A 1981, 923; 1993, 1428; 1997, 1993)

NRS 244.155 Roads and bridges. The boards of county commissioners shall have power and jurisdiction in their respective counties to lay out, control and manage public roads, turnpikes, ferries and bridges within the county, in all cases where the law does not prohibit such jurisdiction, and to make such orders as may be necessary and requisite to carry its control and management into effect. [Part 8:80:1865; A 1871, 47; 1931, 52; 1933, 203; 1953, 681]

NRS 244.157 Improvements: County's powers same as those of general improvement district.

1. Subject to the conditions imposed in subsection 2, the board of county commissioners of any county of this state may exercise any of the powers in any unincorporated area within its county that a board of trustees of any general improvement district, if organized, would be permitted to exercise pursuant to the provisions of chapter 318 of NRS.

2. A board of county commissioners may exercise the powers authorized under subsection 1 only upon compliance with the same procedures that a board of trustees of a general improvement district would be required to follow for the same class of improvements within an improvement district. This subsection does not apply if the exercise of powers authorized under subsection 1 is required by a federal law or a regulation issued thereunder.

(Added to NRS by 1975, 467; A 1977, 536)

Senate Concurrent Resolution No. 6—Senator Amodei

FILE NUMBER.....

SENATE CONCURRENT RESOLUTION—Urging the counties in this State to map and document certain county roads to preserve certain rights-of-way granted by Congress over public lands in Nevada.

WHEREAS, Many rights-of-way that cross public lands administered by the Federal Government were granted by Congress pursuant to section 8 of the Act of July 26, 1866, 14 Stat. 253, formerly codified as section 2477 of the Revised Statutes of the United States, 43 U.S.C. § 932; and

WHEREAS, Although the provisions of section 2477 were repealed by the enactment of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701 et seq., Congress explicitly recognized the continued validity of such rights-of-way in § 701(a) of the Federal Land Policy and Management Act of 1976; and

WHEREAS, Certain administrative and policy decisions of the Bureau of Land Management and the United States Forest Service may threaten the validity of such rights-of-way; and

WHEREAS, NRS 405.191 authorizes each board of county commissioners to locate and determine the width of such rights-of-way and locate, open for public use and establish thereon county roads or highways; and

WHEREAS, NRS 403.170 requires the board of county highway commissioners in each county to classify the county roads in the county as main county roads, general county roads or minor county roads; and

WHEREAS, NRS 403.190 requires the board of county highway commissioners in each county to map the county roads, excluding minor county roads, and to file the maps with various entities, including the Nevada Department of Transportation; and

WHEREAS, Many of the minor county roads should be mapped and documented in order to preserve the existing rights-of-way over those roads; and

WHEREAS, Without such mapping and documentation of the minor county roads, valid claims of rights-of-way acquired by the public may fail in the course of future federal action and result in road closures that may have a negative impact on the counties; and

WHEREAS, The economic well-being of this State and its counties is inextricably linked to the multiple uses of the public lands of this State, relying upon such lands for mining and mineral development, livestock grazing, renewable and alternative energy resources, tourism and recreation and other uses; and

WHEREAS, To ensure that economic opportunities throughout this State and its counties are not lost by the potential closures of minor county roads, the Nevada Legislature recognizes the value of and the need for mapping and documenting such roads; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 75th Session of the Nevada Legislature hereby urge counties in this State to map and document all county roads over which rights-of-way were acquired before the enactment of the Federal Land Policy and Management Act of 1976; and be it further

RESOLVED, That the members of the 75th Session of the Nevada Legislature hereby request that the Nevada Department of Transportation post on its Internet website a list of potential resources that may be available to assist counties in performing such mapping and documentation, including a list of maps that the Department has in its archives which depict county roads that existed within this State before the enactment of the Federal Land Policy and Management Act of 1976; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the board of county commissioners and the board of county highway commissioners of each county in this State.

NRS 403.170 Designation of main, general and minor county roads; immunity of State and county from liability resulting from use of minor county roads; reclassification and abandonment of roads; hearing.

1. The board of county highway commissioners of each of the several counties of the State of Nevada shall:

(a) Lay out and designate which of the roads, generally termed public highways, are the most important to the people of the whole county and over which there is the greatest amount of general public travel and shall designate these roads as main county roads.

(b) Lay out and designate other roads of the county over which there is general public travel, and which are generally termed county roads, and shall designate these roads as general county roads.

(c) Lay out and designate other roads which are neither main nor general county roads but have been established by usage, or were constructed for use by the public, and shall designate these roads as minor county roads. This section does not require any maintenance for minor county roads. The State and the county are immune from liability for damages suffered by a person as a result of using any road designated as a minor county road.

2. The board of county highway commissioners may, from time to time, reclassify the roads and may lay out new roads of any class, or the board may change or abandon any roads termed as public highways.

3. The designation of a new road as a main county road, as a general county road or as a minor county road, or the reclassification of any road, or the abandonment of any road does not become effective until after a public hearing is held at which parties in interest and citizens have an opportunity to be heard. At least 10 days' notice of the time and place of the hearing must be published in a newspaper of general circulation in the county.

[1: Art. 4:257:1913; 1919 RL p. 2903; NCL § 5375]—(NRS A 1979, 1173; 1993, 1399)

NRS 403.190 Map of county roads filed by board of county highway commissioners; authority of user to file map of minor county road; fees.

1. Except as otherwise provided in subsection 3, upon laying out and designating the county roads as required in NRS 403.170, the board of county highway commissioners shall cause a map of the county to be made, showing the county roads and their designations. The board shall file one copy of the map with the clerk of the board of county highway commissioners, one copy with the Department of Transportation, one copy with the county clerk and one copy with the county recorder.

2. When any road has been designated by the board of county highway commissioners as a standard county road, as provided in [NRS 403.180](#), that designation must be made on the copies of the map on file with the clerk of the board of county highway commissioners, the county clerk, the Department of Transportation and the county recorder.

3. The board of county highway commissioners need not include a minor county road upon the map required by subsection 1. Any person who uses a minor county road may file with the county recorder a map showing the location of the road, appropriately emphasized in black ink upon the map by the person filing it. The map must:

(a) Be a topographical map prepared by the United States Geological Survey, unless the board of county highway commissioners determines that other specific maps are acceptable.

(b) Have written on its face, in black ink, the townships, ranges and sections through which the road traverses.

→ The map so filed is evidence of the existence and location of the road. Each person filing such a map shall pay to the county recorder a fee of \$17 for the first sheet of the map plus \$10 for each additional sheet.

[3: Art. 4:257:1913; 1919 RL p. 2903; NCL § 5377]—(NRS A 1979, 1174; 1993, 1400; [2001, 3220](#))